



**LAWS**  
**OF THE**  
**STATE OF DELAWARE**

**ONE HUNDRED AND TWENTY-NINTH  
GENERAL ASSEMBLY**

**SPECIAL SESSION COMMENCED AND HELD AT DOVER**

**On Tuesday, January 4, A.D.  
1977**

**FIRST SESSION COMMENCED AND HELD AT DOVER**

**On Tuesday, January 11, A.D.  
1977**

**SECOND SESSION COMMENCED AND HELD AT DOVER**

**On Tuesday, January 10, A.D.  
1978**

**PART I  
VOLUME LXI**



## CHAPTER 1

## FORMERLY SENATE BILL NO. 41

AN ACT TO AMEND CHAPTER 1, TITLE 26 OF THE DELAWARE CODE RELATING  
TO THE PUBLIC SERVICE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §103(b), Chapter 1, Title 26 of the  
Delaware Code, by striking, in the last sentence, the phrase  
"a practicing member of the Bar of this State and,".

Approved January 13, 1977.



CHAPTER 2

FORMERLY SENATE BILL NO. 16

AN ACT TO AMEND CHAPTER 5, TITLE 28, OF THE DELAWARE CODE RELATING TO HARNESS RACING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §507, Chapter 5, Title 28 Delaware Code by striking the words "Department of Administrative Services" as the same appear therein in their entirety and substituting in lieu thereof the word "Commission".

Approved January 15, 1977.

## CHAPTER 3

## FORMERLY SENATE BILL NO. 29

AN ACT TO AMEND CHAPTER 69, TITLE 29 OF THE DELAWARE CODE RELATING TO PUBLIC WORK CONTRACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6903 (a), Chapter 69, Title 29 of the Delaware Code by adding thereto a new paragraph (4) to read as follows:

"(4) Where, because of changed situations, unforeseen conditions, strikes and Acts of God, change orders or extra work determined to be necessary and requested by the agency, and not specified in the agency's solicitation or advertisement for bids and in the contract as awarded, the awarding agency may issue a change order setting forth the change, addition or extra work required to be undertaken by the contractor on a public works contract, which shall not (1) be subject to the competitive bidding requirements of this Section, or (2) invalidate the contract, provided that such change is within the scope of the contract as set forth in the Standard Specifications, Special Provisions or similar publication of the Agency."

Section 2. Amend §6931 (a), Chapter 69, Title 29, Delaware Code by striking the period "." immediately following the word "head" as the same appears in the first sentence and inserting the following:

"and except where professional services are determined by the agency to be necessary during the course of completion of a previously awarded public works contract and the agency determines that the interest of the State would be best served by procuring such additional or supplemental professional services from a firm already under contract for the project or public works contract for which supplemental or additional professional services are required, provided that such additional or supplemental professional services are within the scope of the contract".

Section 3. Amend Section 6937 (a), Chapter 69, Title 29 of the Delaware Code by deleting the figure "5,000" and inserting in lieu thereof the figure "25,000".

Approved January 15, 1977.

## CHAPTER 4

FORMERLY SENATE BILL NO. 58  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 29 OF THE DELAWARE CODE BY  
CREATING A DIVISION OF MAINTENANCE, COMMUNICATIONS AND  
CAPITAL SECURITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DE AWARE:

Section 1. Amend Chapter 11, Title 29 of the Delaware Code  
by adding thereto a new Subchapter III to read as follows:

"SUBCHAPTER III. DIVISION OF MAINTENANCE, COMMUNI-  
CATIONS AND CAPITAL SECURITY

§1131. Division of Maintenance, Communications and Capital  
Security

There is established a Division of Maintenance, Comm-  
unications and Capital Security, which Division shall be  
under the direction and supervision of the Legislative  
Council.

§1132. Director; personnel; Merit System

(a) The Division of Maintenance, Communications and  
Capital Security shall be administered by a director who  
shall be selected by the Legislative Council by majority  
vote.

(b) All employees of the Division of Maintenance and  
Communications, heretofore established by Executive Order  
No. 7 approved April 6, 1973, including the Director, shall  
be transferred to the Division of Maintenance, Communi-  
cations and Capital Security and shall be deemed to be em-  
ployees of such Division and employees of the State in class-  
ified service with all the benefits accrued as merit employ-  
ees as of the effective date of this subchapter.

§1133. Powers; duties and functions

The Division of Maintenance, Communications and Cap-  
ital Security shall have all the powers, duties and functions  
heretofore vested in the Division of Maintenance and Comm-  
unications established by Executive Order No. 7 approved  
April 6, 1973, and such other powers, duties and functions  
as may be assigned to it by law or by Legislative Council  
by majority vote."

Section 2. All personnel, funds, property, books, records, papers, plans and other materials including, but not limited to, any equipment in possession of any agency of the State and used in connection with the function hereby transferred to the Legislative Council shall on the effective date of this Act be delivered into the custody of the Legislative Council. The service and employee positions to be transferred to the Legislative Council as contemplated by this section must be approved by the Controller General and the Budget Director.

Approved January 15, 1977.

## CHAPTER 5

## FORMERLY HOUSE BILL NO. 5

AN ACT TO AMEND CHAPTER 82, TITLE 29, DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF A DIVISION OF MOTOR FUEL TAX WITHIN THE DEPARTMENT OF PUBLIC SAFETY.

WHEREAS, pursuant to §8203 (4) of Title 29, Delaware Code, the Secretary of Public Safety, with the concurrence of the Governor, has the power to establish divisions within the Department; and

WHEREAS, in the judgement of the Secretary of the Department of Public Safety it was necessary that when the duties, powers and functions of the Motor Fuel Tax law and the Motor Carriers Fuel Purchase Act were transferred from the Department of Finance to the Department of Public Safety such transfer warranted the creation of a Division of Motor Fuel Tax; and

WHEREAS, on October 11, 1973 Governor Tribbitt issued Executive Order No. 21 creating a Motor Fuel Tax Division within the Department of Public Safety; and

WHEREAS, the only legal basis for the Division is Executive Order No. 21 which does not have the legality of a statute.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 82 of Title 29, Delaware Code by adding thereto a new section to be designated as §8223 to read as follows:

"§8223. Division of Motor Fuel Tax

(a) The Division of Motor Fuel Tax is established and shall be responsible for the performance of all the powers, duties and functions pursuant to Chapters 51 and 52 of Title 30, Delaware Code.

(b) All employees of the Division of Motor Fuel Tax, heretofore established pursuant to Executive Order No. 21, including the Director, shall be transferred to the Department of Public 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 Act."

Approved January 15, 1977

## CHAPTER 6

## FORMERLY HOUSE BILL NO. 34

AN ACT MAKING AN APPROPRIATION TO THE DIVISION OF REVENUE TO PAY  
A REFUND TO DISTRIBUTORS OF TOBACCO PRODUCTS WHO WERE EXEMPT-  
ED FROM TAXATION ON GROSS RECEIPTS.

WHEREAS, by Chapter 273, Volume 60, Laws of Delaware, retail and wholesale distributors of tobacco products were exempted from paying a gross-receipts tax computed on a base that included State excise taxes on cigarettes; and

WHEREAS, retail and wholesale distributors of tobacco products nevertheless paid into the State during FY 1970 the sum of \$18,600; and

WHEREAS, this sum should now be refunded to the wholesale and retail distributors of cigarettes.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. There is hereby appropriated to the Division of Revenue the sum of \$18,600 to be used to refund to retail and wholesale distributors of cigarettes sums paid by them during FY 1970, although they had been exempted by Chapter 273, Volume 60, Laws of Delaware from paying a gross-receipts tax based on the State excise tax on cigarettes.

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 herein appropriated shall be expended only in the manner set forth herein and any funds appropriated but unexpended by June 30, 1977, shall revert to the General Fund.

Approved January 15, 1977.

## CHAPTER 7

## FORMERLY SENATE BILL NO. 68

AN ACT TO AMEND CHAPTER 83, PART V, TITLE 11 OF THE DELAWARE CODE  
RELATING TO POWERS AND DUTIES OF STATE POLICE AND LOCAL  
POLICE OFFICERS ASSISTING STATE POLICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §8302, Chapter 83, Part V, Title 11 of the  
Delaware Code by striking subsection (a) of said section, and  
substituting in lieu thereof the following:

"(a) State Police shall have police powers similar to  
those of sheriffs, constables and other police officers, and  
shall be conservators of the peace throughout the State, and  
they shall suppress all acts of violence, and enforce all  
laws relating to the safety of persons and property."

Approved January 27, 1977.

## CHAPTER 8

## FORMERLY SENATE BILL NO. 89

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE OFFICE OF  
LIEUTENANT GOVERNOR FOR THE PURPOSE OF EMPLOYING AN ADMIN-  
ISTRATIVE ASSISTANT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of \$5,917.00 is hereby appropriated to  
the office of Lieutenant Governor for the purpose of employing  
an Administrative Assistant, said sum to be appropriated in the  
following manner:

Salary and wage of employee	\$5,050.00
FICA	296.00
Pensions	<u>571.00</u>
	\$5,917.00

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 unex-  
pended on June 30, 1977 shall revert to the General Fund of the  
State of Delaware.

Approved February 1, 1977.



CHAPTER 9

FORMERLY HOUSE BILL NO. 37  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 16, TITLE 2, DELAWARE CODE, RELATING TO  
THE POWERS OF A LOCAL TRANSPORTATION AUTHORITY TO FIX RATES  
FOR THE AGED.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §1606, Chapter 16, Title 2 of the Delaware  
Code by striking subsection (13) and substituting in lieu thereof  
the following:

"(13) Fix from time to time, after a public hearing,  
and without approval of the Public Service Commission or  
any other agency of the State, schedules, routes, rates or  
fares, and charges for services furnished or operated by  
the authority pursuant to this Chapter. A local transpor-  
tation authority shall fix the rate of fare or charge for  
individuals 65 years of age or older at a sum which is not  
more than 15 cents a zone."

Approved February 4, 1977.

## CHAPTER 10

## FORMERLY SENATE BILL NO. 82

AN ACT TO AMEND CHAPTER 19, PART II, TITLE 9 OF THE DELAWARE CODE  
RELATING TO FIRE AND POLICE PROTECTION IN NEW CASTLE COUNTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Chapter 19, Part II, Title 9 of the Delaware Code by adding thereto a new section, designated as §1903, which new section shall read as follows:

"§1903. County Police; mergers

No merger of the New Castle County Police with any other police force or agency shall be valid unless and until it is approved by the General Assembly."

Approved February 7, 1977.

## CHAPTER 11

## FORMERLY SENATE BILL NO. 80

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."

WHEREAS, the Capital Improvement Act of 1977 provided funds  
in the amount of \$500,000 to the Department of Correction for the  
purpose of planning, engineering and feasibility study for the  
placement of a Women's Correctional Institution; and

WHEREAS, there remains a \$125,000 surplus in the appropri-  
ation; and

WHEREAS, appropriations for \$100,000 have not been provided  
to make available a central administration office for the Depart-  
ment of Correction; and

WHEREAS, the Board of Education of the Smyrna School District  
has determined that the Thomas D. Clayton School is a surplus  
facility and it fails to meet acceptable standards for an educa-  
tional program; and

WHEREAS, the Board of Education of the Smyrna School District  
will make a property transfer for the Thomas D. Clayton School  
and grounds to the Department of Correction for \$25,000 to erect,  
on a 6' concrete slab, an American metal building or equal, approxi-  
mately 78 feet by 30 feet storage shed to be used by the Smyrna  
School District in return for the Thomas D. Clayton School.

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. Funds appropriated in Chapter 691, Volume 60,  
Laws of Delaware for the planning, engineering and feasibility  
study for the placement of a Women's Correctional Institution  
surplus funds (\$100,000) shall be used for the purpose of making  
renovations and providing equipment to occupy the Thomas D.  
Clayton School as the Central Administration Office for the  
Department of Correction, and provide \$25,000 to construct one  
(1) metal building, approximately seventy-eight (78) feet by  
thirty (3) feet, for a storage facility to the Smyrna School  
District.

Approved February 7, 1977.

## CHAPTER 12

## FORMERLY SENATE BILL NO. 69

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE OFFICE OF THE STATE TREASURER FOR THE PURPOSE OF MEETING THE FARMERS BANK COMMISSION'S EXPENSES THROUGH JUNE 30, 1977.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$18,500 is hereby appropriated to the Office of the State Treasurer for the purpose of meeting the Farmers Bank Commission's expenses through June 30, 1977.

Section 2. This Act is a supplementary appropriation bill 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 February 7, 1977.

## CHAPTER 13

## FORMERLY HOUSE BILL NO. 65

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE BUREAU OF ADULT CORRECTION FOR ADDITIONAL FOOD SERVICE EMPLOYEES IN THE NEWLY CONSTRUCTED KITCHEN AT THE SUSSEX CORRECTIONAL INSTITUTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$9,500 is hereby appropriated to the Bureau of Adult Correction for the following purposes:

Salaries and Wages of Employees (2)	\$7,310
Salaries - Hazardous Duty	500
Salaries - Shift Differential	280
F.I.C.A. - Employee Share	470
Pensions	940
TOTAL	<u>\$9,500</u>

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 or unencumbered as of June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved February 7, 1977.

## CHAPTER 14

## FORMERLY SENATE BILL NO. 24

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE BUREAU OF ADULT CORRECTION FOR ADDITIONAL SECURITY GUARD FORCE COVERAGE AND BUILDING RENOVATION FOR INMATE HOUSING AT THE DELAWARE CORRECTIONAL CENTER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$64,123 is hereby appropriated to the Bureau of Adult Correction for the following purposes:

Salaries and Wages of Employees (10)	\$30,664
Salaries - Hazardous Duty	2,500
Salaries - Shift Differential	1,386
Salaries - Overtime	3,114
F.I.C.A. - Employer's Share	2,203
Pensions	4,256
Contingency Fund - Building Renovation	<u>20,000</u>
TOTAL	\$64,123

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 or unencumbered as of June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved March 6, 1977.

CHAPTER 15

FORMERLY SENATE BILL NO. 27

AN ACT TO AMEND CHAPTER 89, TITLE 29, OF THE DELAWARE CODE RELATING TO THE CRITERIA FOR THE EMPLOYMENT OF BUREAU CHIEFS IN THE DEPARTMENT OF CORRECTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §8903(2)(a), Chapter 89, Title 29, Delaware Code by striking the period "." immediately following the word "position" as the same appears in the second sentence of said subsection and inserting the following:

" , or an equivalent combination of education and experience which provides the necessary knowledge and abilities."

Section 2. Amend §8903(2)(b) of Chapter 89, Title 29, Delaware Code by striking the period "." immediately after the word "position" as the same appears in the second sentence of said subsection and inserting the following:

" , or an equivalent combination of education and experience which provides the necessary knowledge and abilities."

Approved March 17, 1977.

## CHAPTER 16

## FORMERLY SENATE BILL NO. 51

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO LEGISLATIVE COUNCIL  
FOR THE PURPOSE OF PURCHASING ADDITIONAL SETS OF THE DELAWARE  
CODE ANNOTATED, 1974.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$11,250 is hereby appropriated to  
Legislative Council for the purpose of purchasing 75 sets of the  
Delaware Code Annotated, 1974.

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 herein appropriated remaining unexpended  
or unencumbered on June 30, 1977 shall revert to the General  
Fund of the State of Delaware.

Approved March 22, 1977.



CHAPTER 17

FORMERLY HOUSE BILL NO. 181

AN ACT PROVIDING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF FINANCE, DIVISION OF REVENUE, FOR SEASONAL EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. A supplemental appropriation for Seasonal Salaries and Wages in the amount of \$167,903 is hereby appropriated to the Department of Finance, Division of Revenue (25-06-000), for seasonal employees to process the 1976 Personal Income Tax Returns.

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. The funds hereby appropriated remaining unencumbered or unexpended on June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved March 22, 1977.

## CHAPTER 18

## FORMERLY HOUSE BILL NO. 54

AN ACT TO AMEND CHAPTER 39, TITLE 7 OF THE DELAWARE CODE RELATING TO AUTHORITY OF CONSERVATION DISTRICTS TO CARRY OUT AN INFORMATION AND EDUCATION PROGRAM IN THE FURTHERANCE OF THEIR DUTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §3908, Chapter 39, Title 7 of the Delaware Code by adding thereto a new subsection (9) to read as follows:

"(9) To promote the conservation, protection, development and utilization of land and water resources through various informational and educational activities as the Board may deem necessary in the furtherance of its duties under the Chapter."

Approved March 22, 1977.

## CHAPTER 19

FORMERLY HOUSE BILL NO. 94  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING STANDING COMMITTEES OF THE 129TH GENERAL ASSEMBLY TO EMPLOY PROFESSIONAL STAFF ASSISTANCE SUBJECT TO APPROVAL OF THE LEGISLATIVE COUNCIL AND PROVIDING THE FUNDS THEREFOR.

WHEREAS, under the provisions of Chapter 689, Volume 60, Laws of Delaware, and originally designated as House Bill No. 1298, the Committee, established pursuant to House Joint Resolution No. 26 of the 128th General Assembly, was empowered to continue to study the administration and operation of the public school system and further authorized the Committee to employ a consultant and provided an appropriation for such consultant;

WHEREAS, Chapter 511, Volume 60, Laws of Delaware, also known as the 1977 Budget Appropriation Act, and originally designated as House Bill No. 1274, appropriated \$25,000 to the Office of Controller General for the purpose of complying with the intent of House Bill No. 1298;

WHEREAS, none of the appropriated funds have been expended to date;

WHEREAS, members of the 129th General Assembly have expressed the desire for standing legislative committees to take a more active role in the legislative process; and

WHEREAS, for the standing legislative committees to take a more active role will require competent professional staff assistance.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The provisions of Chapters 511 and 689, Volume 60, Laws of Delaware, to the contrary notwithstanding, amend Section 1, Chapter 511, Volume 60, Laws of Delaware, by striking the line item "Personal Services \$25,000" in the Office of Controller General (101-08-002) in its entirety as it appears in said Chapter 511, and substituting in lieu thereof the following line item "Salaries - Casual and Seasonal for Standing Legislative Committees \$25,000."

Section 2. Requests from Chairmen of standing legislative committees for professional staff assistance shall be submitted in writing to the Legislative Council for approval or disapproval. Approvals for professional staff assistance shall be allowed within the limits of the appropriation and as provided by guidelines established by the Legislative Council.

Section 3. The Legislative Council in reviewing all requests from chairmen of standing legislative committees, shall give first priority approval consideration to the requests from the chairman of the House and Senate Education Committees.

Section 4. Any of such funds remaining unexpended on June 30, 1977, shall revert to the General Fund of the State of Delaware.

Section 5. This Act shall become effective upon signature of the Governor.

Approved March 25, 1977.

CHAPTER 20

FORMERLY HOUSE BILL NO. 172

AN ACT TO RESCIND THE SALARY SUPPLEMENT FOR STATE EMPLOYEES  
AUTHORIZED BY TITLE 29, DELAWARE CODE, SECTION 6532, AND  
SCHEDULED FOR APRIL 1, 1977.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The cost of living salary supplement authorized  
by Section 6532, Title 29, Delaware Code, and scheduled to take  
effect April 1, 1977, is hereby rescinded.

Approved March 25, 1977.

## CHAPTER 21

## FORMERLY HOUSE BILL NO. 110

AN ACT TO AMEND CHAPTER 3, TITLE 29, DELAWARE CODE BY PROVIDING FOR THE DESIGNATION OF THE OFFICIAL MINERAL OF THE STATE OF DELAWARE.

WHEREAS, members of the Delaware Mineralogical Society have found that the State of Delaware has omitted from the Delaware Code the official designation of a State mineral; and

WHEREAS, many states have designated an official State mineral to accompany their State flag, State flower, State bird and State bug; and

WHEREAS, the mineral herein designated as the official State mineral is fitting to accompany Delaware's other official symbols; and

WHEREAS, the proposed State mineral, Stillimanite, is widespread throughout the schists of the Delaware Piedmont and occurs as large masses and stream-rounded boulders at the Brandywine Springs State Park; and

WHEREAS, the mineral Stillimanite is suitable for lapidary work and under the name Fibrolite it was recognized by geologists in Delaware prior to 1830.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 3, Title 29, Delaware Code by adding thereto a new section to be designated as §310 to read as follows:

"§310. State Mineral.

The official State mineral for the State of Delaware shall be Stillimanite."

Approved March 24, 1977.

## CHAPTER 22

FORMERLY HOUSE BILL NO. 93  
 AS AMENDED BY  
 HOUSE AMENDMENT NO. 1 AND  
 SENATE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF  
 JUSTICE FOR OPERATION EXPENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
 DELAWARE:

Section 1. The sum of forty-four thousand eight hundred ten dollars (\$44,810) is hereby appropriated to the Department of Justice for operation expenses for fiscal year ending June 30, 1977.

Salary of State Detectives		
Salary	18,072.00	
Pension	2,042.00	
F.I.C.A.	<u>966.00</u>	21,080.00
Personal Services		4,500.00
Contractual Services		15,230.00
Supplies and Materials		<u>4,000.00</u>
		44,810.00

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved March 17, 1977.

## CHAPTER 23

## FORMERLY SENATE BILL NO. 33

AN ACT TO GRANT APPROVAL TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO PURCHASE A TRACT OF LAND WITHIN WALTER S. CARPENTER, JR. STATE PARK, WHITE CLAY CREEK HUNDRED, NEW CASTLE COUNTY, NEWARK, DELAWARE.

WHEREAS, pursuant to the Capital Improvement Bonds Act of 1976, being Chapter 271, Volume 60, 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 1976 Annual Capital Project Schedule for the acquisition of land; and

WHEREAS, Chapter 271, Volume 60, Section 17, 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 improved land consisting of approximately 14.1087+ acres known as the Madsen Tract located adjacent to Walter S. Carpenter, Jr. State Park near Newark, Delaware; and

WHEREAS, appraisals have been completed on the Madsen Tract; and the fair market value for the Madsen Tract is \$129,000.00; and

WHEREAS, the Department of Natural Resources and Environmental Control entered into an option for the said Madsen Tract for the fair market value, expiring January 28, 1977; 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 Walter S. Carpenter State Park which will enhance the expansion of recreational and preservation activities in compliance with the park 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 129th General Assembly of the State of Delaware, pursuant to Chapter 271, Volume 60, Laws of Delaware, Section 17 to acquire the parcel of



land known as the Madsen Tract within Walter S. Carpenter State Park formerly known as White Clay Creek State Park, situated in White Clay Creek Hundred, New Castle County, near Newark, Delaware at the established fair market value plus required closing costs.

Section 2. Said purchase shall be made in compliance with Title 29, Chapters 93 and 95, 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 April 6, 1977.

## CHAPTER 24

## FORMERLY HOUSE BILL NO. 218

AN ACT TO PROVIDE FUNDS FOR THE DESIGN, DEVELOPMENT AND CONSTRUCTION OF THE DELAWARE AGRICULTURE MUSEUM BY APPROPRIATING AND TRANSFERRING FUNDS FROM THE CAPITAL INVESTMENT FUND TO THE DELAWARE AGRICULTURAL MUSEUM ASSOCIATION; AND FURTHER AUTHORIZING AND EMPOWERING THE BOARD OF TRUSTEES OF DELAWARE STATE COLLEGE TO LEASE TEN ACRES OF LAND TO THE DELAWARE AGRICULTURAL MUSEUM ASSOCIATION FOR THE SITE OF THE AGRICULTURE MUSEUM; AND FURTHER REPEALING CHAPTER 656, VOLUME 60, LAWS OF DELAWARE.

WHEREAS, the General Assembly and the people of Delaware appreciate the contribution of the State's agriculture industry; and

WHEREAS, the General Assembly desires to insure that a public museum be established to exhibit and explain the various farming implements, handicrafts and farming skills used in food and farm production; and

WHEREAS, a part of the campus of Delaware State College is an ideal location for the Agriculture Museum; and

WHEREAS, this land could accommodate the Agriculture Museum; and

WHEREAS, the Delaware Agricultural Museum Association, a group of highly esteemed and reputable citizens interested in preserving for posterity, the history of Agribusiness in Delaware is prepared to design, develop and maintain an Agriculture Museum on land controlled by the Board of Trustees of Delaware State College.

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 656, Volume 60, Laws of Delaware by repealing said Chapter in its entirety.

Section 2. Any funds transferred from the Capital Investment Fund to the Division of Historical and Cultural Affairs pursuant to the provisions of Chapter 656, Volume 60, Laws of Delaware that remain unexpended or unencumbered and all books, records, papers, equipment and all other tangible or intangible property purchased with funds earmarked for the Delaware Agriculture Museum shall be transferred to the Delaware Agricultural

Museum Association not less than thirty days from the effective date of this Act.

Section 3. The Delaware Agriculture Museum shall be located on a ten (10) acre site more or less on the campus of Delaware State College. The Board of Trustees of Delaware State College is hereby authorized and empowered to enter into a ninety-nine (99) year lease agreement with the Delaware Agricultural Museum Association for a site location for the Delaware Agriculture Museum.

Section 4. The Delaware Agricultural Museum Association through the Board of Trustees of Delaware State College, 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 5. In the event the land leased in accordance with the provisions of this Act permanently cease to be used by the Delaware Agricultural Museum Association for an Agricultural Museum, then all lands leased under the provisions of this Act, including improvements thereon, shall revert to the Board of Trustees of Delaware State College.

Section 6. 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 Delaware Agricultural Museum Association to be used exclusively to accomplish the design, development and construction of a Delaware Agricultural Museum.

Section 7. The funds hereby appropriated and transferred from the Capital Investment Fund to the Delaware Agricultural Museum Association remaining unexpended or unencumbered four (4) years from the effective date of this Act shall revert to the Capital Investment Fund.

Section 8. The Delaware Agricultural Museum Association shall be responsible for the maintenance and operation of the Agriculture Museum.

Approved April 8, 1977.

## CHAPTER 25

## FORMERLY SENATE BILL NO. 78

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR THE TRANSPORTATION REIMBURSEMENT OF PUPILS ATTENDING NON-PUBLIC AND NON-PROFIT SCHOOLS.

WHEREAS, appropriations for the transportation of eligible elementary and secondary pupils to non-public and non-profit schools are based on the number of pupils receiving reimbursement for transportation for the preceding school year; and

WHEREAS, there has been an increase this year of over 2,000 pupils attending non-public and non-profit schools who are eligible for a transportation reimbursement; and

WHEREAS, the Department of Public Instruction has determined the need for additional funds to comply with the mandate of §2905, Title 14 of the Delaware Code.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of two hundred fifty-eight thousand dollars (\$258,000.00) is hereby appropriated to the State Board of Education for the purpose of providing a transportation reimbursement for eligible elementary and secondary pupils attending non-public and non-profit schools during the 1976-77 school year.

Section 2. This Act shall be known as a supplementary appropriation and the funds hereby appropriated shall be paid out of the General Fund of the State Treasury from funds not otherwise appropriated.

Section 3. Any funds hereby appropriated which remain unexpended on June 30, 1977, shall revert to the General Fund of the State Treasury.

Approved April 21, 1977.

CHAPTER 26

FORMERLY SENATE BILL NO. 47

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO OFFICE OF THE COMMISSIONER, DEPARTMENT OF CORRECTION, FOR CONTINUATION OF THE STAFF TRAINING PROGRAM FOR CORRECTIONAL OFFICERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$41,300 is hereby appropriated to the office of the Commissioner, Department of Correction for the purpose of continuing the staff training program for correctional officers.

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 or unencumbered as of June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved April 21, 1977.

## CHAPTER 27

## FORMERLY SENATE BILL NO. 172

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE STATE TREASURER  
FOR REVENUE REFUNDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of eight million five hundred thousand dollars (\$8,500,000.00) is hereby appropriated to the State Treasurer for revenue refund requirements for the fiscal year ending June 30, 1977, which refunds shall be distributed as follows:

Personal Income Tax	\$7,600,000.00
Corporation Income Tax	405,000.00
Other Division of Revenue	68,000.00
School Interest	50,000.00
Fines	1,200.00
Motor Vehicle Division Refunds	2,800.00
Motor Fuel Tax Refunds	324,000.00
Del. Tech. Tuition Refunds	38,000.00
Insurance Refunds	3,000.00
Miscellaneous	8,000.00
	<u>\$8,500,000.00</u>

Section 2. This Act shall be considered a supplementary appropriation and the funds provided herein shall be paid from the General Fund of the State Treasury from monies not otherwise appropriated.

Section 3. Any funds appropriated herein and unexpended as of June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved April 22, 1977.

## CHAPTER 28

FORMERLY SENATE BILL NO. 32  
AS AMENDED BY  
SENATE AMENDMENT NO. 1 AND  
HOUSE AMENDMENTS NO. 5 AND 6

AN ACT TO AMEND CHAPTER 9, TITLE 5 OF THE DELAWARE CODE RELATING  
TO THE FARMERS BANK.

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 9, Title 5 of the Delaware Code by  
adding thereto a new section, §935, to read as follows:

"§935. Indemnification of Farmers Bank Directors by the  
State

(a) Unless the amounts sought in indemnity are payable  
under a valid and enforceable insurance policy:

(1) The State shall indemnify any director who is  
not or was not an officer of the Farmers Bank who was  
or is a party to or is threatened to be made a party to  
any threatened, pending or completed action, suit or  
proceeding, whether civil, criminal, administrative or  
investigative (other than an action by or in the right  
of the Farmers Bank) by reason of the fact that he was  
or is a director of the Farmers Bank, against expenses  
(including attorneys' fees), judgments, fines and  
amounts paid in settlement actually and reasonably in-  
curred 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  
Farmers Bank and with respect to any criminal action or  
proceeding, had no reasonable cause to believe his con-  
duct was unlawful. The termination of any action, suit  
or proceeding by judgment, order, settlement, convic-  
tion, or upon a plea of nolo contendere or its equi-  
valent, shall not, of itself, create a presumption that  
the person did not act in good faith and in a manner  
which he reasonably believed to be in or not opposed to  
the best interests of the Farmers Bank, and, with res-  
pect to any criminal action or proceeding, had reason-  
able cause to believe that his conduct was unlawful.

(2) The State shall indemnify any person who was  
or is a director, and who is not or was not an officer  
of the Farmers Bank, and who was or is a party or is  
threatened to be made a party to any threatened, pen-

ding or completed action or suit by or in the right of the Farmers Bank to procure a judgment in its favor by reason of the fact that he was or is a director of the Farmers Bank against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

(3) To the extent that a director who is not or was not an officer of the Farmers Bank has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a)(1) and (2) or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(b) Any indemnification under subsection (a) (unless ordered by court) shall be made by the State only as authorized in the specific case upon a determination that indemnification of the directors is proper in the circumstances because the Director has met the applicable standard of conduct set forth in subsection (a) of this section. Such determination shall be made by a vote of the members of the Farmers Bank Commission at least two-thirds of the members therein concurring.

(c) Unless such expenses are payable under a valid and enforceable insurance policy, and upon the recommendation of the Attorney General, reasonable expenses incurred by a director who is not or was not an officer of the Farmers Bank in defending a civil or criminal action, suit or proceeding shall be paid by the State in advance of the final disposition of such action, suit or proceeding in the specific case upon receipt of an undertaking by or on behalf of the director, to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized by this section.



(d) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Certificate of Incorporation or By-Laws of the Farmers Bank, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director of the Farmers Bank and shall inure to the benefit of the heirs, executors and administrators of such a person.

(e) No indemnity or payments shall be furnished pursuant to this Act:

(1) for any act or omission which occurred before July 1, 1976;

(2) in any amount in excess of \$10,000,000.00 for any and all claims hereunder;

(3) for any action, suit or proceeding in any court whether in law or equity or otherwise brought after March 31, 1978;

(4) until the surplus capital account of the Farmers Bank has been used for indemnification up to the amount of \$1,000,000, or, if the Farmers Bank has \$1,000,000 or less in such account, until the entire such account has been used for indemnification.

(f) For purposes of this section 'director' shall mean any person who is a Director of the Farmers Bank at the time of the effective date of this section or any person who becomes a director of the Farmers Bank after the effective date of this section.

(g) No payment under this Act shall be approved unless the director seeking such payment shall agree that the State be subrogated, to the extent of such payment, to all rights of recovery of such director, and shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the State effectively to bring suit in the name of the State.

(h) This statute shall expire and become void on March 31, 1978 unless extended by further Act of the General Assembly.

(i) The Farmers Bank shall pay the State of Delaware a premium for the indemnity coverage provided by this Act at a rate that would be commensurate to that paid a private insurance carrier. The rate charged shall be determined by the Insurance Commissioner."

Approved April 28, 1977.

## CHAPTER 29

FORMERLY SENATE BILL NO. 95  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 72, TITLE 16, DELAWARE CODE, RELATING TO  
LIQUIFIED PETROLEUM GAS CONTAINERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Chapter 72, Title 16, Delaware Code by  
adding thereto a new section to be designated as §7208 to read  
as follows:

"§7208. Ownership of liquified petroleum gas containers

Any liquified petroleum gas containers placed upon land,  
whether aboveground or underground, by a person other than  
the owner of the land, pursuant to a lease or bailment agree-  
ment between the owner of the land and the person placing  
such containers on the land, be and they are hereby declared  
to be and shall remain movable property during the term of  
such lease or bailment, and the ownership thereof shall not  
be affected by the sale, either private or judicial, through  
foreclosure, execution process or otherwise, of the land  
upon which they are placed, nor shall the ownership of such  
containers by the person placing them upon the land be subor-  
dinate to the rights of any purchase of the land at any such  
sale."

Section 2. The provisions of this Act shall apply to all  
liquified gas containers placed upon land by a person other than  
the owner of the land, either prior to or subsequent to the effec-  
tive date of this Act.

Approved April 28, 1977.

CHAPTER 30

FORMERLY HOUSE BILL NO. 74

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF JUSTICE FOR EXTRADITION EXPENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of ten thousand dollars (\$10,000) is hereby appropriated to the Department of Justice for expenses for the extradition of fugitives from other states for the fiscal year ending June 30, 1977.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved April 28, 1977.

## CHAPTER 31

## FORMERLY HOUSE BILL NO. 291

AN ACT TO AMEND CHAPTER 663, VOLUME 60, LAWS OF DELAWARE, RELATING  
TO PENSION BENEFITS OF CORRECTIONS OFFICERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 1, Chapter 663, Volume 60, Laws of Delaware, by striking therefrom the phrase "May 1, 1977", and inserting in lieu thereof the phrase "July 1, 1978."

Section 2. Amend Section 2, Chapter 663, Volume 60, Laws of Delaware, by striking the phrase "April 30, 1977", and inserting in lieu thereof the phrase "June 30, 1978."

Approved April 28, 1977.

## CHAPTER 32

## FORMERLY SENATE BILL NO. 173

AN ACT TO AMEND THE LAWS OF DELAWARE AS THEY RELATE TO STUDENTS  
VOLUNTARILY TRANSFERRING FROM ONE PUBLIC SCHOOL DISTRICT TO  
ANOTHER.

WHEREAS, the May 19, 1976 Court Opinion and the June 15, 1976 Judgment of the United States District Court for the District of Delaware in the case of Evans v. Buchanan, C.A. Nos. 1816 - 1822 require that initial desegregatory assignments among the intermediate and high schools of eleven (11) school districts in New Castle County be made for the September 1977 term of the public schools; and

WHEREAS, while the General Assembly will abide by and comply with all applicable Opinions, Orders, Judgments and Decrees of all Courts of competent jurisdiction on questions involving public education as well as on all other questions, including all applicable Opinions, Judgments, Orders and Decrees entered in the legal proceeding known as Evans v. Buchanan, nevertheless the General Assembly does not believe that there is any unconstitutional segregation of students of any race in the public schools in the State of Delaware; and

WHEREAS, the General Assembly therefore most respectfully disagrees with the May 19, 1976 Opinion and with the June 15, 1976 Judgment of the United States District Court for the District of Delaware in the case of Evans v. Buchanan; and

WHEREAS, the said Judgment in Evans v. Buchanan is presently on appeal and the General Assembly wholeheartedly supports the appeal which has been taken by the State Board of Education but recognizes that the aforesaid Judgment has the force of law until and unless it is stayed or reversed and the General Assembly recognizes that the Judgment may not be reversed prior to September 1, 1977; and

WHEREAS, although the General Assembly does not believe that any desegregation should be required by Court Order, Judgment or Decree because the General Assembly does not believe there is any unconstitutional segregation of students in the public schools of Delaware as recited above, nevertheless for as long as there shall remain outstanding and not reversed, modified or stayed applicable Court Orders, Judgments and Decrees which direct desegregation of students in or among any of the public schools of the State of Delaware, the General Assembly will in good faith attempt to comply with them; and

WHEREAS, whenever there is reference herein to desegregation, it is to be understood that such reference does not in any way

imply or suggest that the General Assembly concurs or agrees with the rulings and holdings of the Opinions, Orders, Judgments and Decrees of the Courts in Evans v. Buchanan, but rather such reference is only to the requirement of desegregatory actions imposed by the Court in Evans v. Buchanan and as to which the Court gave to the General Assembly certain limited or restricted authority to be exercised within the limits and on the conditions set by the Court in its Opinions and Orders, Judgments and Decrees, and such reference is without prejudice to the views of the General Assembly as set forth above; and

WHEREAS, the General Assembly desires to encourage the desegregation required by the Courts by voluntary means to the greatest extent possible so that students and their parents or guardians or other persons who legally stand in place of their parents, will have the greatest possible opportunity to make their own individual and informed decisions as to the school districts said students will attend when the students are moved for compliance with a Court Order; and

WHEREAS, the General Assembly believes that the students and citizens of the State of Delaware, as well as the public school system of the State of Delaware, will all be best served if the desegregation required by the aforesaid Court Opinion and Judgment occurs by voluntary means and with no compulsory, mandated or forced transfers of students among the eleven (11) school districts involved, and the General Assembly needs and desires as much information as time permits to determine the extent to which the required desegregation can take place by voluntary means for the September 1977 term; and

WHEREAS, there is already an established statutory pattern for voluntary student transfers, subject to approval by the School Board of the receiving district but not the School Board of the sending district, between the eleven (11) school districts in New Castle County directly affected by the Evans v. Buchanan Opinion and Judgment; and

WHEREAS, the General Assembly is informed that each of the said eleven (11) public school districts will have varying amounts of empty available "seats" or classroom space in various grades for the school year commencing September 1977; and

WHEREAS, the General Assembly is informed that at the present time an application for student transfer may be given preference on racial grounds because the May 19, 1976 Opinion and the June 15, 1976 Judgment in Evans v. Buchanan have placed northern New Castle County in a "remedy" situation, and the General Assembly is further informed that under the current state of judicial decisions, it is not clear whether, if there were no judicial ruling which put northern New Castle County in a "remedy" situation, an application for student transfer could constitutionally

be given preference by the "receiving" district because of the race of the applicant; and

WHEREAS, the General Assembly believes that voluntary Court-ordered desegregation may be best encouraged (a) if the local School Boards accept all applications for transfers by applicants who are members of the race which is in the majority for the 1976-1977 school year in the public school district in which they reside and which is in the minority for the 1976-1977 school year in the school district to which they apply for transfers, unless that particular school district can document that a "seat" or classroom space will not be available for such applicant in the grade he would be attending for the school year commencing in 1977, and (b) if the local School Boards reject all applications by applicants who are members of the race which is in the minority for the 1976-1977 school year in the public school district in which they reside and which is in the majority for the 1976-1977 school year in the school district to which they apply.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. (a) The State Superintendent of Public Instruction shall promptly collect and compile informational data describing and explaining the various educational programs offered in grades 7 through 12, inclusive, in each of the following eleven (11) public school districts located in New Castle County:

1. Alexis I. duPont School District
2. Alfred I. duPont School District
3. Claymont School District
4. Conrad Area School District
5. DeLaWarr School District
6. Marshallton-McKean School District
7. Mount Pleasant School District
8. New Castle-Gunning Bedford School District
9. Newark School District
10. Stanton School District
11. Wilmington Public Schools

and shall, with the cooperation of the School Boards and professional staffs of said districts, prepare a description indicating which programs offered by each of said districts are considered by such district or by the State Superintendent of Public Instruction to be unique, specialized, of particularly high quality, or to have special or peculiar advantages for all or for certain students, and containing such other information as the State Superintendent of Public Instruction shall have determined to be appropriate to give each student a full understanding of the opportunities available in all eleven (11) school districts, and

the State Superintendent of Public Instruction shall have such information prepared in written form for distribution to students in grades 6 through 10, inclusive, in each of said eleven (11) school districts. In preparing the descriptions and explanations the State Superintendent of Public Instruction may set forth guidelines for the preparation of said descriptions and explanations and permit the School Boards of the eleven (11) districts to prepare as much of the final descriptions and explanation as he deems appropriate.

(b) The State Superintendent of Public Instruction shall promptly determine the best and most accurate estimates as are available of the number of available "seats" or amount of classroom space each of the aforesaid eleven (11) districts is expected to have for each of the grades 7 through 11, inclusive, for the school year commencing September 1977.

(c) The State Superintendent of Public Instruction shall promptly determine and compile data that will indicate the racial mixture of students in each of the grades 6 through 10, inclusive, in each of the schools in each of the eleven (11) said districts for the current school year of 1976-1977.

(d) The State Superintendent of Public Instruction shall promptly determine and compile the numbers of students in each of grades 6 through 10, inclusive, in each of the eleven (11) said districts during the current school year of 1976-1977, and shall also promptly determine and compile the most accurate estimates as are available of the expected number of students in each of the grades 7 through 11, inclusive, in each of the eleven (11) said districts for the school year commencing September 1977.

(e) The State Superintendent of Public Instruction shall promptly compile such other information and data as he believes will be relevant and material for students and their parents or guardians or other persons who stand legally in the place of their parents, or for the various School Boards, in deciding on the advisability of making or accepting applications for student transfers among the eleven (11) said districts for the school year commencing September 1977.

(f) The State Superintendent of Public Instruction shall collect all of the data and information required by this Act by a date which he shall have determined and included on a Calendar of Voluntary Transfer Dates and shall complete the printed compilation and preparation of the information and data which he is to determine, compile and prepare pursuant to this Act by a date which he shall have determined and included on a Calendar of Voluntary Transfer Dates.

(g) The State Superintendent of Public Instruction shall prepare and have a supply of printed forms of application for student



transfer among the eleven (11) said districts for grades 7 through 11, inclusive, for the school year commencing September 1977, in such form as he shall determine and in such numbers that there will be a copy available for each student in grades 6 through 10, inclusive, in each of the eleven (11) said districts by a date which he shall have determined and included on a Calendar of Voluntary Transfer Dates. The State Superintendent may prepare the application in a form that will permit an applicant to apply to more than one district by means of a single application and that will require an applicant to state an order of preference among districts.

(h) By a date determined by the State Superintendent of Public Instruction and included on a Calendar of Voluntary Transfer Dates, he or such representatives as he designates from his own staff and the staffs of the local school districts shall visit during regularly scheduled school hours with all teachers and all students in each of the grades 6 through 10, inclusive, in each school in each of the eleven (11) said districts. During and for the purpose of these visits the students and teachers shall be assembled into such groups as the State Superintendent of Public Instruction or his representatives deem appropriate, and the State Superintendent of Public Instruction or his representatives shall spend a period of time not less than that determined by the State Superintendent of Public Instruction to be adequate with each such group, explaining and describing the voluntary transfer system as authorized by this Act and by 14 Del. C. §§602 and 603, as amended at that time, and shall distribute to each student present a copy of as much of the printed material compiled and prepared by the State Superintendent of Public Instruction pursuant to this Act as the State Superintendent of Public Instruction shall have determined to be appropriate to give each student a full understanding of the opportunities available in all school districts to which he or she is eligible to transfer to among the aforesaid eleven (11) school districts, and also shall distribute a copy of the form of application for student transfer, giving appropriate instructions for the completion and signing of such applications and the timing for and location for filing and submitting such applications, all of which shall have been determined by the State Board of Education.

(i) By a date which he shall have determined and included on a Calendar of Voluntary Transfer Dates, the State Superintendent of Public Instruction shall distribute by such means as he shall determine to each student's home (1) such printed material as he shall have determined to be appropriate to give each student and parent, guardian or person who legally stands in the place of a parent, a full understanding of the opportunities available in all school districts to which he or she is eligible to transfer among the aforesaid eleven (11) school districts and (2) a copy of the form of application for student transfer, giving appropriate

riate instructions for the completion and signing of such applications and the timing for and location for filing and submitting such applications, all of which shall have been determined by the State Board of Education.

(j) The State Superintendent of Public Instruction shall submit the Calendar of Voluntary Transfer Dates referred to herein to the General Assembly on or before April 29, 1977. The Calendar of Voluntary Transfer Dates shall include an application closing date in May. Notwithstanding the provisions of 14 Del. C. §603, the instructions prepared by the State Superintendent of Public Instruction for completing and filing applications may provide that the applications are to be filed by the date included in the Calendar of Voluntary Transfer Dates as the application closing date.

(k) The State Superintendent of Public Instruction shall compile data indicating, by race, and by school district of residence, the number of voluntary transfer applicants for each school district and the number of applicants accepted by each school district and such other information as he deems appropriate, and shall submit said information to the General Assembly by no later than June 15, 1977.

(l) The State Superintendent of Public Instruction shall take such actions as he deems appropriate to coordinate the acceptances of voluntary transfer applications in order to minimize unnecessary transportation expense and to eliminate duplication of acceptances.

Section 2. For the purpose of complying with the May 19, 1976 Opinion and June 15, 1976 Judgment in *Evans v. Buchanan*, and in accordance with the following provisions, the School Boards of the aforesaid eleven (11) school districts are hereby required to accept all applications for transfers for the 1977-1978 school year by applicants who are members of the race which is in the majority of the student population for the 1976-1977 school year in the public school district in which they reside and which is in the minority of the student population for the 1976-1977 school year in the school district to which they apply, unless the school district to which they apply can document that it is not expected to have an available "seat" or available classroom space for such applicant in the grade he would be attending for the school year commencing in 1977:

(a) To be eligible for transfer under this Section 2 a student must, on or before the application closing date determined by the State Superintendent of Public Instruction and included on the Calendar of Voluntary Transfer Dates established in accordance with Section 1 of this Act, have submitted a written application to the school district in which he or she desires to attend school and, simultaneously with submitting said application to such school district, must have submitted a copy thereof to the

school board of the school district in which he or she resides.

(b) The school district to which application has been made shall endeavor to notify each applicant of its decision, in writing, on or before June 15 of 1977 and shall simultaneously send a copy of its written notification to the school board of the district in which the student resides or has last attended school.

(c) Subject to the provisions of this Section 2, the receiving district shall receive transfers under the provisions of this section on a first come, first served, space available basis. The capacity of any school building shall be the capacity determined by the State Board of Education.

(d) Approval for transfer is not required by the sending district.

(e) Unless otherwise ordered by a Court of proper jurisdiction or by statutory definition, "majority" shall mean at least 51%.

(f) Racial groups shall be identified in accordance with the standard identifications used for research purposes by the State Board of Education.

(g) The provisions for computing, billing, collecting, and paying of tuition shall be followed as described in Chapter 6, Title 14, Delaware Code, as amended, and tuition shall be paid by the sending district.

(h) Transportation for students transferred under provisions of this section may be provided by rules and regulations of the State Board of Education.

Section 3. Notwithstanding anything in the laws of Delaware to the contrary, the school boards in the aforesaid eleven (11) school districts shall not accept the voluntary transfer applications filed on or before May 31, 1977 by applicants who are members of the race which is in the minority of the student population for the 1976-1977 school year in the public school district in which they reside and which is in the majority of the student population for the 1976-1977 school year in the school district to which they apply.

Section 4. Amend Section 603 (c), Chapter 6, Title 14, Delaware Code, as heretofore amended, by striking the words "August 1 of 1976 or July 1 of any subsequent calendar year" as they appear in said subsection and by substituting in lieu thereof the following words:

"May 31 of 1977 or May 1 of any subsequent calendar year".

Section 5. Amend Section 603 (c), Chapter 6, Title 14, Delaware Code, as heretofore amended, by striking the words "on or before August 20 of 1976, in the case of an 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" as they appear in said subsection and by substituting in lieu thereof the following words:

"on or before June 13 of 1977, in the case of an application made on or before May 31 of 1977, or on or before June 1 of the same calendar year in which the application is made, in the case of any calendar year subsequent to 1977".

Section 6. Amend Delaware Code, Title 14, Chapter 6, Section 603, by adding to that Section a new subsection (f) as follows:

"(f) When a student has transferred to a new district pursuant to the voluntary transfer provisions, the sending district shall immediately upon request of the receiving district transfer the student's records to the receiving district."

Approved May 3, 1977.

CHAPTER 33

FORMERLY HOUSE BILL NO. 40

AN ACT TO AMEND CHAPTER 5, PART I, TITLE 11 OF THE DELAWARE CODE  
RELATING TO CRIMES AND CRIMINAL PROCEDURE; AND PROVIDING  
PENALTIES FOR THE PROMOTION OF PROSTITUTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §1351, Chapter 5, Part I, Title 11 of the Delaware Code by striking the words "A misdemeanor" as the same appear in the second paragraph of said section, and substituting the words "E felony" in lieu thereof.

Section 2. Amend §1352, Chapter 5, Part I, Title 11 of the Delaware Code by striking the words "class E" as the same appear in the second paragraph of said section, and substituting the words "class D" in lieu thereof.

Section 3. Amend §1353, Chapter 5, Part I, Title 11 of the Delaware Code by striking the words "class C" as the same appear in the second paragraph of said section, and substituting the words "class B" in lieu thereof.

Approved May 5, 1977.

## CHAPTER 34

## FORMERLY SENATE BILL NO. 171

AN ACT TO AMEND CHAPTER 74, TITLE 3, DELAWARE CODE, RELATING TO THE DIAGNOSIS AND TESTING EXPENSES OF THE EQUINE INFECTIOUS ANEMIA PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §7404, Chapter 74, Title 3, Delaware Code by striking said section in its entirety, and inserting in lieu thereof a new §7404 to read as follows:

"§7404. Diagnosis and testing; expense

The testing and diagnosis of any equine suspected of having Equine Infectious Anemia shall be by the standard 'agar gel immuno-diffusion test' or by such other procedures as prescribed by the Department, and the cost thereof borne by the owner."

Section 2. All charges made by the Department since July 1, 1971 for diagnosis of equine infectious anemia are hereby ratified and approved.

Approved May 5, 1977.

CHAPTER 35

FORMERLY HOUSE BILL NO. 70

AN ACT TO AMEND CHAPTER 5, TITLE 11, DELAWARE CODE, RELATING TO  
SHOPLIFTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Chapter 5, Title 11, Delaware Code by  
striking the number "21" in subsections (c) and (d) of Section  
840 and inserting in lieu thereof the number "18".

Approved May 7, 1977.

## CHAPTER 36

## FORMERLY CHAPTER NO. 11

AN ACT TO AMEND CHAPTER 55, TITLE 29, DELAWARE CODE, RELATING TO  
STATE EMPLOYEES' PENSION PLAN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend subsection (d) of Section 5532, Chapter 55,  
Title 29, Delaware Code, by striking the following words in  
their entirety from the first paragraph of said subsection:

"to an individual who is 60 years of age or older"

Section 2. This Act shall be deemed effective at the same  
time and date as Chapter 483, Volume 60, Laws of Delaware.

Approved May 7, 1977.



## CHAPTER 37

## FORMERLY SENATE BILL NO. 175

## AN ACT AUTHORIZING THE DEPARTMENT OF INSURANCE TO TRANSFER BETWEEN LINES.

WHEREAS, the Department of Insurance has insufficient General Fund appropriations in certain lines; and

WHEREAS, the authority to make certain transfers within various lines would preclude the need for an additional supplemental appropriation.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Department of Insurance is hereby authorized, with the approval of the Budget Director, to transfer between the following lines to meet financial requirements for the remainder of fiscal year 1977. From Malpractice Account, Line 82 - \$9,229.00 to the following lines:

Line 40	Travel	\$ 650.00
Line 50	Other Contractual Services	3,410.00
Line 50	Telephone	4,791.00
Line 70	Capital Outlay	<u>378.00</u>
	TOTAL	<u>\$9,229.00</u>

Section 2. This authority expires on June 30, 1977.

Approved May 10, 1977.

## CHAPTER 38

## FORMERLY HOUSE BILL NO. 312

AN ACT TO PERMIT THE MARRIAGE OF TWO DELAWARE CITIZENS PRIOR TO THE EXPIRATION OF TWENTY-FOUR (24) HOURS FROM THE ISSUANCE OF THE MARRIAGE LICENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Notwithstanding any provision of Chapter 1 of Title 13 of the Delaware Code, or any other law of this State to the contrary, the Clerk of the Peace for New Castle County shall on May 11, 1977 issue to Charles Leon Alexander, born 5/24/55, and Susan Carol Swift, born 9/28/55, an official marriage license that will entitle them to be married on that date or within thirty (30) days thereafter.

Approved May 11, 1977.

CHAPTER 39

FORMERLY HOUSE BILL NO. 180

AN ACT AGREEING TO A PROPOSED 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.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed to the 128th General Assembly as follows:

"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 Constitution 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, '''; and

WHEREAS, the said proposed amendment was agreed to by two-thirds of all of the members elected to each branch in the said 128th General Assembly.

NOW, THEREFORE:

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. The said proposed amendment is agreed to and adopted and shall forthwith become a part of the Constitution.

Approved April 28, 1977.

## CHAPTER 40

FORMERLY SENATE BILL NO. 203  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 691, VOLUME 60, LAWS OF DELAWARE, KNOWN AS THE "ANNUAL CAPITAL IMPROVEMENTS ACT OF 1977" AND CHAPTER 719, VOLUME 60, LAWS OF DELAWARE, WHICH AUTHORIZED THE TRANSFER OF FUNDS FROM THE SCHOOL BOND REVERSION ACT TO THE DEPARTMENT OF CORRECTION, FOR THE PURPOSE OF AUTHORIZING THE DEPARTMENT OF CORRECTION TO USE CERTAIN FUNDS FOR SPECIFIED PRISON CONSTRUCTION AND RENOVATION PROJECTS.

WHEREAS, the Capital Improvement Act of 1977 provided funds in the amount of \$500,000 to the Department of Correction for the purpose of planning, engineering and feasibility study for the placement of a Women's Correctional Institution; and

WHEREAS, this study has been completed and there remains a surplus of \$353,000 in the appropriation; and

WHEREAS, Chapter 719, Volume 60, Laws of Delaware, known as Senate Bill 867, authorized the transfer of the sum of \$400,000 from the School Bond Reversion Account to the Department of Correction for the erection of six (6) guard towers equipped with lights and other protective devices at the Delaware Correctional Center; and

WHEREAS, there remains \$374,000 in this appropriation, which amount is insufficient to complete the projects for which the monies were transferred; and

WHEREAS, these funds can be better utilized to complete certain construction projects and to undertake other security methods at Delaware Correctional Center and Sussex Correctional Institution.

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. Funds appropriated by Chapter 691, Volume 60, Laws of Delaware, and designated in the 1977 Annual Capital Projects Schedule to be used for the planning, engineering, and feasibility study for the placement of a Women's Correctional Institution shall be used for the following purposes, not to exceed the amounts set forth:

Sussex Correctional Institution	
Renovation of facilities -	\$125,000
Conversion of work release housing to medium security housing -	136,000
Delaware Correctional Center	
Rick wells replacement -	18,400
Construction of dog kennels -	<u>25,000</u>
	\$304,400

Section 2. Funds appropriated by Chapter 719, Volume 60, Laws of Delaware, to the Department of Correction for the erection of six (6) guard towers equipped with lights and/or the installation of protective or electronic devices at Delaware Correctional Center shall be used for the following projects at Delaware Correctional Center, not to exceed the amounts set forth:

Fencing, gates and sally ports	\$165,324
High-intensity fence lights, light posts and footings	45,600
New concertina wire	36,000
Roadway and sidewalks	<u>53,000</u>
	\$299,924

Approved May 13, 1977.

## CHAPTER 41

FORMERLY SENATE BILL NO. 28  
AS AMENDED BY  
SENATE AMENDMENTS NO. 1, 2, 9 AND  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 42 OF TITLE 11, DELAWARE CODE, RELATING TO THE METHOD; PUNISHMENT, AND REVIEW OF PUNISHMENT FOR FIRST DEGREE MURDER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 4209 of Chapter 42, Title 11, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new Section 4209 to read as follows:

"§4209. Punishment, procedure for determining punishment, review of punishment, method of punishment for first degree murder

(a) Punishment for First Degree Murder. Any person who is convicted of first degree murder shall be punished by death or by imprisonment for the remainder of his or her natural life without benefit of probation or parole or any other reduction, said penalty to be determined in accordance with the provisions of this section.

(b) Separate Hearing on the Issue of Punishment for First Degree Murder. Upon a conviction of guilt of a defendant of first degree murder, the Superior Court shall conduct a separate hearing to determine whether the defendant should be sentenced to death or to life imprisonment without benefit of probation or parole as authorized by subsection (a) of this section. If the defendant was convicted of first degree murder by a jury, this hearing shall be conducted by the trial judge before that jury as soon as practicable after the return of the verdict of guilty. Alternate jurors shall not be excused from the case prior to submission of the issue of guilt to the trial jury and shall remain separately sequestered until a verdict on guilt is entered. If the verdict of the trial jury is guilty of first degree murder said alternates shall sit as alternate jurors on the issue of punishment. If, for any reason satisfactory to the Court, any member of the trial jury is excused from participation in the hearing on punishment, the trial judge shall replace said member(s) with said alternate(s). If a jury of twelve jurors cannot participate in said hearing a separate and new jury, plus alternates, shall be selected for said hearing in accordance with the applicable rules of the Superior Court and laws of Delaware, unless the defendant(s) and the State

stipulate to the use of a lesser number of said jurors.

If the defendant was convicted of first degree murder by the Court, after a trial and waiver of a jury trial or after a plea of guilty or nolo contendere, this hearing shall be conducted by the trial judge before a jury, plus alternates, empaneled for that purpose and selected in accordance with the applicable rules of the Superior Court and laws of Delaware, unless said jury is waived by the State and the defendant in which case the hearing shall be conducted, if possible, by and before the trial judge who entered the finding of guilty or accepted the plea of guilt or nolo contendere.

(c) Procedure at the Punishment Hearing. The sole determination for the jury or judge at the hearing provided for by this section shall be the penalty to be imposed upon the defendant for the conviction of first degree murder. At the hearing, evidence may be presented as to any matter that the Court deems relevant and admissible to the penalty to be imposed. Said evidence shall include matters relating to any mitigating circumstance and to any aggravating circumstance, including, but not limited to, those aggravating circumstances enumerated in subsection (e) below. Provided that notice in writing of any aggravating circumstances and any mitigating circumstances shall be given to the other side by the party seeking to introduce evidence of such circumstances prior to the punishment hearing, and after the verdict on guilt, unless in the discretion of the Court such advance notice is impracticable. The record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant or the absence of any such prior criminal convictions and pleas shall also be admissible in evidence.

At said hearing the Court shall permit argument by the State, the defendant and/or his counsel, on the punishment to be imposed. Said argument shall consist of opening statements by each, unless waived, opening summation by the State, rebuttal summation by the defendant and/or his counsel and closing summation by the State.

Upon the conclusion of the evidence and arguments the judge shall give the jury appropriate instructions and the jury shall retire to determine the punishment to be imposed.

In the instructions to the jury the Court shall include instructions for it to weigh and consider any mitigating circumstances or aggravating circumstances and any of the statutory aggravating circumstances set forth in subsection (e) of this section which may be raised by the evidence. The jury shall be instructed to weigh any mitigating factors

against the aggravating factors.

(d) Determination of Sentence. A sentence of death shall not be imposed unless the jury or judge, where appropriate, finds:

(1) beyond a reasonable doubt at least one statutory aggravating circumstance; and

(2) unanimously recommends, after weighing all relevant evidence in aggravation or mitigation which bears upon the particular circumstances or details of the commission of the offense and the character and propensities of the offender, that a sentence of death be imposed. Where the jury, or judge when applicable, submits such a finding and recommendation, the Court shall sentence the defendant to death as provided by subsection (f) below. A finding by the jury of a statutory aggravating circumstance, and a consequent recommendation of death, supported by the evidence, shall be binding on the Court.

Refusal or failure of the Court to follow the jury's recommendation for any reason shall be appealable by the State as of right to the Supreme Court within thirty days after imposition of sentence.

If the jury, or judge when applicable, cannot unanimously find that at least one statutory aggravating circumstance exists and cannot unanimously recommend death, the Court shall sentence the defendant to life imprisonment without benefit of probation or parole.

(e) Aggravating Circumstances. In order for a sentence of death to be imposed, the jury, unanimously, or judge when applicable, must find that the evidence established beyond a reasonable doubt the existence of at least one of the following aggravating circumstances which shall apply with equal force to accomplices convicted of such murder:

(1) The murder was committed by a person in, or who has escaped from, the custody of a law enforcement officer or place of confinement.

(2) The murder was committed for the purpose of avoiding or preventing an arrest or for the purpose of effecting an escape from custody.

(3) The murder was committed against any law enforcement officer, corrections employee or fireman, while such victim was engaged in the performance of his official duties.



(4) The murder was committed against a judicial officer, a former judicial officer, Attorney General, former Attorney General, assistant or deputy attorney general or former assistant or deputy attorney general, State Detective or former State Detective, Special Investigator or former Special Investigator, during, or because of, the exercise of his official duty.

(5) The murder was committed against a person who was held or otherwise detained as a shield or hostage.

(6) The murder was committed against a person who was held or detained by the defendant for ransom or reward.

(7) The murder was committed against a person who was a witness to a crime and who was killed for the purpose of preventing his appearance or testimony in any grand jury, criminal or civil proceeding involving such crime.

(8) The defendant paid or was paid by another person or had agreed to pay or be paid by another person or had conspired to pay or be paid by another person for the killing of the victim.

(9) The defendant was previously convicted of another murder or manslaughter or of a felony involving the use of, or threat of, force or violence upon another person.

(10) The murder was committed while the defendant was engaged in the commission of, or attempt to commit, or flight after committing or attempting to commit any degree of rape, arson, kidnapping, robbery, sodomy or burglary.

(11) The defendant's course of conduct resulted in the deaths of two or more persons where the deaths are a probable consequence of the defendant's conduct.

(12) The murder was committed by means of torture, use of an explosive device or poison, or the defendant used such means on the victim prior to murdering him.

(13) The defendant caused or directed another to commit murder or committed murder as an agent or employee of another person.

(14) The murder was outrageously or wantonly vile, horrible or inhuman.

(15) The defendant was under a sentence of life imprisonment, whether for natural life or otherwise, at the time of the commission of the murder.

(16) The murder was committed for pecuniary gain.

(17) The victim was pregnant.

(18) The victim was severely handicapped, severely disabled or elderly.

(19) The victim was defenseless.

In any case where the defendant has been convicted of murder in the first degree in violation of any provision of 11 Del. C. §636 (a)(2)-(7), that conviction shall establish the existence of a statutory aggravating circumstance and the jury, or judge where appropriate, shall be so instructed. This provision shall not preclude the jury, or judge where applicable, from considering and finding the statutory aggravating circumstances listed in this subsection and any other aggravating circumstances established by the evidence.

(f) Method and Imposition of the Sentence of Death. The imposition of a sentence of death shall be upon such terms and conditions as the trial court may impose in its sentence, including the place, the number of witnesses and conditions of privacy. Punishment of death shall, in all cases, be inflicted by hanging by the neck and the carrying out of such sentence may not be carried out until final review of such sentence is had by the Delaware Supreme Court as provided for in subsection (g) of this section. The Court or the Governor may suspend the execution of the sentence until a later date to be specified, solely to permit completion of the process of judicial review of said conviction.

(g) Automatic Review of the Death Penalty by the Delaware Supreme Court.

(1) Whenever the death penalty is imposed, and upon the judgment becoming final in the trial court, the recommendation on and imposition of that penalty shall be reviewed on the record by the Delaware Supreme Court. Absent an appeal having been taken by the defendant upon the expiration of thirty (30) days after the sentence of death has been imposed, the Clerk of the Superior Court shall require a complete transcript of the punishment hearing be prepared promptly and within ten (10) days after receipt of that transcript he shall transmit the transcript, together with a notice prepared by him, to the Delaware Supreme Court. The notice shall set

forth the title and docket number of the case, the name of the defendant, the name and address of any attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The Court shall, if necessary, appoint counsel to respond to the State's positions in the review proceedings.

(2) The Supreme Court shall limit its review under this section to the recommendation on and imposition of the penalty of death and shall determine:

(a) whether, considering the totality of evidence in aggravation and mitigation which bears upon the particular circumstances or details of the offense and the character and propensities of the offender, the death penalty was either arbitrarily or capriciously imposed or recommended, or disproportionate to the penalty recommended or imposed in similar cases arising under this Act;

(b) whether the evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection (e) of this section and, where applicable, 11 Del. C. §636 (a)(2)-(7).

(3) The Supreme Court shall permit the defendant and the State to submit briefs within the time provided by the Court, and permit them to present oral argument to the Court.

(4) With regard to review of the sentence in accordance with this subsection, the Court shall:

(a) affirm the sentence of death, or

(b) in cases where the trial court erroneously rejected the jury's recommendation of that sentence, remand with directions to reinstate the jury's recommendation and to impose the penalty of death;

(c) set aside the sentence of death and remand for correction of any errors in said hearing and for imposition of the appropriate penalty. Said errors shall not affect the determination of guilt and shall not preclude the reimposition of death where appropriately determined after a new hearing on punishment;

(d) set forth its findings as to the reasons for its actions.

(h) Ordinary Review not Affected by this Statute.  
Any error in the guilt phase of the trial may be raised as provided by law and rules of Court and shall be in addition to the review of punishment provided by this section."

Section 2. All offenses committed and all prosecutions commenced under the provisions of this Act prior to the effective date of this Act shall remain punishable and shall be prosecuted as previously provided and this Act shall not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this Act.

Section 3. If any provision of this Act or the application thereof to any person or circumstance, including any one or more of the enumerated instances which constitute first degree murder is held unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any other provision or application of this Act, and to that end the provisions of this Act are declared to be severable.

Section 4. This Act shall become effective upon the signature of the Governor.

Approved May 14, 1977.

## CHAPTER 42

## FORMERLY SENATE BILL NO. 100

AN ACT TO AMEND AN ACT, BEING CHAPTER 63, VOLUME 12, LAWS OF DELAWARE, ENTITLED "AN ACT TO INCORPORATE THE ARTISANS' SAVINGS BANK", BY AMENDING SECTION 2 THEREOF TO PROVIDE FOR THE ELECTION OF NOT LESS THAN THIRTEEN NOR MORE THAN TWENTY DIRECTORS.

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 63, Volume 12, Laws of Delaware, by striking Section 2 thereof in its entirety and substituting a new Section 2, which shall read as follows:

"Section 2. That the said corporation shall annually on the second Tuesday in February in the City of Wilmington or at such other time or place as the By-laws may appoint, elect by ballot from the members of said corporation not less than thirteen nor more than twenty Directors, said number to be determined each year at the last meeting of the Board of Directors held prior to giving notice to the members of the corporation of the annual meeting, the number of Directors to be divided into three classes, the number in each class to be as near one-third of the total number of Directors as possible and at each annual meeting one class, i.e. one-third of the number of Directors shall be elected for a three-year term. The Directors, during their term of office, shall have the sole management and direction of the affairs of said corporation. They shall elect one of their number to be President and elect one or more Vice Presidents, one of whom shall be a Director, and shall also appoint a Treasurer and a Secretary, and such other officers as may be necessary for the conducting of the business of the corporation. The Directors may, by resolution passed by a majority of the whole Board, designate and name one or more committees, each committee to consist of three or more of the Directors of the corporation, which to the extent provided in the By-laws of the corporation shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. The Directors shall have power to fill vacancies in their own body and to make such By-laws and Regulations for the government of the corporation as they may deem expedient and to repeal or amend the same at pleasure. Provided that no such By-laws or Regulations shall be repugnant to the Constitution of Laws of this State or of the United States."

Approved May 17, 1977.

## CHAPTER 43

FORMERLY HOUSE BILL NO. 18  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AUTHORIZE AND DIRECT THE TRANSFER OF THE PROPERTY FORMERLY USED BY THE DEPARTMENT OF TRANSPORTATION FOR STATE POLICE TROOP NUMBER TWO TO THE WILMINGTON MANOR VOLUNTEER FIRE COMPANY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The transfer and conveyance of the following described State real property to the Wilmington Manor Volunteer Fire Company for the consideration of one dollar (\$1.00) is hereby specifically approved:

All that certain tract, parcel, or parcels of land with the improvements erected thereon, situated in the State Road Area, New Castle County, and the State of Delaware, on the westerly side of the duPont Parkway, used currently under an agreement with the Department of Transportation by the Wilmington Manor Volunteer Fire Company, and formerly used for the State Police Troop Number Two.

Section 2. The Governor and the Department of Administrative Services are authorized and empowered to execute and deliver to the Wilmington Manor Volunteer Fire Company a good and sufficient deed transferring and conveying the above described real property to the Wilmington Manor Volunteer Fire Company subject to the following conditions to be recited in the deed transferring title:

1. If the Wilmington Manor Volunteer Fire Company should no longer have need for the above described real property or no longer use the above described real property in conjunction with the operation, activities or maintenance of the said fire company or if the said fire company should no longer own the adjoining property; then, in either event, said real property shall revert to the State of Delaware.

2. If at any time the Division of Highways should need any portion of the above described real property for right-of-way due to highway improvements, said needed lands together with any permanent improvements, buildings or appurtenances located thereon or fixtures affixed thereto shall revert to the State of Delaware.

Approved May 17, 1977.

CHAPTER 44

FORMERLY HOUSE BILL NO. 222

AN ACT TO AMEND CHAPTER 51, TITLE 30, DELAWARE CODE, RELATING TO  
MUNICIPAL STREET AID.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §5165, Chapter 51, Title 30, Delaware  
Code, by striking all of subsection (b)(1) and inserting in lieu  
thereof the following:

"(1) Furnish evidence annually to the State Treasurer  
that the municipal employees authorized to expend municipal  
street aid funds are bonded in an amount as may be required  
by the Charter of the municipality."

Approved May 17, 1977.

## CHAPTER 45

## FORMERLY HOUSE BILL NO. 209

AN ACT TO AMEND CHAPTER 3, PART I, TITLE 29 OF THE DELAWARE CODE  
RELATING TO THE STATE SONG.

WHEREAS, in accordance with House Joint Resolution No. 5 of the 120th General Assembly, the Governor was authorized to appoint "a committee of responsible and knowledgeable citizens" to conduct a competition for the purpose of selecting a fourth verse to the State Song; and

WHEREAS, the State Song originally had only three verses, one for each county, and it was the opinion of the Committee that the fourth verse should apply to the State as a whole; and

WHEREAS, a verse written by Donn Devine was selected by the Committee for use with the State song on a trial basis, and has proven satisfactory and popular for over fifteen years.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §303, Chapter 3, Part I, Title 29 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§303. State Song

The official State Song shall consist of the poem Our Delaware containing three verses, each verse in honor of a county of this State, written by George B. Hynson; a fourth verse in praise of the State and pledging the loyalties of its citizens, written by Donn Devine; and a musical score composed specifically for the State Song by Will M. S. Brown."

Section 2. The song Our Delaware, as shown on a sheet attached to this Act, shall be printed in the Laws of Delaware with this Act and shall be the official form and model for the words and music of the State Song.

Approved May 17, 1977.



# OUR DELAWARE.

Words by GEO. B. HYNSON.

Music by WILL M. S. BROWN.

Moderato.

1. Oh the hills of dear New Cas-tle. And the smil-ing vales be-tween. When the  
 2. Where the wheat fields break and bil-low, In the peace-ful land of Kent. Where the  
 3. Dear old Sus-sex sis-sius lin-ger, Of the hol-ly and the pine. Of Hen  
 4. From New Cas-tle's rol-ling mead-ows, Through the fair rich fields of Kent. To the

*mf*

corn is all in tax-vel. And the mead-ow lands are green: Where the  
 toil-er seeks his pul-low, With the bless-ings of con-tent: Where the  
 lo-pens Jew-eled ling-er. Flash-ing out a cross the brim: Of the  
 Sus-sex shores hear ech-ing, Of the pledge we now pre-sent: To the

cat-tle crop the clo-ver, And its breath is in the air, While the  
 bloom that tints the peach-es, Cheeks of mer-ry maid-ens share, And the  
 gar-dens and the hed-ges, And the wel-come want-ing there, For the  
 ty and in de-pen-dence, We will guard with lov-ing care, And hold

New Stan-a authorized by the 120th General Assembly on a trial basis  
 Words by Donn Divine chosen by selection committee.



sun is shin-ing o-ver Our be-lov-ed Del-a-ware.  
 wood land cho-rus preach-es A-re-joice-ing Del-a-ware.  
 loy-al son that pledg-es Faith to good old Del-a-ware.  
 fast to free-dom's pres-ence, In our home state Del-a-ware.


*CHORUS Tempo di March.*



Oh, our Del-a-ware! Our be-lov-ed Del-a-ware! For the sun is shin-ing



o-ver our be-lov-ed Del-a-ware. Oh! our Del-a-ware! Our be-lov-ed



Del-a-ware! Heres the loy-al son that pledg-es. Faith to good old Del-a-ware.

CHAPTER 46

FORMERLY HOUSE BILL NO. 219

AN ACT TO AMEND CHAPTER 9, TITLE 29, DELAWARE CODE, RELATING TO  
LEGISLATIVE JOURNALS BY SIMPLIFYING PRINTING REQUIREMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. §905, Title 29, Delaware Code, is hereby amended  
by striking subsection (a) and enacting and inserting in lieu  
thereof a new subsection (a) to read as follows:

"(a) The legislative journals shall be published  
following each general election for the two year period  
immediately preceding such election and the pages shall  
be six (6) inches by nine (9) inches."

Section 2. §905(b), Title 29, Delaware Code, is hereby  
amended by striking the numeral "5" as it appears in the second  
line thereof and by enacting and inserting in lieu thereof the  
numeral "3", and by striking the words "and set forth in bold  
face type" at the end thereof and by enacting and inserting a  
period in lieu thereof.

Section 3. §905, Title 29, Delaware Code, is hereby amended  
by repealing and striking subsection (d) thereof in its entirety.

Approved May 17, 1977.

## CHAPTER 47

## FORMERLY HOUSE BILL NO. 203

AN ACT TO AMEND CHAPTER 43, TITLE 21, DELAWARE CODE RELATING TO  
CHANGES IN THE HEIGHT OF SCHOOL BUS FLASHING LIGHTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §4364 of Chapter 43, Title 21, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§4364. Flashing Lamps

Every school bus must be equipped with two (2) amber and two (2) red lamps at the rear of the vehicle, and two (2) amber and two (2) 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 red lamps must be mounted at the same horizontal level with the top of the red lens not less than 84 inches above the road surface. The adjacent amber lens shall be mounted inboard of the red lens and shall be positioned either level with the red lens or with the top of the amber lens not more than two (2) inches above the top of the red lens. It shall not be positioned below the red lens. Lamps shall be sealed beam units at least 5 1/2 inches in diameter and shall have sufficient intensity to be visible at 500 feet in normal sunlight."

Approved May 17, 1977.

CHAPTER 48

FORMERLY HOUSE BILL NO. 204

AN ACT TO AMEND CHAPTER 43, OF TITLE 21, DELAWARE CODE RELATING  
TO CHANGES IN MINIMUM SCHOOL BUS SIZE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §4363 of Chapter 43, Title 21, Delaware  
Code by striking subsection (b) of said section in its entirety  
and substituting in lieu thereof a new subsection to read as  
follows:

"(b) Every school bus body excluding mirrors shall  
have a minimum width of 75 inches and a minimum height of 79  
inches from the road surface to the top of the roof."

Approved May 17, 1977.

## CHAPTER 49

## FORMERLY HOUSE BILL NO. 16

AN ACT TO AMEND CHAPTER 381, VOLUME 59 , LAWS OF DELAWARE, ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1975, AND TO AMEND CERTAIN PERTINENT STATUTORY PROVISIONS", FORMERLY HOUSE BILL NO. 750.

WHEREAS, in February of 1974, the Federal-State Highway Safety Coordinator received an increase in salary due to a promotion approved by the Governor and State Personnel. However, because the approval of the salary increase payable from Federal Funds was authorized prior to the enactment of the fiscal year 1975 Budget Act, it was inadvertently omitted from the Budget Act; consequently, the Budget Act only reflected that amount which he had been receiving from Federal and State Funds prior to the approval of his increase; and

WHEREAS, the United States Department of Transportation approved of Mr. Nedwick's salary increase payable from Federal Funds for fiscal year ending June 30, 1975; and

WHEREAS, during the audit of the Office of Federal-State Highway Safety conducted by the State Auditor of Accounts, it was disclosed that the Federal-State Highway Safety Coordinator, Mr. Walter E. Nedwick, had received salary and wage payments in the amount of \$1,175 in excess of the Federal Funds amount reflected in the fiscal year 1975 Budget Act; and

WHEREAS, the amount of funds reflected in said Budget Act resulted in a misunderstanding for which the employee is not responsible; and

WHEREAS, the employee was unaware that his salary increase was not properly reflected in the Budget Act.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 1 of Chapter 381, Volume 59, Laws of Delaware, by striking the words "All other funds--\$8,600).... \$8,600" in their entirety as they appear in Section 1 of said Chapter under the caption "(10-06-000) Federal-State Highway Safety Coordinator", and substituting in lieu thereof the following: "All other Funds--\$9,775)....\$8,600".

Approved May 18, 1977.

CHAPTER 50

FORMERLY SENATE BILL NO. 200

AN ACT TO AUTHORIZE EXPENDITURE FROM THE EDUCATIONAL CONTINGENCY FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The State Board of Education is authorized to charge to the Educational Contingency Fund an amount of \$15,000 to meet the costs of the Voluntary Student Transfer Plan as described in Senate Bill No. 173 of the 129th General Assembly of the State of Delaware.

Approved May 19, 1977.

## CHAPTER 51

## FORMERLY SENATE BILL NO. 186

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REINCORPORATE THE CITY OF LEWES", BEING CHAPTER 170, VOLUME 57, LAWS OF DELAWARE, BY CONFERRING UPON THE CITY COUNCIL CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN THE CITY OF LEWES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (two-thirds of all of the members elected to each branch thereof concurring therein):

Section 1. Amend Section 37, Chapter 170, Volume 57, Laws of Delaware by redesignating all of the existing Section as "37 A" and adding thereto a new subsection to be designated as subsection 37 B which new subsection shall read as follows:

"REAL ESTATE TRANSFER TAX

Section 37B. a. The City Council of The City of Lewes, in addition to the powers now conferred, shall have the power and authority by ordinance or ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by The City Council of The City of Lewes to be paid by the transferor or transferee upon the transfer of real property or any interest in real property, situate within the corporate limits of The City of Lewes, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided, however, that no tax levied under this section shall exceed one percent (1%) of the sales price (including the value of any assumed mortgage or mortgages) or fair market value of the real property so transferred; and provided further that no tax shall be levied upon an organization exempted from ad valorem real estate taxes.

b. No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this section shall become effective unless it receives an affirmative vote of two-thirds of all the elected members of the City Council of The City of Lewes.

c. If the taxing power authority granted under this section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds in and for Sussex County shall not receive for record any documents subject to said tax unless such stamps are affixed thereto.



d. The City Council of The City of Lewes may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this section.

e. No tax levied under this section shall exceed the difference between any tax levied by the State of Delaware on the same property and one percent (1%).

f. This Act shall not become effective until it shall be approved by a majority of the qualified voters at a Special Election to be held pursuant to a Resolution adopted by the City Council of The City of Lewes. The City Council of The City of Lewes shall give notice of the Special Election by printing a copy of the Resolution calling the Special Election in at least two issues of a newspaper having a general circulation within the corporate limits of The City of Lewes within thirty (30) days immediately preceding the date of such Special Election. At the said Special Election every person who is a bona fide resident of The City of Lewes, and who would be entitled at the time of the holding of the said Special Election pursuant to the provisions of this Act to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election to be held pursuant to the provisions of this Act may vote at the said Special Election, and such votes may be cast either in person or pursuant to a Power of Attorney as in Section 3, Chapter 170, Volume 57, Laws of Delaware. The Special Election shall be held by a Board of Election to be appointed by the Mayor of the City of Lewes at least two weeks before such Special Election. The Election Board shall consist of an Inspector of the Special Election and such Judges as shall be authorized by the City Council of The City of Lewes. If a majority of the votes cast at the Special Election shall be in favor of the transfer tax authorized by this Act, the tax may be levied and collected as provided for in this Act. The Board of Election holding the Special Election shall meet after the close of such election to ascertain the result and shall certify the result to the City Council of The City of Lewes. The hours of the Special Election shall be from Twelve o'clock noon, prevailing time, until Six o'clock in the evening, prevailing time, and such persons who are in the polling place at Six o'clock in the evening, prevailing time, shall be entitled to vote even though such votes may be cast after Six o'clock in the evening, prevailing time, for the purposes of holding the Special Election as provided for in this Act, paper ballots may be used. If the majority of the votes cast at any Special Election held under this Act shall be against the levying of the tax authorized by this Act, the proposition shall not again be submitted to the

qualified voters for a period of Ninety (90) days from the date of such Special Election."

Approved May 20, 1977.

## CHAPTER 52

## FORMERLY SENATE BILL NO. 128

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE INSURANCE DEPARTMENT FOR THE PURPOSE OF RETAINING PROFESSIONAL ASSISTANCE AND/OR ADVICE WITH RESPECT TO CERTAIN RATE FILINGS MADE BEFORE THE INSURANCE DEPARTMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$25,000 is hereby appropriated to the Insurance Department for the purpose of retaining professional assistance such as an actuarial consultant, legal advisor or certified public accountant for certain rate filings made before the Insurance Department.

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 or unencumbered on June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved May 21, 1977.

## CHAPTER 53

## FORMERLY HOUSE BILL NO. 78

AN ACT TO GRANT APPROVAL TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO PURCHASE A TRACT OF LAND WITHIN LUMS POND STATE PARK, PENCADER HUNDRED, NEW CASTLE COUNTY, KIRKWOOD, DELAWARE.

WHEREAS, pursuant to the Capital Improvement Bonds Act of 1976, being Chapter 271, Volume 60, 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 1976 Annual Capital Project Schedule for the acquisition of land; and

WHEREAS, Chapter 271, Volume 60, Section 17, 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 improved land consisting of approximately 16.46 acres with improvements known as the Johnson Tract located within Lums Pond State Park near Kirkwood, Delaware; and

WHEREAS, appraisals have been completed on the Johnson Tract; and the fair market value for tract is \$86,000; and

WHEREAS, an option to purchase said tract at the fair market value of \$86,000 is being obtained; 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 eligible for 50% Federal Fund assistance through the Land and Water Conservation Fund Act; and

WHEREAS, the tract of land is within the Lums Pond State Park which will enhance the expansion of recreational and preservation activities in compliance with the park 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 129th General

Assembly of the State of Delaware, pursuant to Chapter 271, Volume 60, Laws of Delaware, Section 17 to acquire the parcel of land known as the Johnson Tract within Lums Pond State Park, situated in Pencader Hundred, New Castle County, near Kirkwood, Delaware at the established fair market value plus required closing costs.

Section 2. Said purchase shall be made in compliance with Title 29, Chapters 93 and 95, 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 May 21, 1977.

## CHAPTER 54

## FORMERLY HOUSE BILL NO. 95

AN ACT TO PERMIT THE BOARD OF EDUCATION OF THE STANTON 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 (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The Board of Education of the Stanton Reorganized School District is authorized to transfer to its Current Operating Account the sum of \$100,000 from its Debt Service Account.

Approved May 23, 1977.

CHAPTER 55

FORMERLY HOUSE BILL NO. 245

AN ACT TO AMEND CHAPTER 100, PART X, TITLE 29 OF THE DELAWARE CODE RELATING TO THE FREEDOM OF INFORMATION ACT; AND EXEMPTING CERTAIN INFORMATION FROM PUBLIC SCRUTINY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend subsection (d), Section 10002, Chapter 100, Title 29 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (11), which new paragraph shall read as follows:

"(11) any records which disclose the identity or address of any person holding a permit to carry a concealed deadly weapon; provided, however, all records relating to such permits shall be available to all bona fide law enforcement officers."

Approved May 23, 1977.

## CHAPTER 56

## FORMERLY HOUSE BILL NO. 190

AN ACT TO AMEND CHAPTER 5, SUBCHAPTER II, SUBPART D, OF TITLE 11,  
DELAWARE CODE RELATING TO SEXUAL OFFENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §766 (2), Chapter 5, Subchapter II, Subpart D of Title 11, Delaware Code by striking the number "12" as the same appears in subsection 2 of said section and substituting in lieu thereof the number "16".

Section 2. Amend §767 (3), Chapter 5, Subchapter II, Subpart D of Title 11, Delaware Code by striking the number "12" as the same appears in said subsection 3, and substituting in lieu thereof the number "16".

Section 3. Amend §772 (a), Chapter 5, Subchapter II, Subpart D, of Title 11, Delaware Code by striking the number "12" wherever it appears in said subsection (a) and substituting in lieu thereof the number "16".

Approved May 23, 1977.



## CHAPTER 57

## FORMERLY SENATE BILL NO. 73

AN ACT TO AMEND AN ACT, BEING CHAPTER 108 OF VOLUME 47, LAWS OF DELAWARE, ENTITLED: "AN ACT EXTENDING THE CORPORATE LIMITS OF THE TOWN OF CAMDEN" BY ADDING NEW AREAS THERETO.

WHEREAS, three referenda were duly held pursuant to three resolutions first adopted by the Town Council of the Town of Camden and pursuant to Chapter 120, Volume 42, Laws of Delaware, as amended; and

WHEREAS, a majority of the qualified voters and real estate owners of each of the three territories proposed to be annexed and included in the limits of the said Town of Camden voted approval to be included within the limits of the Town of Camden.

NOW, THEREFORE:

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 108 of Volume 47, Laws of Delaware by adding thereto the following new sections to read as follows:

"Section 1. Section (2)F.

ALL those certain lands situated in North Murderkill Hundred, Kent County, Delaware, just South of the present Town boundaries of the Town of Camden and adjacent to same and bounded as follows:

On the North by the present Town boundaries of the Town of Camden, on the East by State Route #13, on the South by the Camden Voshell Mill Road, on the West by Main Street (State Route #13A), and being more particularly described as follows:

BEGINNING at a point in the centerline of Main Street (13A) where the aforesaid centerline intersects the present Town of Camden Town Boundary, said point being approximately 122 feet + North of the intersection of the North right-of-way line of the Camden Voshell Mill Road projected and the centerline of Main Street (13A). Thence from the point of beginning by and with the present Town boundaries the following three courses and distances: (1) In an Easterly direction to a bend point in the present Town boundary and described as being 68 feet East of Main Street and 122 feet North of the North right-of-way line leading from Main Street to Star Hill, in the ordinances of the Town of

Camden (dated March 1962); (2) In a northeasterly direction 1,765.50 feet to a point in the center of East Street; (3) In a northerly direction such a distance as to intersect the centerline of State Route #13. Thence by the same in a Southwesterly direction such a distance as would intersect the centerline of the Camden Voshell Mill Road. Thence by the same in a Northwesterly direction such a distance as would intersect the centerline of Main Street (13A). Thence by the same in a Northeasterly direction to the point of beginning. Contents thereof be what they may.

Section 1. Section (2)G.

ALL those certain lands situated in North Murderkill Hundred, Kent County, Delaware, just Southwest of the present Town boundaries of the Town of Camden and adjacent to same and bounded as follows: On the North by the present Town boundaries of the Town of Camden; on the East by State Route #13A; on the South by lands now or formerly of Carroll Realty Corporation, Inc.; on the West by lands now or formerly of Penn Central Railroad and Willow Grove Road (Route #10), and being more particularly described as follows:

BEGINNING at a point in the centerline of Main Street (13A) where the aforesaid centerline intersects the present Town of Camden Town boundary, said point being approximately 122 feet  $\pm$  North of the intersection of the North right-of-way line of the Camden Voshell Mill Road projected and the centerline of Main Street (13A). Thence from the point of beginning in a Southwesterly direction, by and with the centerline of Main Street (13A) such a distance as to intersect the Northerly property line of Carroll Realty Corporation, Inc., projected to the centerline of Main Street (13A). Thence by the aforesaid Northerly property line of Carroll Realty Corporation, Inc., in a Southwesterly direction such a distance as to intersect the Easterly right-of-way line of lands now or formerly of the Penn Central Railroad. Thence by the same in a Northerly direction such a distance as would intersect the centerline of Willow Grove Road (Route #10). Thence by the same in a Northeasterly direction such a distance as would intersect a point described as being in the Eastern limits of "The Town of Wyoming", being the southwest corner for the present limits of the Town of Camden as described in ordinances of the Town of Camden (dated March 1962). Thence from the aforescribed point in a southeasterly direction along the present Town of Camden, town boundaries a distance approximately 1,671.5 feet  $\pm$  to a point along the North right-of-way of South Street (Old Camden to Willow Grove County Road), said point being distance 250 feet West of the intersection of West Street with said road. Thence in

a Northeasterly direction continuing by the present Town boundaries of the Town of Camden to the point of beginning. Contents thereof be what they may.

Section 1. Section 2(H).

ALL those certain lands situated in North Murderkill Hundred, Kent County, Delaware, just North and East of the present Town boundaries of the Town of Camden and adjacent to same and bounded as follows: On the North by Isaac Branch; on the East by State Route 13; on the South and West by the present Town boundaries of the Town of Camden; and being more particularly described as follows:

BEGINNING at a point in the centerline of State Route 13, said point being the intersection of the centerline of Isaac Branch with the aforesaid centerline of Route 13. Thence with the centerline of Route 13 in a Southwesterly direction such a distance as to intersect the present Town boundaries of the Town of Camden. Thence by the present Town boundaries those courses and distances as to intersect with the centerline of Isaac Branch. Thence by the meanderings of the centerline of the aforesaid Isaac Branch to the point of beginning. Contents thereof be what they may."

Approved May 24, 1977.

## CHAPTER 58

## FORMERLY SENATE BILL NO. 193

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 NEW TIME FOR FILING PETITIONS FOR NOMINATIONS, TO PROVIDE A NEW TIME FOR REVIEW OF PETITIONS FOR NOMINATIONS, AND TO PROVIDE A NEW TIME FOR THE ANNUAL MUNICIPAL ELECTION.

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. Subsection (a), Section 4, Chapter 197, Volume 54, Laws of Delaware, as amended, is hereby further amended by striking out the word "August" as it appears in said Subsection and substituting in lieu thereof the word "September".

Section 2. Subsection (a), Section 6, Chapter 197, Volume 54, Laws of Delaware, as amended, is hereby further amended by striking out the word "July" as it appears in said Subsection and substituting in lieu thereof the word "August".

Section 3. Subsection (b), Section 6, Chapter 197, Volume 54, Laws of Delaware, as amended, is hereby further amended by striking out the word "July" as it appears in said Subsection and substituting in lieu thereof the word "August".

Section 4. Subsection (a), Section 7, Chapter 197, Volume 54, Laws of Delaware, as amended, is hereby further amended by striking out the word "August" as it appears in said Subsection and substituting in lieu thereof the word "September".

Section 5. Subsection (d), Section 7, Chapter 197, Volume 54, Laws of Delaware, as amended, is hereby further amended by striking out the word "July" as it appears in said Subsection and substituting in lieu thereof the word "August".

Section 6. This Act shall take effect on January 1, 1978.

Approved May 24, 1977.

CHAPTER 59

FORMERLY HOUSE BILL NO. 115

AN ACT TO AMEND CHAPTER 52, TITLE 30, DELAWARE CODE, RELATING  
TO EXEMPTING FARM TRUCKS FROM THIS ACT IF EXEMPT FROM MOTOR  
VEHICLE REGISTRATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 5224, Chapter 52, Title 30,  
Delaware Code, by adding thereto a new paragraph to read as  
follows:

"This Act shall not apply to any motor vehicle  
operated upon the highways of this State when traveling  
from one farm, or portion thereof, to another farm or  
portion thereof, both owned or managed by the owner of  
the vehicle and operated not for hire. The distance  
traveled on the highways by said vehicle shall not exceed  
two (2) miles each one-way trip."

Approved May 24, 1977.

## CHAPTER 60

FORMERLY HOUSE BILL NO. 261  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE  
RELATING TO TAXICAB DRIVER LICENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Subchapter V, Chapter 27, Title 21 of  
the Delaware Code by deleting the following sections in their  
entirety:

2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770,  
2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779,  
2780, 2781.

Section 2. Amend Chapter 27, Title 21 of the Delaware  
Code by adding thereto a new section to read as follows:

"§2762. License endorsed for taxicab

The Department shall note on the driver's license  
of the applicant an endorsement to operate a taxicab."

Section 3. Amend Chapter 27, Title 21 of the Delaware  
Code by adding thereto a new section to read as follows:

"§2763. Qualification for taxicab license

A taxicab authorization or endorsement shall not be  
issued to any person under the age of 18 years and who does  
not meet the requirements of §2707 of this Chapter."

Section 4. Amend Chapter 27, Title 21 of the Delaware  
Code by adding thereto a new section to read as follows:

"§2764. Fee for taxicab endorsement

The fee for the authorization or endorsement as speci-  
fied in §2762 shall be \$3.00. This fee shall be payable for  
subsequent renewals."

Approved May 24, 1977.

CHAPTER 59

FORMERLY HOUSE BILL NO. 115

AN ACT TO AMEND CHAPTER 52, TITLE 30, DELAWARE CODE, RELATING  
TO EXEMPTING FARM TRUCKS FROM THIS ACT IF EXEMPT FROM MOTOR  
VEHICLE REGISTRATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 5224, Chapter 52, Title 30,  
Delaware Code, by adding thereto a new paragraph to read as  
follows:

"This Act shall not apply to any motor vehicle  
operated upon the highways of this State when traveling  
from one farm, or portion thereof, to another farm or  
portion thereof, both owned or managed by the owner of  
the vehicle and operated not for hire. The distance  
traveled on the highways by said vehicle shall not exceed  
two (2) miles each one-way trip."

Approved May 24, 1977.

## CHAPTER 60

FORMERLY HOUSE BILL NO. 261  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE  
RELATING TO TAXICAB DRIVER LICENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Subchapter V, Chapter 27, Title 21 of  
the Delaware Code by deleting the following sections in their  
entirety:

2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770,  
2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779,  
2780, 2781.

Section 2. Amend Chapter 27, Title 21 of the Delaware  
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"§2762. License endorsed for taxicab

The Department shall note on the driver's license  
of the applicant an endorsement to operate a taxicab."

Section 3. Amend Chapter 27, Title 21 of the Delaware  
Code by adding thereto a new section to read as follows:

"§2763. Qualification for taxicab license

A taxicab authorization or endorsement shall not be  
issued to any person under the age of 18 years and who does  
not meet the requirements of §2707 of this Chapter."

Section 4. Amend Chapter 27, Title 21 of the Delaware  
Code by adding thereto a new section to read as follows:

"§2764. Fee for taxicab endorsement

The fee for the authorization or endorsement as speci-  
fied in §2762 shall be \$3.00. This fee shall be payable for  
subsequent renewals."

Approved May 24, 1977.



## CHAPTER 61

FORMERLY SENATE BILL NO. 14  
AS AMENDED BY  
SENATE 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 FOR THE CITY OF REHOBOTH BEACH AND ESTABLISHING A NEW CHARTER THEREFOR AND PRESCRIBING THE POWERS AND DUTIES OF THE COMMISSIONERS OF REHOBOTH BEACH; BY PROVIDING FOR AN ENLARGEMENT OF TIME FOR FILING PETITIONS FOR A REFERENDUM AND TO PRESCRIBE THE QUALIFICATIONS OF VOTERS IN A REFERENDUM 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 subsection (d), Section 41A, Chapter 197, Volume 54, Laws of Delaware, as amended, by adding at the end of said subsection (d) the following sentence:

"If there are less than twenty-eight (28) days from the date of the adoption of the Ordinance sought to be reconsidered until the next regular meeting of the Commissioners of Rehoboth Beach, the Petition for Referendum shall be presented at the first regular meeting following the expiration of the said twenty-eight (28) day period or the Ordinance sought to be reconsidered shall not be the subject of a referendum."

Section 2. Amend subsection (k), Section 41A, Chapter 197, Volume 54, Laws of Delaware, as amended, by striking subsection (k) in its entirety and substituting in lieu thereof a new subsection (k) to read as follows:

"(k) At the said Special Election, every person, male or female, who shall have attained the age of eighteen (18) years, and who shall be a freeholder or leaseholder, as defined in this Charter, in the City of Rehoboth Beach for a period of three (3) months immediately preceding the date of such Special Election, whether or not a resident of the State of Delaware or of the City of Rehoboth Beach shall have one (1) vote, provided such person is registered on the corporate 'Books of Registered Voters' of the City of Rehoboth Beach as prescribed in this Charter. In addition, every person, male or female, other than a freeholder or leaseholder as defined in this Charter, who shall have obtained the age of eighteen (18) years on the date of the Special Election and who shall be a bona fide resident of the State of Delaware and the City of Rehoboth

Beach on the date of the Special Election shall be entitled to one (1) vote, provided such person shall be registered on the 'Books of Registered Voters' of the City of Rehoboth Beach as prescribed in this Charter. Any person who shall register on the 'Books of Registered Voters' shall be entitled to vote in the Special Election provided by this Section. A person may register at the Office of the City Manager during the regular office hours on any day in order to vote in the Special Election until the close of business on the second Friday prior to the date of the said Special Election. Any person registered to vote in the Annual Municipal Election shall not be required to register in order to vote in the Special Election to be held pursuant to this Section. The 'Books of Registered Voters' shall be conclusive evidence of the right of any person to vote at the Special Election."

Approved May 24, 1977.

## CHAPTER 62

FORMERLY HOUSE BILL NO. 254  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, PART II, TITLE 21 OF THE DELAWARE CODE RELATING TO THE REGISTRATION AND LICENSING OF MOTOR VEHICLES; AND PROVIDING FOR SPECIAL AUTOMOBILE PLATES TO VEHICLES DESIGNATED AS "STREET RODS".

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 VII, Chapter 21, Part II, Title 21 of the Delaware Code by re-designating present §2197 as new §2198; and by re-designating present §2198 as new §2199.

Section 2. Amend Subchapter VII, Title 21, Part II, Title 21 of the Delaware Code by adding thereto a new section, designated as §2197, which new section shall read as follows:

"§2197. Street rods

(a) If any modified antique automobile manufactured prior to 1949, hereinafter referred to as a street rod, is duly registered in the State of Delaware, the owner of such street rod may apply to the Secretary of the Department of Public Safety on special application forms prescribed by the Secretary, for a special street rod automobile plate, to be displayed on such street rod in lieu of the standard vehicle registration plate. The applicant must furnish proof that said street rod is registered in a Delaware street rod club which is fully affiliated with the National Street Rod Association, Inc.

(b) Upon receipt of an application for a special street rod automobile plate on a form prescribed by the Secretary, the Secretary shall issue to such applicant a special street rod automobile plate on a permanent basis, and it shall bear the inscription 'STREET ROD' with yellow letters on a blue background. In addition, such plates shall have displayed thereon the word 'DELAWARE', the words 'THE FIRST STATE', the expiration date of the plates and the vehicle number assigned to the vehicle by the Secretary. This special plate shall be issued for the applicant's use only for such automobile, and in the event of a transfer of title, the transferor shall surrender the special plate to the Secretary of the Department of Public Safety.

(c) Upon approval of the application the Secretary shall

assess the applicant an initial fee of twenty-five dollars (\$25.00), in addition to the annual license tax levied under this Chapter. Thereafter such vehicle shall be presented at any inspection lane in this State on an annual basis and, upon passing such inspection as prescribed by the Secretary, said special plate shall be renewed upon payment of the annual license tax levied under this Chapter. Said applicants shall, in addition to the prescribed registration validation sticker, be required to display a valid National Street Rod Association safety inspection sticker in the lower right-hand corner of the windshield of such vehicle upon which said special plate is displayed."

Approved May 24, 1977.

CHAPTER 63

FORMERLY HOUSE BILL NO. 10  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 AND  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE  
REGULATION OF BICYCLES, MOPEDS, AND SIMILAR VEHICLES.

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 §101, Chapter 1, Title 21 of the Delaware  
Code by adding thereto the following new definitions:

"'Bicycle' shall mean that certain class of vehicles  
which are exclusively human-powered by means of foot  
pedals, which the driver normally rides astride, which have  
not in excess of three wheels, and which may be commonly  
known as unicycles, bicycles, and tricycles.

'Moped' shall mean a pedal bicycle having two tandem  
wheels, either of which is over twenty inches in diameter,  
and having a helper motor, characterized in that the  
maximum piston displacement is less than 55 cc., rated at  
no more than 1.5 brake horsepower, and that the maximum  
speed does not exceed 25 miles per hour."

Section 2. Amend Chapter 41, Title 21 of the Delaware Code  
by adding thereto a new section, designated as §4194-A, which  
shall read as follows:

"§4194-A. Mopeds

(a) Mopeds shall not be operated upon interstate and  
limited access highways, even to cross such highways, nor  
shall they be operated on the right-of-way of an operating  
railroad, except to cross such railroad, nor shall they be  
operated on any path set aside for the exclusive use of  
bicycles unless the helper motor has been turned off.

(b) No person shall drive a moped without having been  
licensed as an operator of a motor vehicle under the  
provisions of this Title. The licensee shall have such  
license in his immediate possession at all times when  
operating a moped.

(c) Regulations applicable to bicycles shall apply  
whenever a moped is operated upon any public road or upon  
any path set aside for the exclusive use of bicycles.

(d) Mopeds shall be registered under regulations which shall be adopted by the Division of Motor Vehicles. The registration and re-registration fee for mopeds shall be five dollars (\$5.00) for a three-year registration period. Upon registration of a moped, the Division of Motor Vehicles shall issue a decal or a distinctive number plate to be affixed to the moped as indicia of registration."

Approved May 26, 1977.

## CHAPTER 64

## FORMERLY SENATE BILL NO. 10

AN ACT TO AMEND CHAPTER 17, TITLE 18, DELAWARE CODE RELATING TO REQUIREMENTS FOR VARIOUS INSURANCE LICENSES TO TRANSACT INSURANCE IN DELAWARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1713 of Chapter 17, Title 18, Delaware Code by adding thereto the following new paragraphs to read as follows:

"(d) No person shall in this State be, act as, or hold himself out to be an agent, broker, adjuster, appraiser, fraternal or limited representative, consultant or surplus lines broker unless then licensed as such agent, broker, adjuster, appraiser, fraternal or limited representative, consultant or surplus lines broker under this Chapter.

(e) No agent, broker, fraternal or limited representative, or surplus lines broker shall solicit or take application for, procure or place for others any kind of insurance as to which he is not then licensed.

(f) No agent shall place any insurance with any insurer as to which he does not then hold a license and appointment as agent under this Chapter.

(g) The Commissioner shall prescribe all forms required under this Chapter as to licenses and appointments.

(h) No person shall act as an appraiser for motor vehicle physical damage claims on behalf of any insurance company or firm or corporation engaged in the adjustment or appraisal of motor vehicle claims unless such person has first secured an appropriate appraiser or adjuster license from the Commissioner.

(i) Violation of the foregoing shall be subject to the provisions of §106 and §316 of this Title."

Approved May 26, 1977.

## CHAPTER 65

## FORMERLY HOUSE BILL NO. 353

AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF SOCIAL SERVICES, FOR CERTAIN PUBLIC WELFARE PROGRAMS FROM ENTITLEMENT PAYMENTS RECEIVED BY THE STATE FROM THE FEDERAL ANTIRECESSION FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS ACT.

WHEREAS, the Federal Department of the Treasury rules and regulations governing the use of entitlement payments received by the State from the Federal Antirecession Fiscal Assistance to State and Local Governments Act provides that each State or unit of local government must use its payments to maintain basic services which have been customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be; and

WHEREAS, the said rules and regulations provide also that payments should be used for the maintenance of levels of public employment; and

WHEREAS, the said rules and regulations provide further that each State or unit of local government must appropriate or obligate payments received under the said Act before the end of the six-month period which begins the day following receipt of a payment; and

WHEREAS, the State of Delaware has deposited in the General Fund a total of \$1,448,733 received as entitlement payments during fiscal year 1977 from the Federal Antirecession Fiscal Assistance to State and Local Governments Act.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$1,448,733, received as entitlement payments from the Federal Antirecession Fiscal Assistance to State and Local Governments Act (Title II of the Public Works Employment Act of 1976, P.L. 94-369), is hereby appropriated to the Department of Health and Social Services, Division of Social Services, for public welfare programs as follows:

Aid to Families with Dependent Children	\$ 570,000
Title XIX - Other than State Institutions	425,000
Title XIX - State Institutions	<u>453,733</u>
TOTAL	\$1,448,733

Section 2. Funds appropriated herein shall be paid by the



State Treasurer from the entitlement payments received by the State of Delaware during the fiscal year 1977 and deposited in the General Fund and not otherwise appropriated.

Section 3. The funds appropriated herein which remain unexpended or unencumbered on June 30, 1977, shall revert to the General Fund.

Approved June 1, 1977.

## CHAPTER 66

## FORMERLY SENATE BILL NO. 231

AN ACT TO AMEND CHAPTER 21, SUBCHAPTER I OF TITLE 21 OF DELAWARE CODE RELATING TO THE RIGHTS OF SUBROGATION UNDER THE DELAWARE NO-FAULT INSURANCE FOR MOTOR VEHICLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend subsection §2118 (f), Title 21 of the Delaware Code by striking said subsection (f) in its entirety and substituting in lieu thereof a new subsection (f) which shall read as follows:

"(f) Insurers providing benefits described in subsections (a)(1), (a)(2), (a)(3), and (a)(4) shall be subrogated to the rights, including claims under any Workmen's Compensation Law, of the person for whom benefits are provided, to the extent of the benefits so provided.

(1) Such subrogated rights shall be limited to the maximum amounts of the tortfeasor's liability insurance coverage available for the injured party, after the injured party's claim has been settled or otherwise resolved, except that the insurer providing benefits shall be indemnified by any Workmen's Compensation insurer obligated to make such payments to the injured party.

(2) Any settlement made with an injured party by a liability insurer shall not be challenged or disputed by any insurer having subrogated rights.

(3) Disputes among insurers as to liability or amounts paid pursuant to subsections (a)(1), (a)(2), (a)(3), and (a)(4) shall be arbitrated by the Wilmington Auto Accident Reparation Arbitration Committee or its successors. Any disputes arising between an insurer or insurers and a self-insurer or self-insurers shall be submitted to arbitration which shall be conducted by the Commissioner in the same manner as the arbitration of claims provided for in 21 Delaware Code §2118 (i).

(4) No insurer or self-insurer shall join or be joined in an action by an injured party against a tortfeasor for the recovery of damages by the injured party and/or the recovery of benefits paid by the insurer or self-insurer.

(5) Nothing contained herein shall prohibit a liability insurer from paying the subrogated claim of another insurer prior to the settlement or resolution of the injured party's claim. However, should the amount of such settlement or resolution, in addition to the amount of any subrogated claim, exceed the maximum amount for the tortfeasor's liability insurance coverage available for the injured party, then any insurer who has been paid its subrogated claim shall reimburse the tortfeasor's liability insurer that portion of the claims exceeding the maximum amount of the tortfeasor's liability insurance coverage available for the injured party.

Except as specifically otherwise provided herein, all provisions of this subsection shall also apply to self-insurers."

Approved June 2, 1977.

## CHAPTER 67

## FORMERLY SENATE BILL NO. 264

AN ACT TO EXTEND TIME LIMITS REGARDING THE VOLUNTARY TRANSFER  
PLAN SET FORTH IN LAWS OF DELAWARE, VOLUME 61, CHAPTER 32.

WHEREAS, the position of the General Assembly regarding Court Ordered desegregation has not changed since the passage of Senate Bill No. 173, now known as Volume 61, Chapter 32, Laws of Delaware; but

WHEREAS, the General Assembly desires to encourage the desegregation required by the Courts by voluntary means to the greatest extent possible so that students and their parents or guardians or other persons who legally stand in place of their parents, will have the greatest possible opportunity to make their own individual and informed decision as to the school districts said students will attend when the students are moved for compliance with a Court Order; and

WHEREAS, there was a delay of approximately one week in the distribution of information concerning the Voluntary Transfer Plan to certain of the parents of students who might be involved; and

WHEREAS, the General Assembly wishes to extend every opportunity to parents in the desegregation area to make a voluntary decision if they so choose.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The provision in Laws of Delaware, Volume 61, Chapter 32 notwithstanding, the deadline for parents to submit Voluntary Transfer Application under that Act is extended from May 31, 1977 until June 10, 1977.

Section 2. The provision in Laws of Delaware, Volume 61, Chapter 32 notwithstanding, the date set for the State Superintendent of Public Instruction to report the results of the voluntary transfer effort to the General Assembly is extended from June 15, 1977 until June 28, 1977.

Section 3. Any pupil who was accepted in transfer by one of the school districts in the desegregation area for the school

year 1976-77 in accordance with the provisions of Delaware Code, Title 14, §603 (c) shall, at the request of his parents, guardian or other person legally in charge of his person, be accepted for transfer for the school year 1977-78 whether or not an application form has been filed in accordance with Laws of Delaware, Volume 61, Chapter 32.

Section 4. In the interest of providing the greatest possible opportunity for voluntary transfer within the desegregation area described by the courts, each school district within that area shall accept requests for transfer in accordance with the provisions of Volume 61, Chapter 32, Laws of Delaware, on a first come, first-served, space available basis in accordance with the criteria contained therein until and including the opening day of school in September 1977. Notwithstanding the provisions contained in Volume 61, Chapter 32, Laws of Delaware, requests for transfer under this provision made after June 10, 1977, may be made directly to the superintendent of schools in the affected school district and need not be presented to the superintendent of Public Instruction.

Approved June 2, 1977.

## CHAPTER 68

FORMERLY HOUSE BILL NO. 92  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 17, TITLE 24, DELAWARE CODE RELATING TO  
THE MEDICAL PRACTICES ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section. Amend §1712 of Chapter 17, Title 24, Delaware Code  
by striking said section in its entirety and substituting in lieu  
thereof a new §1712 to read as follows:

"§1712. Quorum

(a) Seven (7) members of the Board entitled to vote  
shall constitute a quorum for the transaction of business.  
A majority of the quorum present and voting, but not less  
than five (5) affirmative votes shall be required to trans-  
act business as otherwise provided by this Chapter.

(b) Notwithstanding any other provision of this  
Chapter, the affirmative vote of eight (8) members of the  
Board entitled to vote, taken at the meeting at which a  
quorum is present, shall be required to adopt any regulation  
which could deprive a physician of his license or to take  
disciplinary action against any person."

Section 2. Amend §1703 (d) (3) of Chapter 17, Title 24,  
Delaware Code by striking the period "." immediately after the  
word "nurses" and adding thereto the following: "licensed or  
registered according to law and acting within the scope of the  
activity for which they are licensed or registered."

Section 3. Amend §1703 (f), Chapter 17, Title 24, Delaware  
Code by inserting immediately after the word "met" and before  
the word "by" the word "only".

Section 4. Amend §1727 of Chapter 17, Title 24, Delaware  
Code by striking the section heading in its entirety and sub-  
stituting a new section heading to read as follows: "Temporary  
Certificates".

Section 5. Amend §1727 of Chapter 17, Title 24, Delaware  
Code by designating all of the existing paragraph as paragraph

- (a) and inserting a new paragraph to be designated as paragraph  
(b) to read as follows:

"The Board may issue temporary certificates to practice medicine for a period of time not to exceed three (3) months to persons otherwise qualified to practice medicine, who have made application for a permanent license while such application for permanent licensure is pending. The holder of any such temporary certificate, when licensed by the Director of Revenue as provided in §1724 of this Chapter, may, during the time 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 a 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."

Section 6. Amend §1735 (c) of Chapter 17, Title 24, Delaware Code by striking the figure "9" as it appears in the first sentence of said subsection (c) and inserting in lieu thereof the figure "8".

Section 7. Amend §1734 (d) of Chapter 17, Title 24, Delaware Code by striking the figure "9" wherever it appears in subsection (d) and inserting in lieu thereof the figure "8".

Approved June 6, 1977.

## CHAPTER 69

## FORMERLY SENATE BILL NO. 54

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE PURPOSE OF PAYING AN EMPLOYEE WHO FAILED TO RECEIVE HER ANNUAL INCREMENT.

WHEREAS, Maude Lucks is entitled to \$373.00 as a result of failing to receive her annual increment from the period of July 1, 1972, through May 1, 1974; and

WHEREAS, the error stems from the fact that the employee was transferred from one agency to another.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$447.41 is hereby appropriated to the Department of Public Safety for use in paying Maude Lucks her annual increment and shall be disbursed in the following manner:

Back Salary Due	\$373.00
Pension (State Share)	52.59
FICA (State Share)	21.82
TOTAL:	<u>\$447.41</u>

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, 1977, shall revert to the General Fund.

Approved June 7, 1977.



## CHAPTER 70

FORMERLY SENATE BILL NO. 93  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE OFFICE OF THE PUBLIC DEFENDER TO PAY WAGES PAST DUE TO JAN LAWTON.

WHEREAS, it is the intention of the State Merit System of Personnel Administration to deal fairly and equitably with all State employees; and

WHEREAS, it has now become apparent that through an administrative oversight, Jan Lawton was denied her proper Merit System increases due to a mistake as to her anniversary date; and

WHEREAS, it therefore becomes apparent that Jan Lawton was underpaid in the following amounts for the past fiscal years:

Fiscal Year 1973 - 1974	\$176.00
Fiscal Year 1974 - 1975	202.00
Fiscal Year 1975 - 1976	435.96
<hr/>	
TOTAL	\$813.96 ; and

WHEREAS, Jan Lawton has rendered exceptional service to the State of Delaware and the Office of the Public Defender in her position in the classified service.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of eight hundred thirteen dollars and ninety-six cents (\$813.96) is appropriated to the Office of the Public Defender of the State of Delaware to pay wages due Jan Lawton from past fiscal years.

Section 2. This Act is a supplementary appropriation act and the monies 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 as of June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved June 7, 1977.

## CHAPTER 71

## FORMERLY SENATE BILL NO. 146

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE PURPOSE OF COMPENSATING THE INSTITUTIONAL RELEASE CLASSIFICATION BOARD.

WHEREAS, the provisions of Senate Bill No. 724 established the Institutional Release Classification Board three of whom are appointed by the Council on Administration of Justice and who are compensated at Seventy-five Dollars (\$75.00) per meeting; and

WHEREAS, Senate Bill No. 724 did not provide a supplementary appropriation; and

WHEREAS, the Board is fully constituted and performing services pursuant to the Act and should be compensated for same.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$5,550 is hereby appropriated to the Department of Correction for the purpose of compensating the three members who serve on the Institutional Release Classification Board.

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 June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved June 7, 1977.

CHAPTER 72

FORMERLY SENATE BILL NO. 88

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR THE PURPOSE OF CONTINUING THE STREPTOCOCCAL DETECTION PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$15,000 is hereby appropriated to the Department of Health and Social Services for the purpose of continuing the streptococcal detection.

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 June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved June 7, 1977.

## CHAPTER 73

## FORMERLY SENATE BILL NO. 189

AN ACT PROVIDING THAT THE REIGNING MISS DELAWARE AND HER SUCCESSORS BE MADE HONORARY HOSTESS FOR THE STATE OF DELAWARE.

WHEREAS, the Miss America Pageant and its preliminaries comprise the World's largest women's scholarship program; and

WHEREAS, the Miss Delaware Scholarship Pageant, which was first held in the year 1936, and which has been held successively each year as the State finals for the Miss America Pageant; and

WHEREAS, the Miss Delaware Scholarship Pageant is the oldest, best known and most respected pageant in the State; and

WHEREAS, the Pageant's primary purpose is the securing of participants who are interested in pursuing their education with a secondary purpose of choosing a young lady on the basis of her talent, intelligence, personality, poise and beauty to represent the State of Delaware; and

WHEREAS, in the past, Miss Delaware has served as the unofficial hostess for numerous events and functions of the State; and

WHEREAS, it is beneficial for the State of Delaware to have this public relation within and outside of the State; and

WHEREAS, if an honorary hostess were to be chosen, the attributes upon which the winner of the Miss Delaware Pageant is judged are identical to those which would be sought in a young lady to be honorary hostess for the State of Delaware.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. It is hereby declared that with the crowning of Miss Delaware in June 1977, and all Miss Delaware's chosen by the Miss Delaware Scholarship Pageant who succeed her in the future shall serve during her reign as honorary hostess for the State of Delaware.

Approved June 7, 1977.

CHAPTER 74

FORMERLY HOUSE BILL NO. 157  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2.

AN ACT TO AMEND CHAPTER 51, TITLE 30, DELAWARE CODE, RELATING  
TO THE MOTOR FUEL TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 5110, Title 30, Delaware Code, by striking the figure "9" as the same appears therein and substituting in lieu thereof the figure "11".

Section 2. Amend Section 5132, Title 30, Delaware Code, by striking the figure "9" as the same appears therein, and substituting in lieu thereof the figure "11".

Section 3. The rate of tax imposed by this Act shall take affect July 1, 1977, and shall terminate on December 31, 1979 or on the last day of the month in which the State Treasurer shall deliver to the Governor, the Speaker of the House of Representatives and President Pro-Tempore of the Senate a certificate stating that there are sufficient funds in "The State of Delaware General Obligation Bonds (Special General Fund Issue) Account" to pay in full the principal of and interest on certain General Obligation Bonds issued by the State to provide funds to meet General Fund obligations incurred and payable prior to June 30, 1977, whichever date is sooner. Thereupon, the rate of tax shall revert to the rate provided by statute prior to July 1, 1977.

Approved June 8, 1977.

## CHAPTER 75

FORMERLY HOUSE BILL NO. 383  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE STATE OF DELAWARE TO ISSUE GENERAL OBLIGATION BONDS TO FINANCE CUMULATIVE GENERAL FUND OBLIGATIONS OF THE STATE INCURRED OR TO BE INCURRED THROUGH JUNE 30, 1977, AND PROVIDING A MEANS OF SECURING REPAYMENT OF SUCH BONDS.

WHEREAS, the State of Delaware (the "State") anticipates that revenues of the State available in its General Fund to pay existing obligations and obligations to be incurred through June 30, 1977, and payable from the General Funds will be approximately \$30 million less than such obligations incurred or to be incurred; and

WHEREAS, the State has determined that the only means of meeting such cumulative General Fund obligations and debts is through the issuance of its general obligation bonds; and

WHEREAS, legislation is pending in the 129th General Assembly which would increase certain existing taxes and fees to provide additional revenue to the State to meet the anticipated payments of the principal of and interest on such proposed general obligation bonds; and

WHEREAS, the State has determined that such increased taxes and fees will produce additional General Fund revenue sufficient to pay the principal of and interest on such general obligation bonds; and

WHEREAS, the State has determined to set aside such additional General Fund revenue in an amount equivalent to the debt service on such proposed issue of bonds in order to meet payments on the principal of and interest on such general obligation bonds; and

WHEREAS, the State now wishes to authorize the issuance of such general obligation bonds and to set aside such revenues to pay the principal of and interest on such general obligation bonds in order to alleviate the fiscal difficulties of the State, to permit the State to continue to meet its obligations, to restore the financial health of the State and investor confidence in the State, to provide balanced budgets for the State and to preserve the credit of the State.

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 State is hereby authorized to issue its General Obligation Bonds (the "Bonds") in the aggregate principal amount not exceeding \$30 million for the purpose of providing funds to pay obligations of the State payable from its General Fund.

Section 2. The proceeds of such Bonds are hereby appropriated to the General Fund to meet General Fund obligations incurred or to be incurred and payable prior to June 30, 1977, including the expenses incurred by the State in connection with the issuance of the Bonds.

Section 3. The State hereby pledges its faith and credit to the payment of the principal of and interest on the Bonds. The annual Budget Appropriation Act for each fiscal year during which the Bonds are outstanding and unpaid shall contain under the debt service item funds sufficient to pay payments on the principal of and interest on the Bonds when they become due and payable.

Section 4. The Issuing Officers, as defined in Title 29, Chapter 74, Delaware Code, as amended, are hereby authorized to issue the Bonds at any time and from time to time on or prior to June 30, 1977. Notwithstanding any other provision of law to the contrary, the Bonds shall have such maturities and shall be sold at public or private sale, in a manner to be determined by the Issuing Officers, shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption, all as the resolutions of the Issuing Officers shall provide, subject to this Act. The Issuing Officers may refund or reissue the Bonds from time to time, but any Bonds authorized pursuant to this Act shall be retired on or before December 30, 1979.

Section 5. The State shall set aside in a special account for the payment of the principal of and interest on the Bonds certain State revenues payable to the General Fund, in the amount

and manner hereinafter specified. The State hereby creates a special account in the General Fund to be entitled "The State of Delaware General Obligation Bonds (Special General Fund Issue) Account" (the "Account"). The monies in the Account shall be kept separate and apart from all other monies in the custody of the State and shall be deposited in a segregated bank account in Farmers Bank of the State of Delaware (the "Farmers Bank"). Money in the account shall be held for the benefit of the holders of Bonds and disbursed solely for the payment of the principal of and interest on such Bonds, subject to this Act.

Section 6 (a). No later than the fifteenth day of each calendar month succeeding the calendar month in which the Bonds are first issued, the Secretary of Finance and the State Treasurer shall determine the amount of revenues deposited in the General Fund during the preceding calendar month which were attributable to the taxes imposed pursuant to Chapters 19 and 51, Title 30, Delaware Code, (Corporation Income Tax and Motor Fuel Tax) and Chapters 11 and 18, Title 5, Delaware Code, (Bank & Trust Company Tax and Building & Loan Association Tax) and fees imposed pursuant to Section 391 (a) (10) of Title 8, Delaware Code, and shall transfer a portion of such revenues to the Account.

(b) The portion of such revenues to be transferred to the Account shall be that portion of such revenues which the Secretary of Finance and State Treasurer determine are attributable to:

(i) any increase in the rate of tax imposed by Chapter 19 of Title 30, Delaware Code, and Chapters 11 and 18, Title 5, Delaware Code, on and after January 1, 1977, over the rate of tax imposed by said Chapters prior to January 1, 1977;

(ii) any increase in the rate of tax imposed by Chapter 51, Title 30, Delaware Code, on and after July 1, 1977 over the rate of tax imposed by said Chapter prior to July 1, 1977; and

(iii) any increase in the fees imposed pursuant to Section 391 (a) (10), Title 8, Delaware Code, on and after July 1, 1977 over the fee imposed by said Section prior to July 1, 1977.

(c) After making provisions for the payment of the principal of and interest on other bonds or notes to which the State's faith and credit is pledged and that become due and payable before the principal of or interest on the Bonds next becomes payable, the State Treasurer shall set aside, in the



Account, such amounts as determined by the Secretary of Finance the State Treasurer after making provision for the payment.

Section 7. Ten days before any interest or principal payment date of the Bonds, the State Treasurer shall set aside in the Account, from any receipts on hand in the General Fund, money sufficient to pay the principal of and interest on the Bonds next due if money on hand in the Account is insufficient to pay the principal of and interest on the Bonds next due. If receipts on hand in the General Fund are insufficient to make the required payment to the Account, the State Treasurer shall transfer to the Account money thereafter received in the General Fund until the balance in the Account is sufficient to pay principal of and interest on the Bonds next due. Before transferring such money to the Account, the State Treasurer will make provision for the payment of the principal of or interest on other bonds or notes to which the State's faith and credit is pledged and that become due and payable within such ten day period.

Section 8. When the amount in the Account is sufficient to pay in full the principal of and interest on all the outstanding Bonds, the State Treasurer shall deliver a certificate to that effect to the Governor, the Speaker of the House of Representatives, and the President Pro-Tempore of the Senate. Thereafter, the State Treasurer shall not set aside any state revenues in the Account. When such Certificate is delivered, any monies remaining in the Account in excess of those required to pay in full the principal of and interest on the outstanding Bonds shall revert to the General Fund.

Section 9. The State hereby pledges the money on deposit in the Account to the payment of the principal of and interest on the Bonds. Such pledge shall be valid and binding from the time when such pledge takes effect and the revenues pledged and thereafter deposited by the State in the Account shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the State irrespective of whether such parties have notice thereof.

Section 10. Money in the Account shall be collateralized in the manner and subject to the conditions for securing State funds set forth in the Assistance Agreement, dated May 20, 1976, as amended (the "Assistance Agreement") by and between the State, Farmers Bank and the Federal Deposit Insurance Corporation and in the Collateral Agreement between the State and the Farmers Bank, dated June 10, 1976 and in Section 2704, Chapter 27, Title

29, Delaware Code, as amended.

Section 11. Monies in the Account shall be included in monies to be held by the State in an account in the Farmers Bank under the Assistance Agreement and shall not be invested by the State, unless required to be invested pursuant to the provisions of Section 2704, Chapter 27, Title 29, Delaware Code, as amended.

Section 12. This act shall take effect upon adoption notwithstanding any act limiting the amount of general obligation bonds to be authorized by the State in any fiscal year. The aggregate principal amount of bonds retired in any State fiscal year shall not be taken into consideration when determining the aggregate principal amount of general obligation bonds that may be authorized by the General Assembly in any State fiscal year.

Approved June 8, 1977.

CHAPTER 76

FORMERLY HOUSE BILL NO. 382  
AS AMENDED BY  
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 19, TITLE 30, DELAWARE CODE, RELATING  
TO THE RATE OF THE CORPORATION INCOME TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Subsection (a), Section 1902, Chapter 19,  
Title 30, Delaware Code, by striking the figure "7.2" and insert-  
ing in lieu thereof the figure "8.7".

Section 2. Amend subsection (d) of §1903, Title 30,  
Delaware Code by striking the date "1958" wherever it appears  
in said subsection and inserting in lieu thereof the date "1977".

Section 3. The rate of tax provided for in this Act shall  
be first effective with respect to income earned subsequent to  
December 31, 1976.

Approved June 8, 1977.

## CHAPTER 77

FORMERLY HOUSE BILL NO. 161  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 11, TITLE 5, DELAWARE CODE, RELATING TO  
BANKS AND TRUST COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 1105, Title 5, Delaware Code by striking the figure "7.2" and inserting in lieu thereof the figure "8.7".

Section 2. This Act shall take effect and the rate of tax established herein shall apply to all net income attributable to any taxable on and after January 1, 1977.

Approved June 8, 1977.

CHAPTER 78

FORMERLY HOUSE BILL NO. 162  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 18, TITLE 5, DELAWARE CODE, RELATING TO  
TAXATION OF BUILDING AND LOAN ASSOCIATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §1801, Title 5, Delaware Code, relating to annual franchise tax, by striking the figure "7.2" as the same appears therein, and inserting in lieu thereof, the figure "8.7".

Section 2. This Act shall take effect and the rate of taxation established herein shall apply to all net earnings attributable to any taxable on and after January 1, 1977.

Approved June 8, 1977.

## CHAPTER 79

## FORMERLY HOUSE BILL NO. 160

AN ACT TO AMEND SECTION 391, TITLE 8, DELAWARE CODE, TO INCREASE THE FEE COLLECTED AND PAID TO THE SECRETARY OF STATE FOR CERTIFYING COPIES OF PAPERS RELATING TO CORPORATIONS ON FILE WITH THE SECRETARY OF STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 391 of Subchapter XVI, Title 8, Delaware Code, by striking therefrom the figure "\$7.50" as it appears in subsection (a)(10) of said section and substituting in lieu thereof the figure "\$10.00".

Approved June 8, 1977.

## CHAPTER 80

## FORMERLY HOUSE BILL NO. 69

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO THE CONSTITUTION  
OF THE STATE OF DELAWARE.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 128th General Assembly, being Chapter 519, Volume 60, Laws of Delaware, as follows:

"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.'"

; and

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 128th General Assembly.

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. The said proposed amendment is hereby concurred in and adopted, and shall forthwith become a part of the Constitution of the State of Delaware.

Approved May 31, 1977.

## CHAPTER 81

FORMERLY HOUSE BILL NO. 323  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 5 OF THE DELAWARE CODE RELATING  
TO THE FARMERS BANK AND INDEMNIFICATION OF FARMERS BANK  
DIRECTORS BY THE STATE.

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 9, Title 5 of the Delaware Code  
by amending §935 (h) by striking said section in its entirety  
and by substituting in lieu thereof the following:

"(h) No indemnity or payments shall be furnished  
pursuant to this Act for any act or omission which shall  
occur after March 31, 1978 unless the application of  
this statute has been extended by a subsequent Act of  
the General Assembly."

Section 2. Amend Chapter 9, Title 5 of the Delaware Code  
by striking §935 (e)(3) in its entirety and renumbering all  
subsequent paragraphs accordingly.

Approved June 10, 1977.



## CHAPTER 82

## FORMERLY HOUSE BILL NO. 322

AN ACT TO AMEND CHAPTER 9 AND CHAPTER 11, TITLE 5 OF THE DELAWARE CODE RELATING TO BANKING AND REPORTS TO THE BANKING COMMISSIONER AND TIME FOR ASSESSMENT AND PAYMENT OF BANK FRANCHISE TAXES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §904, Chapter 9, Title 5 of the Delaware Code by striking the figure "10" as it appears in the second sentence of said section and by substituting in lieu thereof the figure "30".

Section 2. Amend §1103 (a), Chapter 11, Title 5 of the Delaware Code by striking said paragraph in its entirety and by substituting in lieu thereof the following:

"(a) The State Bank Commissioner shall, after the 31st day of January and prior to the 10th day of March in each year, ascertain from an inspection of the statements filed for December 31 in accordance with §1102 of this Title, and from any other sources of information which are open to him, the names and places of businesses of all banks and trust companies and national banks in this State, the amount of net income of each as defined in this Chapter, and the amount of tax levied thereon in accordance with this Chapter."

Section 3. Amend §1103 (c), Chapter 11, Title 5 of the Delaware Code by striking the word "April" as it appears in said paragraph and by substituting in lieu thereof the word "May".

Section 4. Amend §1104, Chapter 11, Title 5 of the Delaware Code by striking the word "May" as it appears in said section and by substituting in lieu thereof the word "June".

Approved June 10, 1977.

## CHAPTER 83

## FORMERLY HOUSE BILL NO. 76

AN ACT TO AMEND CHAPTER 29, TITLE 5, OF THE DELAWARE CODE  
RELATING TO THE FINANCING OF THE SALE OF MOTOR VEHICLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend subsection 2907 (a), Chapter 29, Title 5,  
of the Delaware Code by adding a new paragraph designated as  
Class 4 to read as follows:

"Class 4. Any new truck or truck tractor having a  
gross vehicular weight of 15,000 pounds or more and desig-  
nated by the manufacturer by a year model not earlier  
than the year in which the sale is made and any new semi-  
trailer or trailer designed for use in combination with  
any truck tractor - \$10 per \$100 per year."

Approved June 14, 1977.

## CHAPTER 84

## FORMERLY HOUSE BILL NO. 362

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF CORRECTIONS, OFFICE OF THE ADULT CORRECTION BUREAU CHIEF, FOR PROVIDING FUNDS TO STAFF AND OPERATE THE KENT CORRECTIONAL INSTITUTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$31,500 is hereby appropriated to the Office of the Bureau Chief, Bureau of Adult Correction, for the following purposes:

Salaries (22)	\$17,550
Other Employment Costs	3,135
Personal Services	775
Travel	40
Contractual Services	6,125
Supplies and Materials	<u>3,875</u>
TOTAL	\$31,500

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 or unencumbered as of June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved June 14, 1977.

## CHAPTER 85

## FORMERLY HOUSE BILL NO. 463

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT TO MEET PAYMENTS OF PRINCIPAL OF AND INTEREST ON CERTAIN INDUSTRIAL REVENUE BONDS ISSUED TO ASSIST KEWA METAL SALTS, INC. AND GUARANTEED BY THE STATE OF DELAWARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

WHEREAS, pursuant to the provisions of Title 6, Delaware Code, Chapter 70, the Department of Community Affairs and Economic Development ("Department"), issued Industrial Revenue Bonds for the purpose of financing the acquisition of land, the construction of a building and the purchase of equipment by Kewa Metal Salts, Inc. ("Kewa"); and

WHEREAS, the Bonds are guaranteed by the full faith and credit of the State of Delaware, as provided by Title 6, Section 7003 (b), Delaware Code; and

WHEREAS, Kewa Metal Salts, Inc., is insolvent and notice of such insolvency has been given to the Governor and other public officials by letter dated June 14, 1976; and

WHEREAS, the Installment Purchase Agreement ("Agreement") between Kewa and the Department dated July 1, 1974, and supplemented by an agreement dated June 25, 1975 provides that on June 15 and December 15 of each year, until the Industrial Revenue Bonds have been paid in full, a sum sufficient to meet the installment payment of principal of interest on such Bonds shall be made to the Farmers Bank of the State of Delaware, as Trustee, and that failure to make such payment shall constitute a default; and

WHEREAS, the installment payments required to be made to the Trustee on June 15, 1976 and December 15, 1976 were met by funds in the Advance Installment Reserve Account established by Section 503 of the Indenture of Trust between the Department and the Farmers Bank of the State of Delaware dated July 1, 1974, and supplemented by an agreement dated June 25, 1975 ("Indenture"); and

WHEREAS, the Advance Installment Reserve Account has been depleted by such payments and no appropriation was made in the 1977 Budget Appropriation Act for meeting the State's obligation to make payments of principal of and interest on such Bonds; and

WHEREAS, the Indenture requires that any monies appropriated

by the State for payment of principal of and interest on the Bonds shall first be used to eliminate any deficiency in the Advance Installment Reserve Account; and

WHEREAS, in order to preserve the credit and good name of the State of Delaware, and to prevent default on the installment payments due to be made to the Trustee on June 15, 1977 and December 15, 1977 it is imperative that the State appropriate funds to the Advance Installment Reserve Account to reimburse such Account and to meet such payments.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$130,683 is hereby appropriated to the Division of Economic Development of the Department of Community Affairs and Economic Development, for deposit in the Advance Installment Reserve Account established pursuant to Section 503 of the Indenture of Trust between the Department of Community Affairs and Economic Development and the Farmers Bank of the State of Delaware, dated July 1, 1974, and supplemented by an agreement of June 25, 1974.

Section 2. The sum appropriated herein shall be considered a supplemental appropriation and shall be paid by the State Treasurer from the General Fund from monies deposited in such Fund from the sale of bonds issued pursuant to the provisions of Chapter 75, Volume 61, Laws of Delaware, also known as House Bill 383.

Section 3. Any funds appropriated herein which remain unexpended or unencumbered on June 30, 1977 shall revert to the General Fund.

Approved June 15, 1977.

## CHAPTER 86

FORMERLY HOUSE BILL NO. 342  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO PROVIDE SUPPLEMENTARY APPROPRIATIONS TO THE SEVERAL  
AGENCIES FOR THE PURPOSE OF PAYING SALARIES AND OTHER  
EMPLOYMENT COSTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. There is hereby appropriated the several amounts  
named in this Act to the agencies named herein to pay Salaries  
and Other Employment Costs for the fiscal year ending June 30,  
1977, in the following categories:

<u>(12-01-000) Lieutenant Governor</u>	
Salaries and Wages of Employees	\$ 599
F.I.C.A. - Employer's Share	35
Pensions	86
TOTAL	\$ 720

<u>(20-01-000) Office of the Secretary of State</u>	
Salaries and Wages of Employees	\$1,017
F.I.C.A. - Employer's Share	60
Pensions	115
TOTAL	\$1,192

<u>(30-08-000) Division of Business &amp; Occupational Regulation</u>	
<u>(30-08-001) Office of the Director</u>	
Salary of Director	\$3,156
F.I.C.A. - Employer's Share	185
Pensions	357
TOTAL	\$3,698

<u>(30-08-014) Delaware Standardbred Development Fund</u>	
Salary of Director	\$2,454
F.I.C.A. - Employer's Share	144
Pensions	277
TOTAL	\$2,875*

(\*) Special Funds total budget appropriated per Chapter 5,  
Title 28, Delaware Code.

TOTAL -- General Fund	\$5,610
TOTAL -- Special Fund	\$2,875

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 monies not otherwise appropriated and

from the Delaware Standardbred Development Fund for the Special Fund appropriation.

Section 3. Any funds appropriated herein and remaining unexpended shall revert to the General Fund on June 30, 1977.

Approved June 15, 1977.

## CHAPTER 87

## FORMERLY HOUSE BILL NO. 354

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR THE FISCAL YEAR ENDING JUNE 30, 1977, AND PRIOR YEAR'S EXPENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. A supplemental appropriation in the amount of \$1,030,882 is hereby appropriated to the Department of Health and Social Services.

Section 2. The several amounts hereby appropriated are as follows:

(35-02-003) Education

Salaries	\$ 4	
TOTAL		\$ 4

(35-04-000) Medical Examiner

Electricity	\$ 3,200	
TOTAL		\$ 3,200

(35-05-003) Emily P. Bissell Hospital

Salaries	\$ 1,722	
F.I.C.A.	101	
Pension	195	
Heating Fuel	33,000	
Drugs	10,000	
TOTAL		\$ 45,018

(35-05-004) Delaware Hospital for the Chronically Ill

Salaries	\$ 62	
F.I.C.A.	4	
Pension	7	
Electricity	51,000	
Natural Gas	3,000	
Heating Fuel	63,000	
Supplies & Materials	29,000	
Drugs & Medical Supplies	20,000	
Food	90,000	
TOTAL		\$ 256,073

(35-06-002) Delaware State Hospital

Heating Fuel	\$144,000	
Contractual Services	170,500	
TOTAL		\$ 314,500



(35-06-003) Mental Hygiene Clinics

Contractual Services	\$ 2,700	
Supplies & Materials	150	
Drugs & Medical Supplies	<u>4,000</u>	
TOTAL		\$ 6,850

(35-06-004) Governor Bacon Health Center

Electricity	\$ 74,000	
TOTAL		\$ 74,000

(35-06-008) Bureau of Substance Abuse

Salaries and Wages	\$ 2,284	
F.I.C.A.	134	
Pension	258	
Contractual Services	24,300	
Food	25,800	
Drugs & Medical Supplies	<u>3,400</u>	
TOTAL		\$ 56,176

(35-07-002) Public Welfare

Title XIX - State Institutions	\$170,267	
TOTAL		\$ 170,267

(35-11-002) Hospital for the Mentally Retarded

Contractual Services	\$ 35,000	
TOTAL		\$ 35,000

(35-12-000) Division of State Service Centers

Contractual Services	\$ 60,000	
TOTAL		\$ 60,000

(35-14-000) Division of Aging

Salaries & Wages	\$ 4,946	
F.I.C.A.	289	
Pension	559	
Contractual Services	<u>4,000</u>	
TOTAL		\$ 9,794

TOTAL - Department of Health and Social Services	<u>\$1,030,882</u>
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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. All funds appropriated under this Act, which have not been paid out by the State Treasurer by June 30, 1977, shall revert to the General Fund.

Approved June 15, 1977.

## CHAPTER 88

## FORMERLY HOUSE BILL NO. 482

AN ACT TO PERMIT MARRIAGE OF TWO FORMER DELAWARE CITIZENS PRIOR  
TO THE EXPIRATION OF NINETY-SIX (96) HOURS FROM THE ISSUANCE  
OF A MARRIAGE LICENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Notwithstanding any provision of Chapter 1,  
Title 13 of the Delaware Code, or any other law of this State to  
the contrary, the Clerk of the Peace for Kent County shall by  
June 17, 1977, issue to Herman R. Cravalho and Dorothy L. McNary,  
an official marriage license that will entitle them to be married  
on that day or within thirty (30) days thereafter.

Approved June 16, 1977.

## CHAPTER 89

## FORMERLY SENATE BILL NO. 25

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF  
CORRECTION FOR PAYMENT OF PRIOR YEAR OBLIGATIONS.

WHEREAS, the Department of Correction acquired extensive hospital and medical expenses due to circumstances beyond its control; and

WHEREAS, a supplemental appropriation of \$113,959 would provide adequate funds needed to permit payment of all outstanding prior year obligations.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of \$113,959 is hereby appropriated to the Department of Corrections for the purpose of payment of outstanding prior year obligations of the Bureau of Adult Correction and the Bureau of Juvenile Correction. The funds herein appropriated shall be disbursed in the following manner:

<u>Department of Correction</u>	
<u>Bureau of Adult Correction</u>	
<u>Delaware Correctional Center</u>	
Personal Services	
Medical, Dental & Psychiatric	\$ 345
Contractual Services	
Contractor with Institution	80,039
Supplies & Materials	2,088
TOTAL Delaware Correctional Center	\$ 82,472
<u>Sussex Correctional Institution</u>	
Personal Services:	
Medical, Dental & Psychiatric	\$ 4,245
Contractual Services	
Contracts with Institutions	8,521
TOTAL Sussex Correctional Institution	\$ 12,766
TOTAL - Bureau of Adult Correction	\$ 95,238
<u>Bureau of Juvenile Correction</u>	
<u>Ferris School for Boys</u>	
Contractual Services	\$ 9,822
<u>Woods Haven-Kruse School for Girls</u>	
Contractual Services	\$ 5,358

<u>Bridge House Detention Center</u>	
Contractual Services	\$ 1,267
<u>Community Services</u>	
Contractual Services	\$ 2,274
TOTAL - Bureau of Juvenile Correction	<u>\$ 18,721</u>
TOTAL - Department of Correction	<u>\$113,959</u>

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 and unencumbered as of June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved June 17, 1977.

## CHAPTER 90

FORMERLY HOUSE BILL NO. 305  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2 AND  
SENATE AMENDMENTS NO. 2 AND 3

AN ACT TO AMEND PART IV, TITLE 16 OF THE DELAWARE CODE RELATING TO  
NATURAL FOOD SUBSTANCES; AND PERMITTING THE DISTRIBUTION OF  
LAETRILE UNDER CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §3301, Chapter 33, Part IV, Title 16, of  
the Delaware Code, by adding a new sentence to subsection (1)  
thereof to read as follows:

"Notwithstanding any other provision of this subsection,  
the word 'drug' shall not include laetrile (amygdalin)."

Section 2. Amend Part IV, Title 16 of the Delaware Code  
by adding thereto a new chapter, designated as Chapter 49, which  
new Chapter shall read as follows:

"CHAPTER 49. NATURAL FOOD SUBSTANCES

§4901. Manufacture, delivery and possession of certain  
substances

The manufacture, delivery, possession and use of  
laetrile (amygdalin, Vitamin B-17) is lawful within the  
State of Delaware. No person, however, shall manufacture,  
sell or deliver laetrile (amygdalin, Vitamin B-17) for  
purposes of transporting such substances to any other  
State, district or territory beyond the borders of Delaware.

§4902. Sale and distribution of laetrile

Laetrile (amygdalin, Vitamin B-17) may be distributed  
or sold by any person, and no special license or prescrip-  
tion shall be required for the sale or distribution of such  
substances. The label or other device affixed to a con-  
tainer containing laetrile (amygdalin, Vitamin B-17) shall  
include a statement that such substance has not yet been  
approved as a treatment or cure for cancer by the Food and  
Drug Administration of the United States Department of Health,  
Education and Welfare.

§4903. State Board of Health

The State Board of Health shall:

(a) adopt regulations which prescribe minimum standards for manufacturers in preparing, compounding, processing or packaging laetrile (amygdalin, Vitamin B-17);

(b) conduct inspections of manufacturers of laetrile (amygdalin, Vitamin B-17);

(c) establish reasonable fees, to be collected from the manufacturer, for the purpose of paying the costs of the inspections.

\$4904. Prescribing of laetrile

(a) No hospital nor health facility may interfere with the physician-patient relationship by restricting or forbidding the use of laetrile (amygdalin, Vitamin B-17) when prescribed or administered by a physician, surgeon, osteopath or other person engaged in the practice of medicine, as that term is defined in §1703 (b), Chapter 17, Title 24 of the Delaware Code and/or when requested by a patient, unless the substance as prescribed or administered by the physician or medical practitioner is found to be harmful by the Board of Medical Practice in a public hearing which complies with the Freedom of Information Act.

(b) No physician, surgeon, osteopath or other person engaged in the practice of medicine, as that term is defined in §1703 (b), Chapter 17, Title 24 of the Delaware Code shall be subject to disciplinary action solely for the prescribing or administering of laetrile (amygdalin, Vitamin B-17) to a patient under his care who has requested the substance.

Under the provisions of this Act laetrile shall not be considered a medical drug, but shall be considered a natural food substance.

\$4905. Distribution by pharmacists

A pharmacist shall not be subject to any penalty for filling a prescription for laetrile (amygdalin, Vitamin B-17) if the prescription is issued to a patient by a physician, surgeon, osteopath or other person engaged in the practice of medicine, as that term is defined in §1703 (b), Chapter 17, Title 24 of the Delaware Code."

Section 3. Amend §3315, Chapter 33, Part IV, Title 16, of the Delaware Code, by adding a new sentence to subsection (b) of said section to read as follows:

"No rule or regulation shall be promulgated under the provisions of subsection (a) of this section which is in conflict with the provisions of Chapter 49 of this Title."

Approved June 20, 1977.

CHAPTER 91

FORMERLY HOUSE BILL NO. 415

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE STATE TREASURER  
FOR REVENUE REFUNDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of \$1,500,000 is hereby appropriated to  
the State Treasurer for revenue refund requirements for the  
fiscal year ending June 30, 1977:

Revenue Refunds	\$1,500,000
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Section 2. This Act shall be considered a supplemental  
appropriation and shall be paid from the General Fund of the  
State Treasury, from monies not otherwise appropriated.

Section 3. Any funds appropriated herein and unexpended as  
of June 30, 1977, shall revert to the General Fund of the State  
of Delaware.

Approved June 21, 1977.

## CHAPTER 92

## FORMERLY SENATE BILL NO. 215

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO BANKING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 1, Title 5 of the Delaware Code by designating the current text of Section 121 as subsection (a) and add thereto the following subsection:

"(b) The Commissioner may prescribe regulations to carry out the purposes of this Title."

Approved June 21, 1977.



CHAPTER 91

FORMERLY HOUSE BILL NO. 415

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE STATE TREASURER  
FOR REVENUE REFUNDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of \$1,500,000 is hereby appropriated to  
the State Treasurer for revenue refund requirements for the  
fiscal year ending June 30, 1977:

Revenue Refunds	\$1,500,000
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Section 2. This Act shall be considered a supplemental  
appropriation and shall be paid from the General Fund of the  
State Treasury, from monies not otherwise appropriated.

Section 3. Any funds appropriated herein and unexpended as  
of June 30, 1977, shall revert to the General Fund of the State  
of Delaware.

Approved June 21, 1977.

## CHAPTER 92

## FORMERLY SENATE BILL NO. 215

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO BANKING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Chapter 1, Title 5 of the Delaware Code  
by designating the current text of Section 121 as subsection (a)  
and add thereto the following subsection:

"(b) The Commissioner may prescribe regulations to  
carry out the purposes of this Title."

Approved June 21, 1977.

CHAPTER 93

FORMERLY SENATE BILL NO. 216

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO BANKING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 9, Title 5 of the Delaware Code by striking §910 thereof and substituting the following:

"§910. Investment limitations

No bank or trust company shall invest more than 25 percent of its total capital, surplus and undivided profits in the stock, bonds or other obligations of any one corporation or political entity or political division except bonds or other obligations of or guaranteed by the United States or any agency or instrumentality thereof including, without limitation, obligations of The Federal National Mortgage Association, The Federal Home Loan Mortgage Corporation and Public Housing Authorities, or obligations of the State or its municipalities, subdivisions, agencies or instrumentalities."

Approved June 21, 1977.

## CHAPTER 94

FORMERLY HOUSE BILL NO. 385  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR PAYMENT OF CURRENT FISCAL YEAR OBLIGATIONS.

WHEREAS, the Department of Correction acquired additional operating expenses beyond its control due to the increased population at the institutions and security as well as services had to be maintained; and

WHEREAS, a supplemental appropriation of \$963,019 would provide adequate funds needed to permit payment of all outstanding current year operating expenses.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$963,019 is hereby appropriated to the Department of Correction (38-00-000) for the payment of current year obligations. The funds are appropriated in the following manner:

(38-00-000) DEPARTMENT OF CORRECTION

(38-01-000) Office of the Commissioner

(38-01-002) Administration

Contractual Services

Other Contractual Services \$ 16,000

TOTAL - Administration

\$ 16,000

TOTAL - Office of the Commissioner

\$ 16,000

(38-08-000) Bureau of Adult Correction

(38-08-003) Delaware Correction Center

Salaries & Wages of Employees \$ 99,000

Salaries - Overtime 75,000

F.I.C.A. - Employer's Share 10,179

Pensions 19,662

Personal Services

Medical, Dental & Psychiatric 2,250

Contractual Services

Contracts with Institutions 145,000

Other Contractual Services 86,818

Supplies & Materials 231,400

TOTAL - Delaware Correction Center \$669,309

<u>(38-08-004) Sussex Correctional Institution</u>		
Personal Services		
Medical, Dental & Psychiatric	\$ 19,250	
Contractual Services		
Contracts with Institutions	38,000	
Other Contractual Services	19,950	
Supplies and Materials	39,850	
TOTAL - Sussex Correctional Institution		\$117,050
<u>(38-08-005) Women's Correctional Institution</u>		
Contractual Services		
Contracts with Institutions	\$ 775	
Supplies and Materials	7,000	
TOTAL - Women's Correctional Institution		\$ 7,775
<u>(38-08-007) Probation and Parole</u>		
Contractual Services		
Rent	\$ 10,000	
Other Contractual Services	5,450	
TOTAL - Probation and Parole		\$ 15,450
TOTAL - Bureau of Adult Correction		\$809,584
<u>(38-13-000) Bureau of Juvenile Correction</u>		
<u>(38-13-002) Ferris School for Boys</u>		
Salaries and Wages of Employees	\$ 19,100	
F.I.C.A. - Employer's Share	1,118	
Pensions	2,159	
Contractual Services	20,000	
TOTAL - Ferris School for Boys		\$ 42,377
<u>(38-13-003) Woods Haven-Kruse School for Girls</u>		
Salaries and Wages of Employees	\$ 11,100	
F.I.C.A. - Employer's Share	650	
Pensions	1,255	
Contractual Services		
Other Contractual Services	12,200	
TOTAL - Woods Haven-Kruse School for Girls		\$ 25,205
<u>(38-13-004) Bridge House Detention Center</u>		
Salaries and Wages of Employees	\$ 4,100	
F.I.C.A. - Employer's Share	240	
Pensions	464	
Contractual Services	2,500	
TOTAL - Bridge House Detention Center		\$ 7,304
<u>(38-13-005) Stevenson House Detention Center</u>		
Contractual Services		
	\$ 3,500	
TOTAL - Stevenson House Detention Center		\$ 3,500
<u>(38-13-010) Community Services</u>		
Salaries and Wages of Employees	\$ 6,000	
F.I.C.A. - Employer's Share	351	

(38-13-010) Community Services - continued

Pensions	\$ 678	
TOTAL - Community Services		\$ 7,029
TOTAL - Bureau of Juvenile Correction		<u>\$ 85,415</u>
TOTAL - DEPARTMENT OF CORRECTION		<u>\$910,999</u>

Section 2. This Act is a supplementary appropriation and the monies appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated.

Section 3. Any funds hereby appropriated and remaining unexpended or unencumbered as of June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved June 23, 1977.

## CHAPTER 95

FORMERLY SENATE BILL NO. 182  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 83, TITLE 11, DELAWARE CODE RELATING TO  
DISPOSITION OF LOST OR STOLEN PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §8307, Chapter 83, Title 11 of the  
Delaware Code by striking subsection (b) thereof in its entirety  
and substituting in lieu thereof a new subsection (b) as follows:

"(b) After deducting from the proceeds of the sale the  
expense of making the same and the amount of storage and  
any other repair or tow charges incurred during the period  
in which the same was in custody, and after the payment of  
all liens to which said property was subject in the order of  
their priority, the balance remaining, if any, shall be paid  
into the Police Retirement Fund of the State Police. If  
the owner or the person entitled to the possession of per-  
sonal property, sold as aforesaid, shall present to the  
Superintendent a claim, duly sworn to, at any time within  
3 years from the date of such sale, for the balance re-  
maining from the proceeds of such sale, the Superintendent  
shall cause to be paid from said Police Retirement Fund  
the amount of such balance, without interest, to such  
claimant. If no claim for such balance is made within 3  
years from the date of such sale, such balance shall become  
the property of said Police Retirement Fund in the same  
manner as other sums contributed thereto."

Section 2. Amend §8307, Chapter 83, Title 11 of the  
Delaware Code by striking subsection (c) thereof in its entirety  
and substituting in lieu thereof a new subsection (c) as follows:

"(c) Whenever any lost, abandoned or stolen money  
comes into the custody of the State Police, the Superin-  
tendent of the State Police shall make a reasonable effort  
to locate the owner thereof. If the owner of any stolen  
money cannot be located or fails to claim such stolen  
money within one year from the date that it came into the  
custody of the State Police, such money shall become the  
property of the State Police Retirement Fund in the same  
manner as other sums contributed thereto. If the owner of  
any lost or abandoned money cannot be located or fails to  
claim such lost or abandoned money within one year from  
the date that it came into the custody of the State Police,  
such money shall become the property of the person who

delivered custody of such money to the State Police and shall be returned by the Superintendent to such person as soon as is practicable."

Section 3. Amend §8307, Chapter 83, Title 11 of the Delaware Code by redesignating subsections (d) and (e) as subsections (e) and (f) respectively and by adding a new subsection (d) thereto to read as follows:

"(d) All actions of replevin for the return of any such personal property or money in the custody of said Superintendent and all other suits or actions of a similar nature arising by reason of his custody of said personal property or money shall be brought within 3 years from the date when the same came into the custody of said Superintendent or be forever barred; provided, however, that this sentence shall not be construed as implying that in the absence thereof said Superintendent would be subject to suit or action of any kind whatsoever and provided, further, that nothing herein shall be construed to waive the immunity from suit or action to which said Superintendent or the State Police would be entitled in the absence of this sentence."

Approved June 28, 1977.



## CHAPTER 96

## FORMERLY HOUSE BILL NO. 324

## AN ACT TO AMEND CHAPTER 9, TITLE 5 OF THE DELAWARE CODE RELATING TO BANKING AND RESERVE REQUIREMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 9, Title 5 of the Delaware Code by striking paragraph (b) of §907 and substituting therefore the following:

"(b) Every bank, banking association, trust company, savings bank or savings society shall maintain reserves as follows:

(1) Seven percent (7%) of the average aggregate of its demand deposits and three percent of the average aggregate of its time deposits, except that no reserves need be maintained against deposits of the United States or any agency or instrumentality thereof, or the State or any political subdivision or municipality thereof which are collateralized; and

(2) Such reserves shall consist of cash in the possession of the bank or of net balances payable on demand with banking institutions within or without the State which have been approved in writing as reserve depositories by the State Bank Commissioner or 50% of such required reserves may be maintained in unencumbered obligations of or guaranteed by the United States, or any agency or instrumentality thereof including, without limitation, obligations of the Federal National Mortgage Association, The Federal Home Loan Mortgage Corporation, and Public Housing Authorities, or obligations of the State or its municipalities, subdivisions, agencies or instrumentalities and having a like market value."

Section 2. Amend Chapter 9, Title 5 of the Delaware Code by striking the last sentence of paragraph (c) of §907 in its entirety.

Section 3. Amend Chapter 9, Title 5 of the Delaware Code by striking paragraph (d) of §907 in its entirety and by substituting in lieu thereof the following:

"(d) No money held in a fiduciary capacity whether as executor, administrator, guardian, trustee or otherwise, which is on deposit with other banking institutions, shall

be carried or counted as a part of the required reserves in any bank or trust company, exclusive of Federal Reserve Member Banks, unless it shall first set aside, earmarked for the trust department, obligations of or guaranteed by the United States or any agency or instrumentality thereof including, without limitation, obligations of The Federal National Mortgage Association, The Federal Home Loan Mortgage Corporation, and Public Housing Authorities or obligations of the State, its municipalities, subdivisions, agencies or instrumentalities having a maturity of not more than five (5) years from the date of earmarking for the trust department and having a current market value of at least 110 percent of the amount on deposit."

Approved June 28, 1977.

CHAPTER 97

FORMERLY HOUSE BILL NO. 246

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION TO BE USED TO PAY AN OBLIGATION INCURRED IN PRIOR FISCAL YEARS.

WHEREAS, the State Personnel Commission ruled that Mr. Arthur C. Ford, Highway Engineering Technician III, be reinstated in his position effective November 27, 1974; and

WHEREAS, the Office of the Budget Director has determined that such reimbursement can only be made by means of a supplementary appropriation, because such claims revert to Fiscal Year 1974.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of twenty-seven thousand one hundred seventy dollars and twenty-seven cents (\$27,170.27) is hereby appropriated to the Department of Transportation (55-05-011) for the salary due Mr. Arthur C. Ford for the period November 27, 1974, to November 15, 1976, for which he has not received payment.

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 monies not otherwise appropriated.

Section 3. The funds herein appropriated shall be expended only in the manner set forth in Section 1 and any funds appropriated but unexpended as of June 30, 1977, shall thereupon revert to the General Fund of the State of Delaware.

Approved June 28, 1977.

## CHAPTER 98

## FORMERLY HOUSE BILL NO. 289

AN ACT TO AMEND CHAPTER 511, VOLUME 60, LAWS OF DELAWARE, THE  
1977 BUDGET APPROPRIATION ACT, ENACTED AS HOUSE BILL NO.  
1274, AMENDED BY HOUSE AMENDMENT NO. 1.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Chapter 511, Volume 60, Laws of Delaware  
by striking certain figures in their entirety and substituting  
certain other figures in lieu thereof as referenced by page and  
line number appearing in House Bill No. 1274, as amended and  
hereafter prescribed:

(95-01-003) Educational Contingency

<u>Page</u>	<u>Line</u>	<u>Item/Description</u>	<u>From</u>	<u>To</u>	<u>(Decrease) Increase</u>
75	11	Growth & Upgrading			
		Negative Growth	\$(4,500,000)	\$(1,635,701)	\$2,864,299
75	17	F.I.C.A. -			
		Employer's Share	(199,557)	(81,335)	118,222
75	18	Pensions	(387,455)	(184,834)	202,621
		Total Budget Increase			<u>\$3,185,142</u>

Section 2. Amend Chapter 511, Volume 60, Laws of Delaware by  
recomputing subtotals and totals as necessary.

Section 3. This Act will become effective upon signature by  
the Governor.

Approved June 28, 1977.

CHAPTER 99

FORMERLY HOUSE BILL NO. 279

AN ACT AUTHORIZING THE BUDGET OFFICE TO TRANSFER CERTAIN SPECIAL FUNDS TO THE WORK EDUCATION RELEASE PROGRAM, DEPARTMENT OF CORRECTION, AND APPROPRIATING FUNDS TO THE WORK EDUCATION RELEASE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Budget Office is hereby authorized to transfer residue funds in the amount of \$40,901.45 from existing Special Funds (work release, room and board payments) in the Office of the Commissioner (Administration), Department of Correction to the Work Education Release Program in the Bureau of Adult Correction, Department of Correction.

Section 2. The funds transferred pursuant to this Act are hereby appropriated to the Work Education Release Program (38-08-009), Bureau of Adult Correction (38-00-000) and are in addition to those Special Funds appropriated by the "1977 Budget Appropriation Act", Chapter 511, Volume 60, Laws of Delaware.

Approved June 28, 1977.

## CHAPTER 100

## FORMERLY HOUSE BILL NO. 255

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO SATISFY A SETTLEMENT AGREEMENT ENTERED INTO BETWEEN THE STATE OF DELAWARE AND CERTAIN INDIVIDUALS IN CONNECTION WITH THE CLAIMS OF CERTAIN INDIVIDUALS FOR UNPAID OVERTIME AND MINIMUM WAGE COMPENSATION UNDER THE FAIR LABOR STANDARDS ACT.

WHEREAS, a lawsuit was filed in the Superior Court of the State of Delaware in and for New Castle County by certain individuals who were employed as house parents and child counselors at the Governor Bacon Health Center alleging certain violations of the Fair Labor Standards Act of 1938; and

WHEREAS, the claimants alleged that the sum of approximately \$210,000.00 was due and owing from the State of Delaware, Department of Health and Social Services, for unpaid minimum wage and overtime compensation; and

WHEREAS, a Settlement Agreement was reached between the claimants through their attorney, Melvyn I. Monzack, Esquire, and the State of Delaware whereby the defendants agreed, for settlement purposes, to pay to plaintiffs the sum of \$50,000.00.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of \$50,000.00 to satisfy the Settlement Agreement entered into by means of a Stipulation between the State of Delaware and Melvyn I. Monzack, attorney for the claimants in connection with Civil Action No. 920, 1973, in the Superior Court of the State of Delaware in and for New Castle County. Said funds shall be appropriated to Melvyn I. Monzack to be disbursed in accordance with the Settlement Agreement as the interests of the various litigants appear.

Section 2. No funds shall be disbursed to any individual until a signed release is obtained from said individual discharging the State of Delaware and the Department of Health and Social Services from any and all liability in connection with the subject matter of the litigation in Civil Action 920, 1973, in the Superior Court in and for New Castle County. The sum appropriated hereunder shall be in full and complete payment of any claim which any of the litigants may have had against the State of Delaware or the Department of Health and Social Services.

Section 3. This Act is a supplementary appropriation act and

the funds hereby appropriated shall be paid from the General Funds of the State Treasury from monies not otherwise appropriated.

Section 4. This Act shall not be construed to obligate the State of Delaware to any other individual for any other purpose except as set forth herein; it being the intention of the Legislature only to discharge the obligation created by means of the Stipulation settling the subject litigation.

Approved June 29, 1977.

## CHAPTER 101

## FORMERLY HOUSE BILL NO. 330

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE INSURANCE  
DEPARTMENT FOR THE PURPOSE OF MEETING THE EXPENSE OF  
WORKMEN'S COMPENSATION THROUGH JUNE 30, 1977.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of \$200,000 is hereby appropriated to the Insurance Department for the purpose of meeting the expense of Workmen's Compensation Insurance through June 30, 1977.

Section 2. This Act is a supplementary appropriation bill 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 June 29, 1977.



CHAPTER 102

FORMERLY HOUSE BILL NO. 465

AN ACT TO PERMIT THE DE LA WARR SCHOOL DISTRICT TO TRANSFER  
CERTAIN FUNDS FROM ITS LOCAL MINOR CAPITAL IMPROVEMENT  
AND LOCAL DEBT SERVICE ACCOUNTS TO ITS LOCAL CURRENT  
OPERATING ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The Board of Education of the De La Warr School District is authorized to transfer to its Local Current Operating Account the sum of \$50,000 from its Local Minor Capital Improvement Account and the sum of \$20,000 from its Local Debt Service Account.

Approved June 29, 1977.

## CHAPTER 103

FORMERLY SENATE BILL NO. 199  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR THE PURPOSE OF MAKING FORMULA ADJUSTMENTS WITH THE SCHOOL BUS CONTRACTORS.

WHEREAS, the State Board of Education on January 15, 1976, changed the school bus formula for contractors; and

WHEREAS, the formula adjustment will necessitate a supplementary appropriation for FY 77 of \$510,000; and

WHEREAS, gasoline and maintenance adjustment from September 1, 1976, to June 30, 1977, will require a supplementary appropriation of \$169,000.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$679,000 is hereby appropriated to the State Board of Education for the purpose of making formula adjustments with the school bus contractors, excluding school district or State-owned or operated buses.

Section 2. 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 3. The funds hereby appropriated remaining unexpended on June 30, 1977, shall revert to the Genral Fund of the State of Delaware.

Section 4. This Act provides a supplementary appropriation based on the January 15, 1976, school bus formula for contractors for the fiscal year ending June 30, 1977, and shall not be construed as a basis for making formula adjustments in ensuing fiscal years.

Approved June 29, 1977.

## CHAPTER 104

## FORMERLY SENATE BILL NO. 218

AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE  
FOR THE PURPOSE OF PAYING BACK PAY DUE AN EMPLOYEE WHOSE  
ANNUAL PAY INCREMENT WAS NOT PAID.

WHEREAS, William E. Robb is an employee of the Department  
of Agriculture; and

WHEREAS, William E. Robb did not receive his annual pay  
increment both on July 1, 1969 and July 1, 1970; and

WHEREAS, the State Personnel Office has confirmed the above  
stated facts; and

WHEREAS, the total underpayment due William E. Robb from  
July 1, 1969 through June 30, 1974 is as follows:

7-1-69 -- 6-30-70	\$324.00
7-1-70 -- 6-30-71	336.00
7-1-71 -- 6-30-72	360.00
7-1-72 -- 6-30-73	402.00
7-1-73 -- 6-30-74	<u>1,161.60</u>
	\$2,583.60

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of \$3,034.44 is hereby appropriated to  
the Department of Agriculture for the purpose of providing back  
pay to William E. Robb. The amount appropriated shall be as  
follows:

Salary	\$2,583.60
F.I.C.A.	151.14
Pension	<u>299.70</u>
TOTAL	\$3,034.44

Section 2. This is a supplemental appropriation and shall be  
paid by the State Treasurer out of the General Fund from money  
not otherwise appropriated. Any funds remaining unexpended on  
June 30, 1977 shall revert to the General Fund of the State of  
Delaware.

Approved June 29, 1977.

## CHAPTER 105

## FORMERLY SENATE BILL NO. 244

AN ACT AUTHORIZING THE CAPITAL SCHOOL DISTRICT TO TRANSFER FUNDS  
FROM THE LOCAL BALANCE OF MINOR CAPITAL IMPROVEMENTS PRO-  
GRAM TO THE CAPITAL SCHOOL DISTRICT OPERATING ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The Capital School District is hereby authorized  
to transfer the sum of \$16,500 from the Local Balance of Minor  
Capital Improvements Program to the Capital School District  
Operating Account.

Approved June 29, 1977.

CHAPTER 106

FORMERLY HOUSE BILL NO. 340

AN ACT TO PERMIT THE BOARD OF EDUCATION OF THE ALFRED I. DUPONT  
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 Alfred I. duPont  
Reorganized School District is authorized to transfer to its  
Current Operating Account the sum of \$200,000 from its Debt  
Service Account.

Approved June 30, 1977.

## CHAPTER 107

## FORMERLY HOUSE BILL NO. 418

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DIVISION OF HIGHWAYS OF THE DEPARTMENT OF TRANSPORTATION FOR THE REMAINDER OF THE FISCAL YEAR ENDING JUNE 30, 1977.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of \$188,000 to the Division of Highways of the Department of Transportation to satisfy the existing deficiency for the fiscal year ending June 30, 1977:

Salaries and Wages of Employees    \$188,000

Section 2. This is a supplemental 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. The funds herein appropriated remaining unexpended on June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved June 30, 1977.

## CHAPTER 108

FORMERLY HOUSE BILL NO. 332  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE STATE  
JUDICIARY AGENCIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of one hundred forty-four thousand six hundred fifty-four dollars (\$144,654) is hereby appropriated to the State Judiciary agencies for the following purposes:

<u>(02-01-000) Supreme Court</u>		
Contractual Services		\$ 3,750
<u>(02-02-000) Court of Chancery</u>		
Travel	\$ 300	
Contractual Services	<u>1,550</u>	
Subtotal		1,850
<u>(02-03-000) Superior Court</u>		
Contractual Services		9,500
<u>(02-08-000) Family Court</u>		
Contractual Services		15,402
<u>(02-09-000) Kent County Law Library</u>		
Capital Outlay		9,350
<u>(02-10-000) Sussex County Law Library</u>		
Capital Outlay		1,691
<u>(02-11-000) New Castle County Law Library</u>		
Capital Outlay		5,550
<u>(02-17-000) Administrative Office of the Courts</u>		
<u>(02-17-001) Office of the Director</u>		
Personal Services - Jury Fees		<u>97,561</u>
TOTAL		<u>\$144,654</u>

Section 2. The sum of four thousand seven hundred twenty-nine dollars (\$4,729) is hereby appropriated to the State Judiciary agencies for prior year's obligation of telephone bills as follows:

(02-03-000) Superior Court  
Contractual Services

\$4,279

(02-03-000) Family Court  
Contractual Services450

TOTAL

\$4,729

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 monies not otherwise appropriated.

Section 4. The funds herein appropriated shall be used only for the purposes specified in Section 1 and Section 2 of this Act, and any funds appropriated but unexpended by June 30, 1977, shall thereupon revert to the General Fund of the State Treasury.

Approved June 30, 1977.



CHAPTER 109

FORMERLY HOUSE BILL NO. 314

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DELAWARE NATIONAL GUARD, TO PAY A PRIOR YEAR'S OBLIGATION FOR A LIABILITY CLAIM PAYABLE TO THE UNITED STATES GOVERNMENT FOR THE BALANCE OF EXPENSES INCURRED IN MARCH 1967, MOTOR VEHICLE ACCIDENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of \$534.73 to the Delaware National Guard, to pay a prior year's obligation of a liability claim payable to the United States Government.

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 June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved June 30, 1977.

## CHAPTER 110

## FORMERLY SENATE BILL NO. 259

AN ACT TO AMEND SUBCHAPTER II, CHAPTER 23, TITLE 21, DELAWARE CODE, RELATING TO FEES FOR RECORDING LIENS ON MOTOR VEHICLES PAID TO THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF PUBLIC SAFETY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2336 of Subchapter II, Chapter 23, Title 21, Delaware Code, by striking the figure "\$1" as the same appears therein and inserting in lieu thereof the figure "\$1.75".

Section 2. Amend §2339 of Subchapter II, Chapter 23, Title 21, Delaware Code, by striking the last sentence of said section in its entirety.

Section 3. The provisions of this Act shall apply only to those liens or encumbrances upon motor vehicles recorded or registered with the Division of Motor Vehicles of the Department of Public Safety on or after July 1, 1977.

Approved June 30, 1977.

CHAPTER 111

FORMERLY SENATE BILL NO. 228

AN ACT TO PERMIT THE CAPITAL SCHOOL DISTRICT TO TRANSFER CERTAIN FUNDS FROM ITS DEBT SERVICE ACCOUNT TO ITS CAPITAL IMPROVEMENT ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Board of Education of the Capital School District is authorized to transfer the sum of \$15,000 from its Debt Service Account to its Capital Improvement Account. The sum herein transferred shall be used to complete the construction of drainage, landscaping and exterior improvement projects in the Dover High School Renovation Project.

Section 2. Any funds transferred as provided herein and not expended for the purposes herein specified shall be redeposited in the Debt Service Account.

Approved June 30, 1977.

## CHAPTER 112

## FORMERLY SENATE BILL NO. 288

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE CAESAR RODNEY SCHOOL DISTRICT TO PAY AN EMPLOYEE WHO FAILED TO RECEIVE HER BLUE CROSS-BLUE SHIELD PAYMENTS.

WHEREAS, Roseanne Wiedmann is entitled to \$570.48 as a result of failing to receive her Blue Cross-Blue Shield allotment for the period from June 1973 through May 1976; and

WHEREAS, the error stems from the fact that Fred Wiedmann's Blue Cross-Blue Shield entitlement was not applied to his spouse's coverage as provided for in the regulations of the Delaware Health Committee; and

WHEREAS, the Delaware Health Committee has reimbursed Roseanne Wiedmann for the period from June 1, 1976, through October 31, 1976, in the amount of \$123.90 as per the rules of the Delaware Health Committee.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$570.48 is hereby appropriated to the Caesar Rodney School District for the purpose of paying Roseanne Wiedmann her Blue Cross-Blue Shield entitlement for the period from June 1, 1973, through May 31, 1976.

Section 2. This is a supplementary appropriation and the funds shall be paid by the State Treasurer out of the General Fund of Delaware from funds not otherwise appropriated. Any portion of this appropriation remaining unexpended on June 30, 1977, shall revert to the General Fund.

Approved June 30, 1977.

CHAPTER 113

FORMERLY HOUSE BILL NO. 347  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 14, TITLE 2 OF THE DELAWARE CODE RELATING  
TO THE DELAWARE TURNPIKE AND NONANNEXATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §1411, Chapter 14, Title 2 of the Delaware  
Code by striking said section in its entirety and by substituting  
in lieu thereof the following:

"§1411. Limitation on annexation

No city or town shall exercise any power, authority or jurisdiction over annexed lands of the Authority which, in the Authority's opinion, are necessary for the operation, construction, reconstruction and improvement of the turnpike. Nor shall any city or town police, without consent of the Authority, control traffic and/or parking on lands annexed."

Approved July 2, 1977.

## CHAPTER 114

## FORMERLY SENATE BILL NO. 213

AN ACT TO AMEND §123, SUBCHAPTER 1, CHAPTER 1, TITLE 13, OF THE DELAWARE CODE, RELATING TO MARRIAGES BETWEEN MINORS WHO ARE PROSPECTIVE PARENTS OF A CHILD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. §123, Subchapter 1, Chapter 1, Title 13, of the Delaware Code, is hereby amended by adding a new sentence to subsection (f) thereof to read as follows:

"Prior to the issuance of any license pursuant to the provisions of this subsection, any parties desiring to marry who acknowledge that they are the prospective parents of a child shall present a certificate of a medical doctor stating that the female is pregnant."

Approved July 2, 1977

## CHAPTER 115

## FORMERLY SENATE BILL NO. 251

## AN ACT TO PROVIDE FOR INDEMNIFICATION OF THE DIRECTORS OF THE DELAWARE SOLID WASTE AUTHORITY.

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. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6427 which shall read as follows:

"§6427. Indemnification of Directors

(a) The State of Delaware shall indemnify a Director who is a party or is threatened to be made a party to any suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director of the Authority, against expenses, including attorney's fees, judgments, fines, and amounts paid in connection with such action, suit or proceeding, if such Director acted in good faith and in a manner such Director believed to be in the best interests of the Authority, and, with respect to a criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(b) Any indemnification under this section shall be made only as authorized in the specific case upon a determination that indemnification of the Director is proper in the circumstances because the Director has met the applicable standard of conduct set forth in subsection (a). Such a determination shall be made by the Attorney General or his designee within fifteen (15) days of the date of receipt of a request for such a determination. In the event the Attorney General fails to make the determination within the time frame specified, the requested indemnification hereunder shall be deemed as granted.

(c) Expenses incurred in defending any suit or proceeding referred to herein may be paid in advance of the final disposition of such suit or proceeding upon submission of documentation to the Directors regarding the validity of such expenses.

(d) Under no circumstances shall the indemnification provided in this section exceed \$3 million as to all eligible Directors. In the event that the known claim exceeds the aforesaid amount, then the claims of each Director shall be prorated in the same proportion that each individual claim bears to the total claims.

(e) No payment under this section shall be made unless the Director seeking such payment shall agree that the State by subrogated, to the extent of such payment, to all rights of recovery of such Director, and shall agree to execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the State effectively to bring suit in the name of the State.

(f) Any eligible Director seeking indemnification under this section shall file a written request for determination with the Attorney General setting forth in full the circumstances supporting the claim for indemnification.

(g) The indemnification provided in this section shall apply only to acts and/or omissions occurring subsequent to January 1, 1977. In the event expenses covered by the indemnity set forth in this section are payable under a valid and enforceable commercial insurance policy maintained by and/or for the benefit of the Directors, this indemnity shall not apply to expenses subject to recovery pursuant to such insurance coverage."

Approved July 5, 1977.



## CHAPTER 116

FORMERLY HOUSE BILL NO. 300  
AS AMENDED BY  
HOUSE AMENDMENT NO. 27 AND  
SENATE AMENDMENT NO. 1

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1978, 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, 1978, 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, 1978, 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:

DEPARTMENTS

Year Ending  
June 30, 1978

(01-00-000) LEGISLATIVE(01-01-000) General Assembly - House

Salaries - House Members	\$ 380,143
Salary of Chief Clerk	9,867
Salary of Assistant Chief Clerk	8,501
Salaries - Attaches	149,142
Salaries of Administrative Assistants	31,500
F.I.C.A. - Employer's Share	2,516
Pensions	49,881
Health Insurance	1,643
Personal Services	500
Travel	
Mileage	39,375
Legislative	4,000
Expenses - Legislators	61,500
Capital Outlay	<u>2,250</u>
TOTAL -- General Assembly - House	\$ 740,818

<u>(01-02-000) General Assembly - Senate</u>	Year Ending June 30, 1978
Salaries - Senate Members	\$ 208,500
Salary of Secretary of the Senate	9,867
Salary of Assistant Secretary of the Senate	8,501
Salaries - Attaches	107,058
Salary of MT/ST Operator	8,928
Salaries of Administrative Assistants	31,500
Salaries of Chaplains and Attorneys	23,220
F.I.C.A. - Employer's Share	3,439
Pensions	31,006
Health Insurance	2,130
Personal Services	500
Travel	
Mileage	25,000
Legislative	4,000
Expenses - Legislators	31,500
Capital Outlay	2,250
	<hr/>
TOTAL -- General Assembly - Senate	\$ 497,399

(01-05-000) Commission on Interstate Cooperation

Travel	
Legislative Leaders Conference	\$ 2,500
Legislative Travel	18,000
Contractual Services	
Council of State Governments	15,110
Delaware River Basin Advisory Committee	114,400
National Conference of State Legislators	12,380
Other Contractual Services	4,700
Supplies and Materials	100
	<hr/>
TOTAL -- Commission on Interstate Cooperation	\$ 167,190

(01-08-000) Legislative CouncilYear Ending  
June 30, 1978(01-08-001) Office of Research Director

Salaries - Casual and Seasonal	\$	21,000
Salaries and Wages of Employees (15)		199,557
Salaries - Overtime		4,000
F.I.C.A. - Employer's Share		11,301
Pensions		22,550
Health Insurance		4,460
Personal Services		1,000
Travel		2,500
Contractual Services		
Printing & Binding Session Laws & Journals		70,000
Printing Code Pocket Parts		55,000
Other Contractual Services		61,486
Supplies and Materials		
House		4,000
Senate		3,000
Legislative Council		30,000
Capital Outlay		
House		1,200
Senate		1,200
Legislative Council		6,500
Contingency - Hearing Fund		1,000
Central Data Processing Services		5,000
Sub-Total	\$	504,754
Code Revisors		
Personal Services	\$	10,000
Travel		350
Contractual Services		500
Supplies and Materials		700
Debt Service		
Principal		12,000
Interest		11,503
TOTAL -- Office of Research Director	\$	539,807

(01-08-002) Office of Controller General

Salaries - Casual and Seasonal	\$	5,000
Salaries - Casual & Seasonal for Standing Legislative Committees		5,000
Salaries and Wages of Employees (11)		166,115
Salaries - Overtime		2,000
F.I.C.A. - Employer's Share		9,224
Pensions		19,501
Health Insurance		2,311
Travel		1,780
Contractual Services		4,300
Supplies and Materials		2,625
Capital Outlay		1,500
Central Data Processing Services		9,000
Contingency - Zero Base & Program Budgeting		5,000
TOTAL -- Office of Controller General	\$	233,356

<u>(01-08-003) Division of Maintenance, Communications and Capitol Security</u>	<u>Year Ending June 30, 1978</u>
Salaries - Casual and Seasonal	\$ 18,500
Salaries and Wages of Employees (122.7)	1,028,723
Salaries - Overtime	31,500
Salaries - Shift Differential	20,481
F.I.C.A. _ Employer's Share	64,051
Pensions	125,362
Health Insurance	23,344
Personal Services	1,000
Travel	500
Contractual Services	
Messenger Service	44,000
Other Contractual Services	1,117,333
Supplies and Materials	107,290
Capital Outlay	15,000
Central Data Processing Services	35,000
Contingency - Wilmington State Office Building	<u>600,000</u>
 TOTAL -- Division of Maintenance, Communications and Capitol Security	 \$ 3,232,084
 TOTAL -- Legislative Council	 \$ 4,005,247
 TOTAL -- LEGISLATIVE	 \$ 5,410,654

(02-00-000) JUDICIALYear Ending  
June 30, 1978(02-01-000) Supreme Court

Salary of Chief Justice	\$ 42,500
Salaries of Associate Justices (2)	84,000
Salaries and Wages of Employees (10)	131,677
Salaries - Casual and Seasonal	1,500
F.I.C.A. - Employer's Share	10,633
Pensions	15,343
Health Insurance	3,554
Personal Services	
Censor Committee	1,000
Travel	2,500
Contractual Services	14,000
Supplies and Materials	7,600
Capital Outlay	<u>3,400</u>
Sub-Total	\$ 317,707
Debt Service	
Principal	20,000
Interest	<u>7,780</u>
TOTAL -- Supreme Court	\$ 345,487

(02-02-000) Court of Chancery(02-02-001) Court of Chancery

Salary of Chancellor	\$ 39,500
Salaries of Vice-Chancellors (2)	78,000
Salaries and Wages of Employees (10)	136,460
F.I.C.A. - Employer's Share	10,357
Pensions	15,900
Health Insurance	3,554
Personal Services	500
Travel	1,500
Contractual Services	10,000
Supplies and Materials	5,800
Capital Outlay	<u>2,000</u>
TOTAL -- Court of Chancery	\$ 303,571

(02-02-002) Public Guardian	Year Ending June 30, 1978
Salary of Public Guardian	\$ 21,447
Salaries and Wages of Employees (2)	18,900
F.I.C.A. - Employer's Share	2,070
Pensions	4,680
Health Insurance	1,066
Personal Services	2,000
Travel	250
Contractual Services	
Rent	2,820
Other Contractual Services	2,500
Supplies and Materials	1,350
Capital Outlay	500
TOTAL -- Public Guardian	\$ 57,583
TOTAL -- Court of Chancery	\$ 361,154
(02-03-000) Superior Court	
Salary of President Judge	\$ 39,500
Salaries of Associate Judges (10)	390,000
Salaries of Jury Commissioners (6)	6,000
Salary of Superior Court Administrator (1)	21,600
Salaries and Wages of Employees (80)	976,133
F.I.C.A. - Employer's Share	66,400
Pensions	115,741
Health Insurance	18,838
Personal Services	
Lawyers - Involuntary Commitments	9,000
Medical Witnesses - Involuntary Commitments	1,000
Court-appointed Counsel for Public Officers and Employees	25,000
Other Personal Services	3,000
Travel	9,500
Contractual Services	62,000
Supplies and Materials	18,500
Capital Outlay	10,000
TOTAL -- Superior Court	\$ 1,772,212

<u>(02-06-000) Court of Common Pleas</u>	<u>Year Ending June 30, 1978</u>
Salary of Chief Judge	\$ 38,500
Salaries of Associate Judges (4)	152,000
Salaries - Casual and Seasonal	5,000
Salaries and Wages of Employees (38.5)	446,625
F.I.C.A. - Employer's Share	29,870
Pensions	51,810
Health Insurance	9,952
Personal Services	17,500
Travel	3,000
Contractual Services	
Rent	11,200
Other Contractual Services	26,000
Supplies and Materials	5,800
Capital Outlay	<u>13,700</u>
TOTAL -- Court of Common Pleas	\$ 810,957
<u>(02-08-000) Family Court of Delaware</u>	
Salary of Chief Judge	\$ 38,500
Salaries of Associate Judges (10)	380,000
Salary of Director of Treatment (1)	31,875
Salary of Chief Supervisors (3)	57,792
Salaries - Casual and Seasonal	15,000
(7) Salaries and Wages of Employees (176)	1,820,084
Salaries - Overtime	9,000
F.I.C.A. - Employer's Share	116,529
Pensions	222,596
Health Insurance	34,122
Personal Services	
Masters	12,500
Other Personal Services	18,000
Travel	16,000
Contractual Services	135,000
Supplies and Materials	37,000
Capital Outlay	<u>20,000</u>
Sub-Total	\$ 2,963,998
Debt Service	
Principal	12,000
Interest	<u>7,992</u>
TOTAL -- Family Court of Delaware	\$ 2,983,990

<u>(02-09-000) Kent County Law Library</u>		<u>Year Ending June 30, 1978</u>
Salaries - Casual and Seasonal	\$	2,500
Salary and Wage of Employee (1)		11,849
F.I.C.A. - Employer's Share		693
Pensions		1,374
Health Insurance		355
Contractual Services		2,100
Supplies and Materials		450
Capital Outlay		<u>19,000</u>
TOTAL -- Kent County Law Library	\$	38,321
<u>(02-10-000) Sussex County Law Library</u>		
Salary and Wage of Employee (1)	\$	10,798
F.I.C.A. - Employer's Share		632
Pension		1,253
Health Insurance		355
Contractual Services		2,900
Supplies and Materials		290
Capital Outlay		<u>14,000</u>
TOTAL -- Sussex County Law Library	\$	30,228
<u>(02-11-000) New Castle County Law Library</u>		
Salaries - Casual and Seasonal	\$	2,500
Salary and Wage of Employee (1)		11,849
F.I.C.A. - Employer's Share		693
Pensions		1,374
Health Insurance		355
Contractual Services		2,220
Supplies and Materials		265
Capital Outlay		<u>27,000</u>
TOTAL -- New Castle County Law Library	\$	46,256



<u>(02-13-000) Justice of the Peace Courts</u>	<u>Year Ending June 30, 1978</u>
Salary of Deputy Administrator (1)	\$ 18,000
Salaries of Justices of Peace (53)	655,330
Salaries of Constables (25)	230,536
Salaries of Chief Clerks (14)	150,656
Salaries of Deputy Clerks (50)	439,516
Salaries and Wages of Employees (24)	241,003
Salaries - Casual and Seasonal	13,000
Salaries - Overtime	12,500
Salaries - Shift Differential	4,000
F.I.C.A. - Employer's Share	98,464
Pensions	202,880
Health Insurance	39,810
Personal Services	4,000
Travel	
Constable Travel	60,000
Other Travel	6,500
Contractual Services	
Rent	80,000
Other Contractual Services	110,000
Supplies and Materials	35,000
Capital Outlay	21,526
<b>TOTAL -- Justice of the Peace Courts</b>	<b>\$ 2,422,721</b>

(02-17-000) Administrative Office of the Courts(02-17-001) Office of Director

Salary of Director	\$ 30,697
Salary of Assistant Administrator (1)	20,500
Salaries and Wages of Employees (5)	50,455
F.I.C.A. - Employer's Share	4,882
Pensions	11,975
Pensions - Judiciary	81,000
Health Insurance	2,844
Personal Services	
Jury Costs	490,000
Witness Fees	28,000
Travel	1,800
Contractual Services	
Rent - Family Court	275,000
Rent - Wilmington	11,000
Rent - Other Courts	758,120
Rent - Office	6,000
Other Contractual Services	25,500
Supplies and Materials	3,600
Capital Outlay	960
National Center for State Courts	1,500
Central Data Processing Services	75,000
<b>TOTAL -- Office of Director</b>	<b>\$ 1,878,833</b>

(02-17-002) Violent Crimes Compensation BoardYear Ending  
June 30, 1978

Salary - Board Members (5)	\$ 10,500
Salary - Executive Secretary	17,990
Salaries and Wages of Employees (4)	40,234
F.I.C.A. - Employer's Share	3,041
Pensions	6,101
Health Insurance	1,066
Travel	9,060
Contractual Services	
Rent	7,980
Other Contractual Services	7,482
Supplies and Materials	1,252
Capital Outlay	300
Special Items	<u>225,553</u>

TOTAL -- Violent Crimes Compensation

Board \$330,559 \*

\* Special Funds appropriated per Chapter 90, Title 11, Delaware Code.

TOTAL -- Administrative Office of the Courts \$ 1,878,833

TOTAL -- JUDICIAL \$ 10,690,159

(10-00-000) EXECUTIVEYear Ending  
June 30, 1978(10-01-000) Office of the Governor

Salary of Governor	\$ 35,000
(4) Salaries and Wages of Employees (16)	224,378
F.I.C.A. - Employer's Share	12,166
Pensions	30,088
Health Insurance	1,900
Personal Services	3,500
Travel	
Governor's Conference	800
Other Travel	5,000
Contractual Services	58,000
Supplies and Materials	13,500
Capital Outlay	2,000
Contingency - Other Expenses	6,000
Commission on Modernization of State Laws	2,400
Governor's Committee for the Employment of Handicapped	2,000
Central Data Processing Services	3,000
TOTAL -- Office of the Governor	\$ 399,732

(10-02-000) Office of the Budget(10-02-001) Budget Office

Salary of Budget Director	\$ 28,080
Salaries - Casual and Seasonal	1,500
Salaries and Wages of Employees (11)	182,667
Salaries - Overtime	2,000
F.I.C.A. - Employer's Share	9,262
Pensions	25,244
Health Insurance	3,910
Personal Services	4,500
Travel	4,750
Contractual Services	16,800
Supplies and Materials	3,000
Capital Outlay	6,900
Central Data Processing Services	55,000
Contingency - Salaries & Fringe Benefits	1,300,000
TOTAL -- Budget Office	\$ 1,643,613

(10-02-006) Budget Commission

Accrued Vacation and Sick Pay	\$ 25,000
Contingency Funds	100,000
TOTAL -- Budget Commission	\$ 125,000
TOTAL -- Office of the Budget	\$ 1,768,613

Year Ending

(10-03-000) Office of Management, Budget & Planning     June 30, 1978

Salary of Director - (State Funds - \$13,136)	
(All Other Funds - \$13,136) \$	13,136
(9) Salaries and Wages of Employees (15)	147,257
F.I.C.A. - Employer's Share	9,161
Pensions	18,605
Health Insurance	5,154
Travel	1,500
Contractual Services	18,205
Supplies and Materials	2,373
Capital Outlay	300
Central Data Processing Services	1,000
Contingency - State Clearinghouse Committee	10,600
 TOTAL -- Office of Management, Budget and Planning	 \$ 227,291

(10-04-000) Office of State Personnel

Salaries of Commissioners (5)	\$ 2,250
Salary of Director	26,000
Salaries - Casual and Seasonal	1,500
(10) Salaries and Wages of Employees (20)	232,219
Salaries - Overtime	1,000
F.I.C.A. - Employer's Share	14,087
Pensions	29,930
Health Insurance	7,820
Travel	2,000
Contractual Services	21,050
Supplies and Materials	7,150
Capital Outlay	4,700
Central Data Processing Services	15,000
Contingency - State Personnel Commission	3,000
 TOTAL -- Office of State Personnel	 \$ 367,706

(10-06-000) Office of Highway Safety Coordinator

Salary of Director	\$ 21,330
(6) Salaries and Wages of Employees	- - -
F.I.C.A. - Employer's Share	965
Pensions	2,475
Contractual Services	
Rent	9,780
Other Contractual Services	3,625
Supplies and Materials	1,490
Capital Outlay	450
 TOTAL -- Office of Highway Safety Coordinator	 \$ 40,115

(10-07-000) Governor's Commission on Criminal  
Justice

Year Ending  
June 30, 1978

Salary of Executive Director - (State Funds -		
\$12,347) (All Other Funds - \$12,347)	\$	12,347
(39.5) Salaries and Wages of Employees (2)		43,924
F.I.C.A. - Employer's Share		2,413
Pensions		6,527
Health Insurance		711
Personal Services		15,278
Travel		900
Contractual Services		
Rent		6,950
Other Contractual Services		19,335
. Supplies and Materials		1,275
Capital Outlay		280
Planning Grants		
State Agencies		<u>162,309</u>
TOTAL -- Governor's Commission on Criminal Justice	\$	272,249
TOTAL -- EXECUTIVE	\$	3,075,706

(12-00-000) OTHER ELECTIVE OFFICES	Year Ending June 30, 1978
<u>(12-01-000) Lieutenant Governor</u>	
Salary of Lieutenant Governor	\$ 12,000
Salaries and Wages of Employees (2)	21,400
F.I.C.A. - Employer's Share	1,954
Pensions	3,874
Travel	1,750
Contractual Services	900
Supplies and Materials	300
Expenses - Lieutenant Governor	<u>3,000</u>
TOTAL -- Lieutenant Governor	\$ 45,178
<u>(12-02-000) Auditor of Accounts</u>	
Salary of Auditor	\$ 18,000
Salaries - Casual and Seasonal	2,400
(8) Salaries and Wages of Employees (27)	396,570
F.I.C.A. - Employer's Share	23,190
Pensions	48,100
Health Insurance	6,408
Personal Services	45,000
Travel	500
Contractual Services	11,000
Supplies and Materials	9,000
Capital Outlay	<u>1,000</u>
TOTAL -- Auditor of Accounts	\$ 561,168
<u>(12-03-000) Insurance Commissioner</u>	
Salary of Commissioner	\$ 18,000
Salary of Deputy Commissioner	14,330
Salaries and Wages of Employees (19)	229,000
F.I.C.A. - Employer's Share	14,145
Pensions	31,955
Health Insurance	5,330
Personal Services	20,000
Travel	2,940
Contractual Services	
Insurance - Wilmington State Office Building	6,300
Insurance Premiums	1,443,000
Other Contractual Services	21,800
Supplies and Materials	9,000
Capital Outlay	2,000
Self Insurance Fund	600,000
Central Data Processing Services	15,000
Malpractice Review	<u>20,000</u>
TOTAL -- Insurance Commissioner	\$ 2,452,800

(12-05-000) State TreasurerYear Ending  
June 30, 1978(12-05-001) Administration

Salary of Treasurer	\$	18,000
Salaries - Casual and Seasonal		2,000
(1) Salaries and Wages of Employees (21)		233,618
F.I.C.A. - Employer's Share		14,315
Pensions		29,188
Health Insurance		5,332
Travel		500
Contractual Services		28,000
Supplies and Materials		6,100
Capital Outlay		675
Lost and Outdated Checks		1,500
Health Insurance Retirees		785,000
Central Data Processing Services		80,000
Contingency - Collateralization Program		47,000
TOTAL -- Administration	\$	1,251,228

(12-05-002) Pensions

Salaries of Board Members	\$	3,000
Salaries and Wages of Employees (10)		137,179
Salaries - Casual and Seasonal		4,000
Salaries - Overtime		400
F.I.C.A. - Employer's Share		7,350
Pensions		15,960
Health Insurance		2,133
Personal Services		412,000
Travel		1,525
Contractual Services		17,900
Supplies and Materials		3,200
Capital Outlay		1,400
Central Data Processing Services		45,000
Pensions - Paraplegic Veterans	\$	15,600
Contingency - Special Pension Benefits		32,000
TOTAL -- Pensions	\$651,047 * \$	47,600

\* All administrative expenses are paid out of State Employees' Retirement Fund.

	Year Ending June 30, 1978
<u>(12-05-003) Debt Service and Investments</u>	
Expense of Issuing Bonds	\$ 100,000
Debt Service - Principal	131,000
Debt Service - Interest	2,047,021
Principal - Local Schools	866,000
Interest - Local Schools	847,214
Principal - Employees Retirement	1,000,000
Interest - Employees Retirement	252,500
Interest - Bond Anticipation Notes	1,000,750
Interest - Farmers Bank Stock	<u>1,038,000</u>
TOTAL -- Debt Service and Investments	\$ 7,282,485
<u>(12-05-005) Revenue Refunds</u>	
Revenue Refunds	<u>\$ 24,500,000</u>
TOTAL -- Revenue Refunds	\$ 24,500,000
TOTAL -- State Treasurer	\$ 33,081,313
TOTAL -- OTHER ELECTIVE OFFICES	\$ 36,140,459



(15-00-000) LEGALYear Ending  
June 30, 1978(15-01-000) Department of Justice(15-01-001) Office of Attorney General

Salary of Attorney General	\$ 30,000
Salary of Chief Deputy Attorney General	28,370
(2) Salaries of Deputies (36)	673,000
Salary of State Solicitor	27,320
Salary of State Prosecutor	27,320
Salaries of State Detectives (4)	41,890
Salaries of Investigators (2)	36,250
(5) Salaries and Wages of Employees (39)	358,482
Salaries - Casual and Seasonal	8,000
F.I.C.A. - Employer's Share	62,986
Pensions	141,830
Health Insurance	20,617
Personal Services	
Lawyers	2,500
Other Personal Services	10,000
Travel	
Extradition	3,000
Other Travel	1,500
Contractual Services	
Rent	132,000
Other Contractual Services	68,000
Supplies and Materials	16,800
Capital Outlay	15,735
Central Data Processing Services	25,000

TOTAL -- Office of Attorney General \$ 1,730,600

(15-01-002) Securities Commissioner

Salary of Commissioner	\$ 22,066
Salary and Wage of Employee (1)	10,253
F.I.C.A. - Employer's Share	1,565
Pensions	3,765
Health Insurance	355
Travel	350
Contractual Services	1,300
Supplies and Materials	800
Capital Outlay	500

TOTAL -- Securities Commissioner \$ 40,954

TOTAL -- Department of Justice \$ 1,771,554

	Year Ending June 30, 1978
<u>(15-02-000) Public Defender</u>	
Salary of Public Defender	\$ 23,750
Salary of Chief Deputy	27,250
Salaries of Assistant Public Defenders (14)	258,700
Salaries and Wages of Employees (19)	203,525
Salaries - Casual and Seasonal	5,000
F.I.C.A. - Employer's Share	26,974
Pensions	59,534
Health Insurance	7,109
Personal Services	
Lawyers	140,000
Doctors	25,000
Court Reporters	25,000
Travel	2,000
Contractual Services	
Rent	37,800
Other Contractual Services	27,000
Supplies and Materials	8,000
Capital Outlay	4,000
TOTAL -- Public Defender	\$ 880,642
<u>(15-03-000) Board of Parole</u>	
Salaries of Board Members (4)	\$ 12,000
Salary of Board Chairman	24,625
(1) Salaries and Wages of Employees (4)	45,734
F.I.C.A. - Employer's Share	4,040
Pensions	8,162
Health Insurance	1,422
Travel	1,700
Contractual Services	
Rent	3,665
Other Contractual Services	4,500
Supplies and Materials	2,500
Capital Outlay	500
TOTAL -- Board of Parole	\$ 108,848
<u>(15-04-000) Board of Pardons</u>	
Salary of President	\$ 300
Personal Services	100
Travel	125
TOTAL -- Board of Pardons	\$ 525
TOTAL -- LEGAL	\$ 2,761,569

(20-00-000) DEPARTMENT OF STATEYear Ending  
June 30, 1978(20-01-000) Office of the Secretary of State

Salary of Secretary of State	\$	19,900
Salary of Assistant to the Secretary of State		17,391
Salaries and Wages of Employees (4)		55,590
F.I.C.A. - Employer's Share		4,902
Pensions		10,773
Health Insurance		2,133
Travel		552
Contractual Services		10,709
Supplies and Materials		1,580
Capital Outlay		1,124
TOTAL -- Office of the Secretary of State	\$	134,654

(20-04-000) State Building Commission

Debt Service		
Principal	\$	159,000
Interest		101,000
TOTAL -- State Building Commission	\$	260,000

(20-05-000) Division of Corporations(20-05-001) Incorporating Section

Salaries and Wages of Employees (25)	\$	223,986
Salaries - Overtime		583
F.I.C.A. - Employer's Share		13,337
Pensions		26,445
Health Insurance		8,886
Travel		1,000
Contractual Services		46,287
Supplies and Materials		14,807
Capital Outlay		3,558
TOTAL -- Incorporating Section	\$	338,889

(20-05-002) Franchise Tax Section

Salaries - Casual and Seasonal	\$	6,000
Salaries and Wages of Employees (19)		160,259
Salaries - Overtime		3,000
F.I.C.A. - Employer's Share		9,850
Pensions		18,841
Health Insurance		6,753
Travel		100
Contractual Services		10,888
Supplies and Materials		13,437
Capital Outlay		3,554
Central Data Processing Services		108,000
TOTAL -- Franchise Tax Section	\$	340,682

	Year Ending June 30, 1978
<u>(20-05-003) Uniform Commercial Code Section</u>	
Salaries and Wages of Employees (2)	\$ 21,417
F.I.C.A. - Employer's Share	1,253
Pensions	2,484
Health Insurance	711
Contractual Services	6,023
Supplies and Materials	1,742
Capital Outlay	<u>2,375</u>
TOTAL -- Uniform Commercial Code Section	\$ 36,005
TOTAL -- Division of Corporations	\$ 715,576
<u>(20-06-000) Division of Historical and Cultural Affairs</u>	
<u>(20-06-001) Office of Administration</u>	
Salary of Director	\$ 25,376
Salaries and Wages of Employees (5)	51,609
Salaries - Casual and Seasonal	7,000
F.I.C.A. - Employer's Share	3,575
Pensions	7,538
Health Insurance	1,777
Personal Services	1,000
Travel	284
Contractual Services	4,675
Supplies and Materials	3,200
Capital Outlay	<u>600</u>
Sub-Total	\$ 106,634
Debt Service	
Principal	86,450
Interest	<u>69,710</u>
TOTAL -- Office of Administration	\$ 262,794
<u>(20-06-002) Bureau of Archives and Modern Records</u>	
Salaries and Wages of Employees (14)	\$ 126,895
Salaries - Casual and Seasonal	3,500
F.I.C.A. - Employer's Share	7,694
Pensions	14,856
Health Insurance	3,554
Travel	190
Contractual Services	11,500
Supplies and Materials	14,425
Capital Outlay	<u>19,631</u>
TOTAL -- Bureau of Archives and Modern Records	\$ 202,245

<u>(20-06-003) Bureau of Archaeology and Historic Preservation</u>	<u>Year Ending June 30, 1978</u>
(6.3) Salaries and Wages of Employees (3.7) Salaries - Casual and Seasonal F.I.C.A. - Employer's Share Pensions Health Insurance Travel Contractual Services Supplies and Materials Capital Outlay Historic Markers	\$ 42,155 6,500 2,472 4,903 889 174 2,975 2,450 555 <u>1,000</u>
Sub-Total	\$ 64,073
Debt Service Principal Interest	7,050 <u>7,509</u>
TOTAL -- Bureau of Archaeology and Historic Preservation	\$ 78,632
<u>(20-06-004) Bureau of Museums and Historic Sites</u>	
Salaries and Wages of Employees (30) Salaries - Casual and Seasonal Salaries - Overtime F.I.C.A. - Employer's Share Pensions Health Insurance Personal Services Travel Contractual Services Supplies and Materials Capital Outlay	\$ 258,469 10,000 225 15,912 30,008 7,108 3,500 145 39,310 12,850 <u>11,970</u>
Sub-Total	\$ 389,497
Debt Service Principal Interest	1,000 <u>399</u>
TOTAL -- Bureau of Museums and Historic Sites	\$ 390,896

	Year Ending June 30, 1978
<u>(20-06-016) Delaware Arts Council</u>	
Salary of Director	\$ 17,842
(.5) Salaries and Wages of Employees (1.5)	16,509
F.I.C.A. - Employer's Share	1,931
Pensions	3,985
Health Insurance	889
Operations	25,743
Grants-in-Aid	<u>27,358</u>
TOTAL -- Delaware Arts Council	\$ 94,257
TOTAL -- Division of Historical and Cultural Affairs	\$ 1,028,824
TOTAL -- DEPARTMENT OF STATE	\$ 2,139,054

(25-00-000) DEPARTMENT OF FINANCEYear Ending  
June 30, 1978(25-01-000) Office of the Secretary

Salary of Secretary	\$ 32,000
Salaries and Wages of Employees (7)	128,963
Salaries - Overtime	200
F.I.C.A. - Employer's Share	6,713
Pensions	18,695
Health Insurance	2,133
Personal Services	5,000
Travel	2,500
Contractual Services	4,250
Supplies and Materials	1,000
Capital Outlay	800
Contingency - Econometric Model	25,000
<b>TOTAL -- Office of the Secretary</b>	<b>\$ 227,254</b>

(25-05-000) Division of Accounting

Salary of Director	\$ 26,270
Salaries - Casual and Seasonal	1,000
Salaries and Wages of Employees (20)	220,030
Salaries - Overtime	1,000
F.I.C.A. - Employer's Share	13,393
Pensions	28,687
Health Insurance	7,464
Personal Services	300
Travel	210
Contractual Services	18,880
Supplies and Materials	
Data Processing Forms	30,000
Other Supplies and Materials	24,650
Capital Outlay	1,000
Contingency - Prior Year's Obligations	10,000
Central Data Processing Services	375,000
<b>TOTAL -- Division of Accounting</b>	<b>\$ 757,884</b>

<u>(25-06-000) Division of Revenue</u>		Year Ending June 30, 1978
Salaries of Board Members (5)	\$	23,000
Salary of Director		29,527
Salaries - Casual and Seasonal		100,000
Salaries and Wages of Employees (190)		1,805,902
Salaries - Overtime		15,000
F.I.C.A. - Employer's Share		108,958
Pensions		214,649
Health Insurance		38,032
Personal Services		5,000
Travel		10,500
Contractual Services		
Rent		46,018
Other Contractual Services		382,194
Supplies and Materials		98,230
Capital Outlay		68,765
Central Data Processing Services		250,000
Sub-Total	\$	3,195,775
Debt Service		
Principal		227,000
Interest		141,298
TOTAL -- Division of Revenue	\$	3,564,073

(25-07-000) State Lottery

Salary of Director	\$	33,000
Salaries - Casual and Seasonal		12,000
Salaries and Wages of Employees (21)	241,752	
Salaries - Overtime	9,600	
F.I.C.A. - Employer's Share	14,589	
Pensions	32,985	
Health Insurance	1,066	
Personal Services		
Lawyers	50,000	
Other Personal Services	20,480	
Travel	7,300	
Contractual Services		
Rent	38,000	
Advertising	300,000	
Other Contractual Services	129,390	
Supplies and Materials	148,560	
Capital Outlay	56,232	
Contingencies		
Bank Commissions	123,600	
Agent Refunds	18,000	
Petty Cash	2,800	
TOTAL -- State Lottery	\$1,239,354 *	
* Special Funds appropriated under Chapter 48, Title 29, Delaware Code, and provides that State Lottery shall allocate Gross Lottery Sales: 30% to General Fund; 20% Operating Budget; 5% Agent Fees; and 45% for Lottery Prizes.		
TOTAL -- DEPARTMENT OF FINANCE	\$	4,549,211



(30-00-000) DEPARTMENT OF ADMINISTRATIVE SERVICES Year Ending  
June 30, 1978

(30-01-000) Office of the Secretary

Salary of Secretary	\$ 28,700
Salaries and Wages of Employees (5)	62,050
Salaries - Overtime	170
F.I.C.A. - Employer's Share	4,183
Pensions	10,546
Health Insurance	1,777
Travel	200
Contractual Services	4,333
Supplies and Materials	1,000
Capital Outlay	<u>2,300</u>
 TOTAL -- Office of the Secretary	 \$ 115,259

(30-03-000) Division of Alcohol Beverage Control  
Commission

Salaries of Board Members (5)	\$ 9,600
Salary of Executive Secretary	22,454
Salaries - Casual and Seasonal	1,000
(1) Salaries and Wages of Employees (17.8)	207,382
Salaries - Shift Differential	3,894
F.I.C.A. - Employer's Share	13,722
Pensions	27,112
Health Insurance	4,621
Personal Services	15,000
Travel	5,500
Contractual Services	
Rent	13,008
EDP Rental	19,500
Other Contractual Services	18,100
Supplies and Materials	4,961
Capital Outlay	<u>10,000</u>
 TOTAL -- Division of Alcohol Beverage Control Commission	  \$ 375,854

<u>(30-04-000) Division of Facilities Management</u>	Year Ending June 30, 1978
Salary of Director	\$ 23,853
Salaries and Wages of Employees (4)	55,411
Salaries - Overtime	150
F.I.C.A. - Employer's Share	3,673
Pensions	9,212
Health Insurance	1,422
Personal Services	1,000
Travel	530
Contractual Services	
Rent	138,452
Other Contractual Services	4,711
Supplies and Materials	2,500
Capital Outlay	<u>725</u>
Sub-Total	\$ 241,639
Debt Service	
Principal	768,550
Interest	<u>938,652</u>
TOTAL -- Division of Facilities Management	\$ 1,948,841
<u>(30-06-000) Division of Purchasing</u>	
Salary of Director	\$ 19,912
(5) Salaries and Wages of Employees (14.5)	171,960
Salaries - Overtime	15,600
F.I.C.A. - Employer's Share	11,596
Pensions	24,067
Health Insurance	4,265
Personal Services	100
Travel	500
Contractual Services	17,870
Supplies and Materials	15,110
Capital Outlay	<u>595</u>
Sub-Total	\$ 291,575
Debt Service	
Principal	1,000
Interest	<u>479</u>
TOTAL -- Division of Purchasing	\$ 293,054

Year Ending.  
June 30, 1978

(30-07-000) Division of Central Data Processing

Salary of Director	\$ 25,008
Salaries - Casual and Seasonal	3,000
Salaries and Wages of Employees (107)	1,333,740
Salaries - Overtime	12,500
Salaries - Shift Differential	9,500
F.I.C.A. - Employer's Share	74,644
Pensions	160,167
Health Insurance	22,748
Personal Services	21,500
Travel	5,000
Contractual Services	
Rental EDP Equipment	932,250
Other Contractual Services	46,643
Supplies and Materials	98,300
Capital Outlay	<u>17,000</u>

TOTAL -- Division of Central Data Processing	\$2,762,000
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Allocation of Central Data Processing Services

01 Legislative	\$ 49,000	\$ ---
02 Judicial	75,000	---
10 Executive	74,000	---
12 Other Elective Offices	95,000	45,000
15 Legal	25,000	---
20 State	108,000	---
25 Finance	775,000	54,000
30 Administrative Services	300,000	---
35 Health & Social Services	340,000	80,000
40 Nat. Res. & Env. Control	25,000	5,000
45 Public Safety	632,000	120,000
55 Transportation	110,000	35,000
60 Labor	---	50,000
70 Elections	30,000	---
95 Public Education	<u>35,000</u>	<u>---</u>
Sub-Total	\$2,673,000	\$ 389,000

TOTAL -- Central Data Processing Services \$3,062,000

Year Ending  
June 30, 1978

(30-08-000) Division of Business & Occupational Regulation

(30-08-001) Office of the Director

Salaries of Board Members (32)	\$ 10,667
Salary of Director	17,548
Salaries - Casual and Seasonal	4,000
(4) Salaries and Wages of Employees (11)	110,906
Salaries - Overtime	500
F.I.C.A. - Employer's Share	8,942
Pensions	17,375
Health Insurance	2,844
Personal Services	1,000
Travel	11,975
Contractual Services	
Rent	3,892
Other Contractual Services	28,550
Supplies and Materials	8,268
Capital Outlay	<u>4,300</u>
 TOTAL -- Office of the Director	 \$ 230,767

(30-08-014) Delaware Standardbred Development Fund

Salary of Director	\$ 15,462
Salary and Wage of Employee (1)	7,892
Salaries - Overtime	1,000
F.I.C.A. - Employer's Share	1,425
Pensions	2,825
Health Insurance	711
Travel	2,000
Contractual Services	45,500
Supplies and Materials	1,500
Development Stakes - Purses	<u>520,000</u>

TOTAL - Delaware Standardbred  
Development Fund \$598,315 \*

\* Special Funds total budget appropriated per Chapter 5, Title 28, Delaware Code.

TOTAL -- Division of Business and Occupational Regulation \$ 230,767

(30-10-000) Division of Graphics and Printing

Salary of Director - (All Other Funds - \$17,600)\$	- - -
(9) Salaries and Wages of Employees (13)	145,116
F.I.C.A. - Employer's Share	8,422
Pensions	16,834
Health Insurance	<u>4,265</u>

TOTAL -- Division of Graphics and Printing \$ 174,637

(30-11-000) Division of Public Utilities ControlYear Ending  
June 30, 1978

Salaries of Board Members (5)	\$ 30,000
Salary of Director	20,301
Salaries - Casual and Seasonal	1,000
Salaries and Wages of Employees (12)	155,826
Salaries - Overtime	400
F.I.C.A. - Employer's Share	8,755
Pensions	20,477
Health Insurance	4,621
Personal Services	380,000
Travel	13,280
Contractual Services	
Rent	18,000
Other Contractual Services	14,425
Supplies and Materials	6,295
Capital Outlay	<u>9,500</u>

TOTAL -- Division of Public Utilities  
Control \$682,880 \*

\* Special Funds total budget appropriated per Chapter 1, Title 26,  
Delaware Code.

(30-15-000) Division of State Banking Commissioner

Salary of Bank Commissioner	\$ 27,582
Salaries and Wages of Employees (11)	145,717
F.I.C.A. - Employer's Share	9,024
Pensions	20,103
Health Insurance	3,905
Travel	5,000
Contractual Services	9,200
Supplies and Materials	4,050
Capital Outlay	<u>4,200</u>

TOTAL -- Division of State Banking Commissioner \$ 228,781

TOTAL -- DEPARTMENT OF ADMINISTRATIVE SERVICES \$ 3,367,193

Year Ending

(35-00-000) DEPARTMENT OF HEALTH AND SOCIAL SERVICES June 30, 1978

(35-01-000) Office of the Secretary

Salary of Secretary	\$ 33,000
(7.5) Salaries and Wages of Employees (11.5)	147,321
F.I.C.A. - Employer's Share	9,634
Pensions	21,095
Health Insurance	3,252
Travel	850
Contractual Services	5,800
Supplies and Materials	1,950
	222,902
TOTAL -- Office of the Secretary	\$ 222,902

(35-02-000) Office of Business Administration and  
General Services and Education

(35-02-001) Office of Business Administration and  
General Services

Salary of Director - (State Funds - \$23,852)	
(All Other Funds - \$4,539)	
	\$ 23,852
(29.81) Salaries and Wages of Employees (54.76)	596,476
F.I.C.A. - Employer's Share	34,745
Pensions	71,958
Health Insurance	12,755
Travel	450
Contractual Services	51,625
Supplies and Materials	10,715
Capital Outlay	2,025
Central Data Processing Services - (State Funds - \$340,000) (All Other Funds - \$80,000)	340,000
	1,144,601
Sub-Total	\$ 1,144,601
Debt Service	
Principal	3,000
Interest	3,535
	1,151,136
TOTAL -- Office of Business Administration and General Services	\$ 1,151,136

(35-02-002) Office of Education

Salary of Administrative Assistant (1)	\$ 18,660
Salary of Supervisor (1)	18,476
Salaries of Clerical (2)	18,435
Salaries of Teachers (19)	249,915
Salaries of Aides and Attendants (7)	61,830
F.I.C.A. - Employer's Share	21,489
Pensions	42,693
Health Insurance	11,730
Division II - All Other Costs	17,604
	460,832
TOTAL -- Office of Education	\$ 460,832

	Year Ending June 30, 1978
<u>(35-02-003) Bureau of Child Support Enforcement</u>	
(30) Salaries and Wages of Employees (10)	\$ 110,113
F.I.C.A. - Employer's Share	6,311
Pensions	12,773
Health Insurance	1,302
Travel	500
Contractual Services	
Rent	7,000
Other Contractual Services	21,850
Supplies and Materials	1,600
Capital Outlay	2,643
TOTAL -- Bureau of Child Support Enforcement	\$ 164,092
TOTAL -- Office of Business Administration and General Services and Education	\$ 1,776,060
<u>(35-03-000) Office of Planning, Research and                     Evaluation</u>	
(15) Salaries and Wages of Employees (14)	\$ 179,645
F.I.C.A. - Employer's Share	10,111
Pensions	20,838
Health Insurance	2,235
Travel	425
Contractual Services	
Rent	4,128
Other Contractual Services	6,545
Supplies and Materials	1,725
TOTAL -- Office of Planning Research & Evaluation	\$ 225,652
<u>(35-04-000) Office of the Medical Examiner</u>	
Salary of Chief Medical Examiner	\$ 41,726
Salaries and Wages of Employees (25.5)	347,678
Salaries - Overtime	13,000
F.I.C.A. - Employer's Share	19,172
Pensions	46,958
Health Insurance	5,333
Personal Services	5,715
Travel	1,650
Contractual Services	54,392
Supplies and Materials	35,460
Capital Outlay	13,265
Indigent Burial Expense	6,000
Sub-Total	\$ 590,349
Debt Service	
Principal	77,000
Interest	68,988
TOTAL -- Office of the Medical Examiner	\$ 736,337

Year Ending  
June 30, 1978

(35-05-000) Division of Public Health

(35-05-001) Office of the Director

Salary of Director	\$ 30,821
F.I.C.A. - Employer's Share	966
Pensions	3,575
Health Insurance	356
Travel	150

TOTAL -- Office of the Director	\$ 35,868
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(35-05-002) Community Health

Salaries for Sickle Cell Anemia (3)	\$ 41,621
Salaries for Licensed Nursing Homes (5)	57,206
Salaries for Health Screening (48.8)	688,020
Salaries for Cervical Cancer Control (5)	50,160
Salaries for Center City Personal Health Services (7)	105,707
Salaries for Immunization (4)	30,868
(174.8) Salaries and Wages of Employees (164.6)	2,060,078
F.I.C.A. - Employer's Share	160,968
Pensions	351,904
Health Insurance	47,593
Personal Services	
Health Screening	17,050
Family Planning	10,504
Cancer Control	10,012
Other Personal Services	39,002
Travel	
Health Screening	600
Family Planning	170
Licensed Nursing Homes	200
Cancer Control	200
Other Travel	4,630
Contractual Services	
Health Screening	23,200
Family Planning	129,720
Licensed Nursing Homes	1,000
Renal Disease	62,000
Cancer Control	1,500
Electricity	17,000
Heating Fuel	6,500
Rent	12,167
Other Contractual Services	140,221
Supplies and Materials	
Glasses - Optometry Division	4,500
Health Screening	34,904
Family Planning	9,658
Licensed Nursing Homes	2,676
Renal Disease	15,000
Cancer Control	2,575
Polio, Measles, Mumps and Others	11,000
Other Supplies and Materials	69,061



(35-05-002) Community Health (CONTINUED)	Year Ending June 30, 1978
Capital Outlay	\$ 18,500
Longterm Birth Defects Program	16,500
Contingency - Geriatric Drug Program	2,000
Virus Diagnostic Laboratory	29,380
Streptococcal Program	<u>20,000</u>
Sub-Total	\$ 4,305,555
Debt Service	
Principal	1,147,750
Interest	<u>867,397</u>
TOTAL -- Community Health	\$ 6,320,702
<u>(35-05-003) Emily P. Bissell Hospital</u>	
Salaries - Casual and Seasonal	\$ 8,000
(2) Salaries and Wages of Employees (279.8)	2,218,070
Salaries - Overtime	43,440
Salaries - Shift Differential	21,850
F.I.C.A. - Employer's Share	130,469
Pensions	264,870
Health Insurance	35,592
Personal Services	19,800
Travel	2,050
Contractual Services	
Electricity	47,515
Natural Gas	3,095
Heating Fuel	66,500
Other Contractual Services	107,695
Supplies and Materials	
Food	227,630
Drugs and Medical Supplies	146,940
Building Alterations and Repairs	5,200
Other Supplies and Materials	55,343
Capital Outlay	<u>12,861</u>
Sub-Total	\$ 3,416,920
Debt Service	
Principal	62,250
Interest	<u>70,959</u>
TOTAL -- Emily P. Bissell Hospital	\$ 3,550,129

(35-05-004) Delaware Hospital for the Chronically I11	Year Ending June 30, 1978
Salaries and Wages of Employees (721)	\$ 5,792,356
Salaries - Overtime	133,334
Salaries - Shift Differential	55,000
F.I.C.A. - Employer's Share	343,528
Pensions	693,760
Health Insurance	223,927
Personal Services	16,960
Travel	2,000
Contractual Services	
Repair & Services - Buildings & Grounds	39,756
Electricity	118,915
Gas	9,212
Heating Fuels	156,000
Other Contractual Services	78,600
Supplies and Materials	
Drugs and Medical Supplies	125,587
Food	348,279
Building Alterations	34,925
Other Supplies and Materials	144,888
Capital Outlay	<u>15,750</u>
Sub-Total	\$ 8,332,777
Debt Service	
Principal	344,500
Interest	<u>245,126</u>
TOTAL -- Delaware Hospital for the Chronically I11	\$ 8,922,403
<u>(35-05-005) Office of Health-Related Professional Licensing</u>	
Salaries of Board Members (91)	\$ 28,180
Salaries and Wages of Employees (6)	77,331
F.I.C.A. - Employer's Share	3,640
Pensions	8,970
Health Insurance	1,777
Personal Services	3,339
Travel	8,500
Contractual Services	
Rent	900
Other Contractual Services	20,560
Supplies and Materials	<u>800</u>
TOTAL -- Office of Health-Related Professional Licensing	\$ 153,997

		Year Ending June 30, 1978
<u>(35-05-006) Controlled Substances Program</u>		
Salaries and Wages of Employees (6)	\$	87,942
Salaries - Overtime		500
F.I.C.A. - Employer's Share		4,777
Pensions		10,259
Health Insurance		2,133
Travel		530
Contractual Services		2,675
Supplies and Materials		1,710
Capital Outlay		<u>2,000</u>
TOTAL -- Controlled Substances Program	\$	112,526
<u>(35-05-019) Rodent Control</u>		
Salaries and Wages of Employees (5)	\$	44,187
F.I.C.A. - Employer's Share		2,585
Pensions		5,161
Health Insurance		1,811
Travel		100
Contractual Services		2,142
Supplies and Materials		<u>5,075</u>
TOTAL -- Rodent Control	\$	61,061
TOTAL -- Division of Public Health	\$	19,156,686
<u>(35-06-000) Division of Mental Health</u>		
<u>(35-06-001) Office of the Director</u>		
Salary of Director	\$	30,821
(1) Salaries and Wages of Employees (4)		67,843
F.I.C.A. - Employer's Share		4,163
Pensions		11,445
Health Insurance		1,074
Contractual Services		5,280
Supplies and Materials		<u>1,000</u>
TOTAL -- Office of the Director	\$	121,626

		Year Ending June 30, 1978
<u>(35-06-002) Delaware State Hospital</u>		
(12.5) Salaries and Wages of Employees (756.2)		\$ 7,210,457
Salaries - Overtime		211,614
Salaries - Shift Differential		72,175
F.I.C.A. - Employer's Share		416,929
Pensions		869,334
Health Insurance		151,428
Personal Services		
Payments to Patients		22,000
Other Personal Services		136,521
Travel		1,500
Contractual Services		
Electricity		180,600
Heating Fuel		470,000
Repairs & Services - Buildings & Grounds		70,600
Other Contractual Services		228,400
Supplies and Materials		
Food		390,000
Drugs and Medical Supplies		134,600
Building Alterations and Repairs		71,000
Other Supplies and Materials		179,780
Capital Outlay		39,725
72-Hour Commitment		2,000
Sub-Total		\$ 10,858,663
Debt Service		
Principal		671,000
Interest		320,438
TOTAL -- Delaware State Hospital		\$ 11,850,101
<u>(35-06-003) Mental Hygiene Clinics</u>		
(6) Salaries and Wages of Employees (50)		\$ 709,167
F.I.C.A. - Employer's Share		33,568
Pensions		82,263
Health Insurance		15,373
Travel		250
Contractual Services		
Electricity		1,934
Rent		17,574
Other Contractual Services		15,045
Supplies and Materials		
Drugs and Medical Supplies		60,000
Other Supplies and Materials		4,200
Capital Outlay		7,121
Sub-Total		\$ 946,495
Debt Service		
Principal		9,000
Interest		2,012
TOTAL -- Mental Hygiene Clinics		\$ 957,507

(35-06-004) Governor Bacon Health CenterYear Ending  
June 30, 1978

(11) Salaries and Wages of Employees (272.85)	\$ 2,664,128
Salaries - Overtime	45,162
Salaries - Shift Differential	31,400
F.I.C.A. - Employer's Share	149,929
Pensions	317,920
Health Insurance	65,986
Personal Services	
Payments to Patients	1,700
Other Personal Services	19,884
Contractual Services	
Electricity	166,000
Heating Fuels	59,200
Natural Gas	1,650
Repair & Service - Buildings & Grounds	27,950
Hospital Contracts	3,700
Other Contractual Services	40,804
Supplies and Materials	
Drugs and Medical Supplies	20,000
Food	90,000
Building Alterations and Repairs	28,000
Other Supplies and Materials	32,950
Capital Outlay	9,935
Sub-Total	\$ 3,776,298
Debt Service	
Principal	217,000
Interest	193,826
TOTAL -- Governor Bacon Health Center	\$ 4,187,124

(35-06-005) Community Mental Health Center

(8.9) Salaries and Wages of Employees (47.5)	\$ 606,206
Salaries - Overtime	4,000
Salaries - Shift Differential	3,100
F.I.C.A. - Employer's Share	30,316
Pensions	71,143
Health Insurance	19,758
Personal Services	2,000
Travel	250
Contractual Services	
Repair & Service - Buildings & Grounds	5,000
Electricity	7,500
Natural Gas	3,150
Other Contractual Services	11,512
Supplies and Materials	
Drugs and Medical Supplies	18,460
Food	12,000
Building Alterations and Repairs	531
Other Supplies and Materials	6,025
Capital Outlay	2,000
TOTAL -- Community Mental Health Center	\$ 802,951

	Year Ending June 30, 1978
<u>(35-06-007) Terry Children's Psychiatric Center</u>	
Salaries and Wages of Employees (75)	\$ 771,732
Salaries - Overtime	6,526
Salaries - Shift Differential	4,071
F.I.C.A. - Employer's Share	41,936
Pensions	90,749
Health Insurance	20,288
Personal Services	3,000
Travel	200
Contractual Services	
Repair & Service - Buildings & Grounds	4,500
Electricity	40,804
Other Contractual Services	17,383
Supplies and Materials	
Drugs and Medical Supplies	4,000
Food	22,050
Building Alterations and Repairs	3,000
Other Supplies and Materials	8,835
Capital Outlay	<u>1,000</u>
Sub-Total	\$ 1,040,074
Debt Service	
Principal	56,000
Interest	<u>19,873</u>
TOTAL -- Terry Children's Psychiatric Center	\$ 1,115,947
<u>(35-06-008) Bureau of Substance Abuse</u>	
Salary of Chief	\$ 22,539
(31.5) Salaries and Wages of Employees (72.5)	729,366
Salaries - Overtime	4,245
Salaries - Shift Differential	2,625
F.I.C.A. - Employer's Share	42,337
Pensions	88,018
Health Insurance	15,995
Personal Services	5,000
Travel	3,000
Contractual Services	
Rent	19,020
Contracts with Institutions	69,534
Other Contractual Services	245,000
Supplies and Materials	80,000
Capital Outlay	<u>900</u>
TOTAL -- Bureau of Substance Abuse	\$ 1,327,579
TOTAL -- Division of Mental Health	\$ 20,362,835

(35-07-000) Division of Social ServicesYear Ending  
June 30, 1978(35-07-002) Public Welfare

Salary of Director (State Funds \$10,902)	
(All Other Funds \$17,522)	\$ 10,902
(269.265) Salaries and Wages of Employees (145.05)	1,591,913
F.I.C.A. - Employer's Share	90,745
Pensions	185,926
Health Insurance	33,107
Personal Services	5,500
Travel	2,700
Contractual Services	
Blue Cross Contract	230,000
Other Contractual Services	153,050
Supplies and Materials	22,700
Capital Outlay	16,146
General Assistance Grants	1,200,470
S.S.I. Supplementation	675,000
Purchase Homemaker Service	57,221
Aid to Families with Dependent Children	13,300,000
Child Care	825,000
Child Foster Care	2,046,760
Medical Aid Program - Drugs	900,000
Emergency and Disaster Assistance	157,500
Title XIX Federal Programs	
Other Than State Institutions	9,201,190
Sub-Total	\$ 30,705,830
Debt Service	
Principal	2,000
Interest	897
TOTAL -- Public Welfare	\$ 30,708,727

(35-07-003) Bureau for the Visually Impaired

(23.6) Salaries and Wages of Employees (14.4)	\$ 172,075
F.I.C.A. - Employer's Share	9,708
Pensions	19,961
Health Insurance	3,378
Personal Services	7,344
Travel	1,730
Contractual Services	58,079
Supplies and Materials	
Blind Workshop Program	5,000
Other Supplies and Materials	30,906
Capital Outlay	1,264
Vending Stand Construction	25,000
TOTAL -- Bureau for the Visually Impaired	\$ 334,445

	Year Ending June 30, 1978
<u>(35-07-005) Food Stamp Program</u>	
(30.5) Salaries and Wages of Employees (30.5)	\$ 272,969
F.I.C.A. - Employer's Share	15,716
Pensions	31,664
Health Insurance	5,688
Personal Services	1,000
Travel	400
Contractual Services	150,515
Supplies and Materials	7,200
Capital Outlay	<u>5,850</u>
TOTAL -- Food Stamp Program	\$ 491,002
TOTAL -- Division of Social Services	\$ 31,534,174
<u>(35-10-000) Division of Services to Children and Youth</u>	
Salary of Director	\$ 18,977
(5) Salary and Wage of Employee (1)	8,769
F.I.C.A. - Employer's Share	1,478
Pensions	<u>3,219</u>
TOTAL -- Division of Services to Children and Youth	\$ 32,443
<u>(35-11-000) Division of Mental Retardation Services</u>	
<u>(35-11-002) Hospital for the Mentally Retarded</u>	
(12) Salaries and Wages of Employees (568)	\$ 4,487,743
Salaries - Overtime	180,646
Salaries - Shift Differential	40,000
F.I.C.A. - Employer's Share	271,718
Pensions	546,172
Health Insurance	131,513
Personal Services	
Payments to Patients	24,750
Other Personal Services	35,220
Travel	1,200
Contractual Services	428,080
Supplies and Materials	495,960
Capital Outlay	<u>43,216</u>
Sub-Total	\$ 6,686,218
Debt Service	
Principal	292,000
Interest	<u>202,313</u>
TOTAL -- Hospital for the Mentally Retarded	\$ 7,180,531



(35-11-003) Community Mental Retardation Program	Year Ending June 30, 1978
Salaries - Casual and Seasonal	\$ 9,200
Salaries and Wages of Employees (41.6)	358,448
Salaries - Overtime	2,900
F.I.C.A. - Employer's Share	20,839
Pensions	41,916
Health Insurance	8,886
Travel	400
Contractual Services	
Rent	37,320
Other Contractual Services	22,371
Supplies and Materials	54,260
Capital Outlay	8,650
Small Group Living Centers	16,364
Sub-Total	\$ 581,554
Debt Service	
Principal	4,000
Interest	894
TOTAL -- Community Mental Retardation Program	\$ 586,448
TOTAL -- Division of Mental Retardation Services	\$ 7,766,979
<u>(35-12-000) State Service Centers</u>	
Salary of Director	\$ 18,389
(25) Salaries and Wages of Employees (38)	335,910
F.I.C.A. - Employer's Share	20,577
Pensions	41,030
Health Insurance	11,730
Personal Services	6,900
Travel	1,250
Contractual Services	400,520
Supplies and Materials	37,800
Sub-Total	\$ 874,106
Debt Service	
Principal	85,000
Interest	77,562
TOTAL -- State Service Centers	\$ 1,036,668

	Year Ending June 30, 1978
<u>(35-14-000) Division of Aging</u>	
Salary of Director (State Funds -\$4,637)	
(All Other Funds - \$13,909)	\$ 4,637
(14.9) Salaries and Wages of Employees (3.85)	48,048
F.I.C.A. - Employer's Share	2,712
Pensions	5,948
Health Insurance	1,244
Travel	530
Contractual Services	46,770
Supplies and Materials	751
Old American Act Grants	201,300
Nutrition Program	<u>110,000</u>
Sub-Total	\$ 421,940
Debt Service	
Principal	9,250
Interest	<u>16,783</u>
TOTAL -- Division of Aging	\$ 447,973
TOTAL -- DEPARTMENT OF HEALTH AND SOCIAL SERVICES	\$ 83,298,709

(38-00-000) DEPARTMENT OF CORRECTIONSYear Ending  
June 30, 1978(38-01-000) Office of the Commissioner(38-01-001) Commissioner's Office

Salary of Commissioner	\$	30,000
Institutional Classification Board (3)		9,000
Salaries and Wages of Employees (2)		31,820
F.I.C.A. - Employer's Share		3,143
Pensions		7,171
Health Insurance		1,066
Travel		775
Contractual Services		920
Supplies and Materials		1,050
Capital Outlay		416
TOTAL -- Commissioner's Office	\$	85,361

(38-01-002) Administration

Salaries and Wages of Employees (47)	\$	561,924
Salaries - Hazardous Duty		12,000
F.I.C.A. - Employer's Share		30,868
Pensions		64,936
Health Insurance		9,952
Travel		800
Contractual Services		
Contracts with Institutions		32,140
Family Blue Cross		131,604
Other Contractual Services		26,215
Supplies and Materials		14,150
Capital Outlay		5,944
TOTAL -- Administration	\$	890,533

(38-01-003) Education

Salary of Administrative Assistant (1)	\$	18,384
Salary of Supervisor (1)		18,744
Salary of Clerical (1)		11,472
Salary of Teachers (35)		553,622
Salaries - Overtime		1,000
Salaries - Hazardous Duty		11,400
F.I.C.A. - Employer's Share		34,841
Pensions		71,294
Health Insurance		13,152
Travel		300
Contractual Services		1,000
Supplies and Materials		15,833
Capital Outlay		7,832
TOTAL -- Education	\$	758,874
TOTAL -- Office of the Commissioner	\$	1,734,768

	Year Ending June 30, 1978
<u>(38-08-000) Bureau of Adult Corrections</u>	
<u>(38-08-001) Office of the Bureau Chief</u>	
Salary of Chief	\$ 28,344
Salary and Wage of Employee (1)	12,566
F.I.C.A. - Employer's Share	1,630
Pensions	4,746
Health Insurance	592
Travel	260
Contractual Services	950
Supplies and Materials	1,125
Capital Outlay	<u>3,700</u>
Sub-Total	\$ 53,913
Debt Service	
Principal	614,375
Interest	<u>323,938</u>
TOTAL -- Office of the Bureau Chief	\$ 992,226
<u>(38-08-003) Delaware Correctional Center</u>	
Salaries and Wages of Employees (289)	\$ 2,947,873
Salaries - Overtime	300,000
Salaries - Premium Pay	166,700
Salaries - Shift Differential	48,661
Salaries - Hazardous Duty	162,000
F.I.C.A. - Employer's Share	209,910
Pensions	419,859
Health Insurance	93,836
Personal Services	
Medical, Dental & Psychiatric	40,000
Payments to Inmates	26,500
Other Personal Services	3,600
Travel	950
Contractual Services	
Contracts with Institutions	115,000
Other Contractual Services	507,053
Supplies and Materials	
Guard Uniforms	64,000
Other Supplies and Materials	634,566
Capital Outlay	<u>56,425</u>
TOTAL -- Delaware Correctional Center	\$ 5,796,933



<u>(38-08-006) Pre-Trial Release</u>	<u>Year Ending June 30, 1978</u>
Salaries - Casual and Seasonal	\$ 6,500
Salaries and Wages of Employees (9)	104,325
F.I.C.A. - Employer's Share	6,463
Pensions	12,102
Health Insurance	3,199
Travel	1,000
Contractual Services	
Rent	10,425
Other Contractual Services	5,110
Supplies and Materials	<u>2,443</u>
TOTAL -- Pre-Trial Release	\$ 151,567
<u>(38-08-007) Probation and Parole</u>	
Salaries and Wages of Employees (56)	\$ 669,686
F.I.C.A. - Employer's Share	36,233
Pensions	75,400
Health Insurance	18,127
Travel	2,050
Contractual Services	
Rent	39,100
Other Contractual Services	14,100
Supplies and Materials	8,935
Capital Outlay	<u>26,410</u>
TOTAL -- Probation and Parole	\$ 890,041
<u>(38-08-008) Work Programs</u>	
Salaries and Wages of Employees (3)	\$ 33,534
F.I.C.A. - Employer's Share	2,049
Pensions	3,890
Health Insurance	1,066
Travel	400
Contractual Services	
Rent	2,600
Other Contractual Services	1,183
Supplies and Materials	<u>900</u>
TOTAL -- Work Programs	\$ 45,622

(38-08-009) Work Release	Year Ending June 30, 1978
Salaries and Wages of Employees (22)	\$ 227,308
Salaries - Overtime	7,500
Salaries - Hazardous Duty	12,600
Salaries - Shift Differential	3,000
F.I.C.A. - Employer's Share	14,754
Pensions	29,020
Health Insurance	6,754
Workmen's Compensation	5,227
Personal Services	1,000
Travel	600
Contractual Services	18,382
Supplies and Materials	11,258
TOTAL -- Work Release	\$ 337,403
<u>(38-08-010) Kent Correctional Center</u>	
Salaries and Wages of Employees (22)	\$ 176,400
Salaries - Premium Pay	16,420
Salaries - Shift Differential	4,613
Salaries - Hazardous Duty	13,200
F.I.C.A. - Employer's Share	10,319
Pensions	20,462
Personal Services	
Medical, Dental & Psychiatric	2,000
Payments to Inmates	3,000
Other Personal Services	1,800
Travel	500
Contractual Services	
Contracts with Institutions	15,000
Other Contractual Services	40,000
Supplies and Materials	
Guard Uniforms	6,400
Other Supplies and Materials	46,600
Capital Outlay	5,000
TOTAL -- Kent Correctional Center	\$ 361,714
TOTAL -- Bureau of Adult Corrections	\$ 10,673,770

	Year Ending June 30, 1978
<u>(38-13-000) Bureau of Juvenile Corrections</u>	
<u>(38-13-001) Office of Bureau Chief</u>	
Salary of Bureau Chief	\$ 28,344
Salary and Wage of Employee (1)	12,000
F.I.C.A. - Employer's Share	1,597
Pensions	4,680
Health Insurance	355
Travel	550
Contractual Services	2,050
Supplies and Materials	<u>425</u>
Sub-Total	\$ 50,001
Debt Service	
Principal	202,500
Interest	<u>101,997</u>
TOTAL -- Office of Bureau Chief	\$ 354,498
<u>(38-13-002) Ferris School for Boys</u>	
Salaries - Casual and Seasonal	\$ 54,000
Salaries and Wages of Employees (109.5)	1,163,000
Salaries - Overtime	77,000
Salaries - Shift Differential	20,000
Salaries - Hazardous Duty	48,600
F.I.C.A. - Employer's Share	79,708
Pensions	147,135
Health Insurance	31,280
Personal Services	31,810
Travel	1,250
Contractual Services	184,475
Supplies and Materials	183,625
Capital Outlay	<u>12,375</u>
Sub-Total	\$ 2,034,258
Debt Service	
Principal	83,000
Interest	<u>89,664</u>
TOTAL -- Ferris School for Boys	\$ 2,206,922



(38-13-003) Woods Haven-Kruse School for GirlsYear Ending  
June 30, 1978

Salaries - Casual and Seasonal	\$ 6,000
Salaries and Wages of Employees (47)	500,298
Salaries - Overtime	13,000
Salaries - Shift Differential	8,000
Salaries - Hazardous Duty	22,200
F.I.C.A. - Employer's Share	31,756
Pensions	62,746
Health Insurance	13,151
Personal Services	13,667
Travel	800
Contractual Services	105,330
Supplies and Materials	54,720
Capital Outlay	<u>3,850</u>
Sub-Total	\$ 835,518
Debt Service	
Principal	7,000
Interest	<u>5,326</u>
TOTAL -- Woods Haven-Kruse School for Girls	\$ 847,844

(38-13-004) Bridge House Detention Center

Salaries - Casual and Seasonal	\$ 16,000
Salaries and Wages of Employees (19)	222,640
Salaries - Overtime	23,000
Salaries - Shift Differential	3,500
Salaries - Hazardous Duty	9,600
F.I.C.A. - Employer's Share	15,810
Pensions	30,014
Health Insurance	5,687
Personal Services	2,000
Travel	230
Contractual Services	21,675
Supplies and Materials	34,934
Capital Outlay	<u>960</u>
TOTAL -- Bridge House Detention Center	\$ 386,050

(38-13-005) Stevenson House Detention Center	Year Ending June 30, 1978
Salaries - Casual and Seasonal	\$ 15,000
Salaries and Wages of Employees (18)	202,046
Salaries - Overtime	13,000
Salaries - Shift Differential	4,000
Salaries - Hazardous Duty	9,000
F.I.C.A. - Employer's Share	14,210
Pensions	26,153
Health Insurance	4,976
Personal Services	1,100
Travel	250
Contractual Services	25,059
Supplies and Materials	23,750
Capital Outlay	450
<b>TOTAL -- Stevenson House Detention Center</b>	<b>\$ 338,994</b>
 <u>(38-13-010) Community Services</u>	
Salaries and Wages of Employees (30)	\$ 391,732
Salaries - Overtime	500
F.I.C.A. - Employer's Share	22,685
Pensions	45,499
Health Insurance	7,464
Personal Services	1,400
Travel	2,150
Contractual Services	
Rent	3,900
Other Contractual Services	39,200
Supplies and Materials	16,225
Capital Outlay	1,734
<b>TOTAL -- Community Services</b>	<b>\$ 532,489</b>
<b>TOTAL -- Bureau of Juvenile Corrections</b>	<b>\$ 4,666,797</b>
<b>TOTAL -- DEPARTMENT OF CORRECTIONS</b>	<b>\$ 17,075,335</b>

(40-00-000) DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL

Year Ending  
June 30, 1978

(40-01-000) Office of the Secretary

Salary of Secretary	\$	31,000
(17) Salaries and Wages of Employees (22)		298,631
F.I.C.A. - Employer's Share		17,409
Pensions		38,036
Health Insurance		8,175
Personal Services		7,593
Travel		500
Contractual Services		30,401
Supplies and Materials		6,316
Capital Outlay		1,500
Central Data Processing Services		25,000
(State Funds - \$25,000) (All Other Funds - \$5,000)		
Contingency - Sport Fishermen's Tournament		<u>4,000</u>
Sub-Total	\$	468,561
Debt Service		
Principal		989,000
Interest		<u>1,182,391</u>
TOTAL -- Office of the Secretary	\$	2,639,952

(40-05-000) Division of Fish and Wildlife

(40-05-001) Office of the Director

Salary of Director (State Funds - \$11,375) (All Other Funds - \$11,375)	\$	11,375
(4) Salaries and Wages of Employees (2)		21,174
F.I.C.A. - Employer's Share		1,756
Pensions		3,776
Health Insurance		889
Contractual Services		<u>4,300</u>
TOTAL -- Office of the Director	\$	43,270

	Year Ending June 30, 1978
<u>(40-05-002) Wildlife</u>	
(23.7) Salaries and Wages of Employees (12)	\$ 149,700
F.I.C.A. - Employer's Share	8,757
Pensions	17,364
Health Insurance	4,265
Contractual Services	11,820
Supplies and Materials	<u>10,000</u>
Sub-Total	\$ 201,906
Debt Service	
Principal	22,500
Interest	<u>25,379</u>
TOTAL -- Wildlife	\$ 249,785
<u>(40-05-003) Fisheries</u>	
(6) Salaries and Wages of Employees (28)	\$ 300,173
F.I.C.A. - Employer's Share	17,875
Pensions	36,100
Health Insurance	9,943
Contractual Services	
Boat Repairs	12,000
Co-Op Fisheries Study	7,000
Oysters to Public Beds	3,500
Rent	3,065
Other Contractual Services	18,275
Supplies and Materials	29,610
Aquatic Weed Control	<u>10,000</u>
Sub-Total	\$ 447,541
Debt Service	
Principal	30,000
Interest	<u>18,956</u>
TOTAL -- Fisheries	\$ 496,497

<u>(40-05-004) Mosquito Control</u>	<u>Year Ending June 30, 1978</u>
Salaries - Casual and Seasonal	\$ 11,800
Salaries and Wages of Employees (17)	175,623
F.I.C.A. - Employer's Share	10,964
Pensions	20,372
Health Insurance	6,042
Personal Services	50
Contractual Services	
Research Contract - University of Delaware	15,000
Spraying	72,650
Other Contractual Services	15,713
Supplies and Materials	
Insecticides	53,154
Other Supplies and Materials	<u>16,256</u>
TOTAL -- Mosquito Control	\$ 397,624
TOTAL -- Division of Fish and Wildlife	\$ 1,187,176
<u>(40-06-000) Division of Parks and Recreation</u>	
<u>(40-06-001) Office of the Director</u>	
Salary of Director	\$ 22,960
Salary and Wage of Employee (1)	12,007
F.I.C.A. - Employer's Share	1,667
Pensions	4,056
Health Insurance	711
Travel	250
Contractual Services	1,296
Supplies and Materials	<u>960</u>
TOTAL -- Office of the Director	\$ 43,907
<u>(40-06-002) Parks</u>	
(24.2) Salaries and Wages of Employees (35)	\$ 336,013
F.I.C.A. - Employer's Share	19,228
Pensions	37,780
Health Insurance	10,219
Dewey Beach & Fenwick Island (Unincorporated)	<u>20,000</u>
Sub-Total	\$ 423,240
Debt Service	
Principal	526,500
Interest	<u>444,053</u>
TOTAL -- Parks	\$ 1,393,793

<u>(40-06-004) Recreation</u>	Year Ending June 30, 1978
(3) Salaries and Wages of Employees (2)	\$ 32,680
F.I.C.A. - Employer's Share	1,912
Pensions	3,791
Health Insurance	355
Contractual Services	1,150
Supplies and Materials	2,000
Capital Outlay	3,900
Youth Conservation Program	<u>17,500</u>

TOTAL -- Recreation	\$ 63,288
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(40-06-005) Technical Services

Salaries and Wages of Employees (4)	\$ 66,631
F.I.C.A. - Employer's Share	3,898
Pensions	7,729
Health Insurance	1,066
Contractual Services	3,147
Supplies and Materials	<u>1,974</u>

TOTAL -- Technical Services	\$ 84,445
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TOTAL -- Division of Parks and Recreation	\$ 1,585,433
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(40-07-000) Division of Soil and Water Conservation

(40-07-001) Office of the Director

Salary of the Director	\$ 20,216
Salary and Wage of Employee (1)	7,686
F.I.C.A. - Employer's Share	1,415
Pensions	3,245
Health Insurance	711
Contractual Services	1,855
Supplies and Materials	<u>570</u>

TOTAL -- Office of the Director	\$ 35,698
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	Year Ending June 30, 1978
<u>(40-07-002) Drainage</u>	
Salaries and Wages of Employees (6)	\$ 84,740
F.I.C.A. - Employer's Share	4,624
Pensions	9,830
Health Insurance	2,133
Contractual Services	
Rent	6,030
Highway Crossings	98,000
Other Contractual Services	2,911
Supplies and Materials	
Highway Crossings	90,000
Other Supplies and Materials	1,992
Capital Outlay	50
Sub-Total	\$ 300,310
Debt Service	
Principal	117,895
Interest	57,657
TOTAL -- Drainage	\$ 475,862
<u>(40-07-003) Beach Preservation</u>	
(8) Salaries and Wages of Employees	\$ - - - -
Personal Services	100
Contractual Services	4,600
Supplies and Materials	6,480
Sub-Total	\$ 11,180
Debt Service	
Principal	188,155
Interest	174,871
TOTAL -- Beach Preservation	\$ 374,206
TOTAL -- Soil and Water Conservation	\$ 885,766
<u>(40-08-000) Division of Environmental Control</u>	
<u>(40-08-001) Office of the Director</u>	
Salary of Director (State Funds - \$15,762)	
(All Other Funds - \$15,762)	\$ 15,762
Salaries and Wages of Employees (2)	15,898
F.I.C.A. - Employer's Share	1,454
Pensions	3,672
Health Insurance	889
Travel	1,322
Contractual Services	2,186
Supplies and Materials	686
TOTAL -- Office of the Director	\$ 41,869

	Year Ending June 30, 1978
<u>(40-08-002) Air Resources</u>	
(8.6) Salaries and Wages of Employees (7)	\$ 98,877
F.I.C.A. - Employer's Share	5,772
Pensions	11,499
Health Insurance	2,488
Personal Services	475
Travel	550
Contractual Services	
Rent	9,550
Other Contractual Services	21,891
Supplies and Materials	<u>3,200</u>
TOTAL -- Air Resources	\$ 154,282
<u>(40-08-003) Water Resources</u>	
(36.4) Salaries and Wages of Employees (17)	\$ 246,692
F.I.C.A. - Employer's Share	11,930
Pensions	28,658
Health Insurance	4,976
Personal Services	1,980
Travel	282
Contractual Services	
Rent	470
Other Contractual Services	30,914
Supplies and Materials	<u>6,877</u>
Sub-Total	\$ 332,779
Debt Service	
Principal	385,000
Interest	<u>292,635</u>
TOTAL -- Water Resources	\$ 1,010,414
<u>(40-08-004) Technical Services</u>	
(21.7) Salaries and Wages of Employees (11)	\$ 176,449
F.I.C.A. - Employer's Share	8,748
Pensions	20,468
Health Insurance	3,910
Travel	297
Contractual Services	2,379
Supplies and Materials	6,043
Capital Outlay	<u>120</u>
TOTAL -- Technical Services	\$ 218,414



(40-08-005) Wetlands	Year Ending June 30, 1978
Salaries and Wages of Employees (3)	\$ 42,605
F.I.C.A. - Employer's Share	2,286
Pensions	4,942
Health Insurance	1,066
Personal Services	3,416
Travel	1,840
Contractual Services	5,571
Supplies and Materials	2,699
TOTAL -- Wetlands	\$ 64,425
(40-08-006) Delaware River Basin Commission	
(7.6) Salaries and Wages of Employees	\$ - - - -
TOTAL -- Delaware River Basin Commission	\$ - - - -
(40-08-007) Solid Waste	
(1) Salaries and Wages of Employees (2)	\$ 23,801
F.I.C.A. - Employer's Share	1,297
Pensions	2,761
Health Insurance	711
Personal Services	1,350
Travel	500
Contractual Services	4,560
Supplies and Materials	1,307
Capital Outlay	500
Sub-Total	\$ 36,787
Debt Service	
Principal	50,000
Interest	33,938
TOTAL -- Solid Waste	\$ 120,725
TOTAL -- Division of Environmental Control	\$ 1,610,129
TOTAL -- DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL	\$ 7,908,456

(45-00-000) DEPARTMENT OF PUBLIC SAFETY	Year Ending June 30, 1978
<u>(45-01-000) Office of the Secretary</u>	
Salary of the Secretary	\$ 31,000
Salary and Wage of Employee (1)	12,379
F.I.C.A. - Employer's Share	1,689
Pensions	5,032
Health Insurance	355
Travel	300
Contractual Services	2,800
Supplies and Materials	500
Capital Outlay	175
TOTAL -- Office of the Secretary	\$ 54,230
<u>(45-03-000) Division of Communications</u>	
Salaries and Wages of Employees (19)	\$ 264,861
F.I.C.A. - Employer's Share	14,913
Pensions	30,724
Health Insurance	6,042
Travel	1,000
Contractual Services	12,800
Supplies and Materials	6,125
Capital Outlay	5,800
Sub-Total	\$ 342,265
Debt Service	
Principal	27,000
Interest	19,950
TOTAL -- Division of Communications	\$ 389,215
<u>(45-04-000) Division of Motor Fuel Tax</u>	
Salaries - Casual and Seasonal	\$ 3,000
Salaries and Wages of Employees (12)	135,225
F.I.C.A. - Employer's Share	7,954
Pensions	15,686
Health Insurance	2,488
Travel	10,000
Contractual Services	21,650
Supplies and Materials	31,600
Capital Outlay	1,000
Central Data Processing	37,000
TOTAL -- Division of Motor Fuel Tax	\$ 265,603

(45-05-000) Division of Administration	Year Ending June 30, 1978
Salaries and Wages of Employees (5)	\$ 68,466
F.I.C.A. - Employer's Share	3,805
Pensions	7,960
Health Insurance	1,422
Contractual Services	3,000
Supplies and Materials	1,100
<b>TOTAL -- Division of Administration</b>	<b>\$ 85,753</b>
 (45-06-000) Division of State Police	
Salary of Superintendent	\$ 28,538
Salary of Assistant Superintendent	26,038
(10) Salaries of Uniformed Division (State Funds - \$6,258,516) (Delaware Transportation Authority Support - \$230,544) (408)	6,258,516
Salaries and Wages of Employees (129)	1,180,159
Salaries - Overtime - Uniformed Division	106,412
Salaries - Overtime - Other Employees	5,000
F.I.C.A. - Employer's Share	64,000
Pensions - All Others	129,700
Pensions - State Police	1,923,000
Health Insurance	199,046
Personal Services	3,400
Travel	9,000
Contractual Services	447,600
Supplies and Materials	650,000
Capital Outlay	
Vehicles and Related Equipment	100,000
Other Capital Outlay	7,940
Crime Reduction Fund	30,000
Drug Control Program	20,000
Central Data Processing Services (All Other Funds - \$120,000)	345,000
Advanced Schooling/Training and Library	55,000
<b>Sub-Total</b>	<b>\$ 11,588,349</b>
Debt Service	
Principal	130,000
Interest	100,028
<b>TOTAL -- Division of State Police</b>	<b>\$ 11,818,377</b>

<u>(45-07-000) Division of Motor Vehicles</u>	<u>Year Ending</u> <u>June 30, 1978</u>
Salary of Director	\$ 23,117
Salaries - Casual and Seasonal	15,000
Salaries and Wages of Employees (163)	1,540,683
F.I.C.A. - Employer's Share	71,342
Pensions	181,321
Health Insurance	36,232
Travel	800
Contractual Services	160,017
Supplies and Materials	
Tags, Stickers & Numerals	205,858
Other Supplies & Materials	132,710
Capital Outlay	10,000
Central Data Processing Services	250,000
Motor Vehicle Inspections	
Salaries - Casual & Seasonal	\$ 5,000
Salaries & Wages of Employees (20)	198,705
F.I.C.A. - Employer's Share	11,918
Pensions	23,050
Health Insurance	7,100
Supplies and Materials	500
Debt Service - State Obligation	75,000
Sub-Total	\$321,273*\$ 2,627,080
Debt Service	
Principal	78,500
Interest	65,853
Motor Vehicle Inspections Support	(75,000)
TOTAL -- Division of Motor Vehicles	\$ 2,696,433

\* Source of Funds - Motor Vehicle Inspection Fees

<u>(45-08-000) Division of Emergency Planning and</u> <u>Operations</u>	
Salary of Director (State Funds - \$9,250)	
(All Other Funds - \$9,250)	\$ 9,250
(11) Salaries and Wages of Employees (6)	62,043
F.I.C.A. - Employer's Share	4,171
Pensions	8,304
Health Insurance	2,133
Travel	1,135
Contractual Services	16,700
Supplies and Materials	3,000
Capital Outlay	3,000
Sub-Total	\$ 109,736
Debt Service	
Principal	7,000
Interest	2,454
TOTAL -- Division of Emergency Planning & Operations	\$ 119,190

<u>(45-09-000) Division of Boiler Safety</u>	<u>Year Ending June 30, 1978</u>
Salary of Director	\$ 18,500
Salaries and Wages of Employees (6)	65,643
F.I.C.A. - Employer's Share	4,805
Pensions	9,761
Health Insurance	1,422
Travel	7,000
Contractual Services	
Rent	4,200
Other Contractual Services	3,500
Supplies and Materials	1,300
Capital Outlay	<u>300</u>
TOTAL -- Division of Boiler Safety	\$ 116,431
TOTAL -- DEPARTMENT OF PUBLIC SAFETY	\$ 15,545,232

Year Ending  
June 30, 1978

(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
Salaries and Wages of Employees (7.5)	79,042
F.I.C.A. - Employer's Share	5,568
Pensions	12,499
Health Insurance	2,488
Travel	400
Contractual Services	
Rent	2,800
Other Contractual Services	6,300
Supplies and Materials	2,200
Capital Outlay	500
Retired Senior Volunteer Program	30,500
Council for Women	10,000

TOTAL -- Administration \$ 180,997

(50-01-002) Foster Grantparent Program

(2.6) Salaries and Wages of Employees (4.4)	\$ 57,171
F.I.C.A. - Employer's Share	3,344
Pensions	6,631
Health Insurance	818
Personal Services	1,300
Travel	1,600
Contractual Services	5,834
Supplies and Materials	325
Capital Outlay	625
Stipends	276,593

TOTAL -- Foster Grantparent Program \$ 354,593

(50-01-003) Economic Opportunity

(7.8) Salaries and Wages of Employees (1.2)	\$ 15,311
F.I.C.A. - Employer's Share	812
Pensions	1,776
Health Insurance	267
Travel	550
Contractual Services	
Rent	3,200
Other Contractual Services	1,345
Supplies and Materials	400

TOTAL -- Economic Opportunity \$ 23,661

TOTAL -- Office of the Secretary \$ 559,251

Year Ending  
June 30, 1978

(50-04-000) Office of Minority Business Enterprise

Salary of Director	\$ 22,089
Salaries and Wages of Employees (5)	60,882
F.I.C.A. - Employer's Share	4,256
Pensions	9,625
Health Insurance	711
Personal Services	2,100
Travel	5,671
Contractual Services	10,212
Supplies and Materials	180

TOTAL -- Office of Minority Business Enterprise      \$115,726 \*

\* Federal Funds - U.S. Department of Commerce

(50-06-000) Office of Human Relations

Salary of Director	\$ 20,438
(1) Salaries and Wages of Employees (7)	72,954
F.I.C.A. - Employer's Share	5,233
Pensions	10,871
Health Insurance	1,066
Personal Services	230
Travel	5,300
Contractual Services	
Rent	4,000
Other Contractual Services	8,522
Supplies and Materials	2,945
Capital Outlay	275

TOTAL -- Office of Human Relations      \$ 131,834

(50-08-000) Division of Economic Development

Salary of Director	\$ 20,438
(8.5) Salaries and Wages of Employees (9.8)	115,267
F.I.C.A. - Employer's Share	7,862
Pensions	15,742
Health Insurance	1,777
Personal Services	650
Travel	6,700
Contractual Services	
Rent	1,700
Other Contractual Services	73,936
Supplies and Materials	7,838
Capital Outlay	4,000
Special Projects	38,979
Contingency - Mother-of-the-Year Travel	500
Contingency - Young Mother-of-the-Year Travel	250

TOTAL -- Division of Economic Development      \$ 295,639

	Year Ending June 30, 1978
<u>(50-09-000) Division of Housing</u>	
Salary of Director	\$ 28,224
(4) Salaries and Wages of Employees (4)	47,734
F.I.C.A. - Employer's Share	3,671
Pensions	8,811
Health Insurance	1,422
Personal Services	
Lawyers	8,400
Travel	2,350
Contractual Services	9,050
Supplies and Materials	3,435
Sub-Total	\$ 113,097
Debt Service	
Principal	42,000
Interest	42,147
TOTAL -- Division of Housing	\$ 197,244
<u>(50-10-000) Division of Libraries</u>	
Salary of State Librarian (State Funds -- \$10,181) (All Other Funds - \$6,788)	\$ 10,181
(9) Salaries and Wages of Employees (9)	100,919
F.I.C.A. - Employer's Share	6,451
Pensions	12,887
Health Insurance	3,199
Contractual Services	20,399
Supplies and Materials	9,375
Capital Outlay	12,263
TOTAL -- Division of Libraries	\$ 175,674
<u>(50-11-000) Division of Consumer Affairs</u>	
Salary of Director	\$ 20,438
(3) Salaries and Wages of Employees (9.5)	106,991
F.I.C.A. - Employer's Share	7,429
Pensions	14,782
Health Insurance	2,488
Personal Services	1,000
Travel	1,500
Contractual Services	
Rent	6,550
Other Contractual Services	8,000
Supplies and Materials	2,300
TOTAL -- Division of Consumer Affairs	\$ 171,478
TOTAL -- DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT	\$ 1,531,120



(55-00-000) DEPARTMENT OF TRANSPORTATIONYear Ending  
June 30, 1978(55-01-000) Office of the Secretary

Salary of the Secretary	\$ 32,000
Salary of Principal Assistant	30,150
(36.5) Salaries and Wages of Employees (.5)	6,958
F.I.C.A. - Employer's Share	2,338
Pensions	8,017
Health Insurance	533
Travel	300
Contractual Services	3,650
Supplies and Materials	900
TOTAL -- Office of the Secretary	\$ 84,846

(55-02-000) Office of Administration

Salary of Chief	\$ 25,000
(32.5) Salaries and Wages of Employees (27.5)	314,810
Salaries - Overtime	400
F.I.C.A. - Employer's Share	18,435
Pensions	39,464
Health Insurance	5,687
Travel	500
Contractual Services	29,000
Supplies and Materials	4,200
Central Data Processing Services	
(All Other Funds - \$35,000)	110,000
TOTAL -- Office of Administration	\$ 547,496

(55-05-000) Division of Highways

Salary of Director	\$ 31,000
Salaries - Casual and Seasonal	12,000
(449.5) Salaries and Wages of Employees (662.5)	6,691,893
Salaries - Overtime	125,000
F.I.C.A. - Employer's Share	363,027
Pensions	763,540
Health Insurance	169,281
Capital Outlay	500,000
Operations (State Funds - \$2,400,000)	
(Delaware Transportation Authority	
Support - \$1,100,000)	2,400,000
Sub-Total	\$ 11,055,741
Debt Service	
Principal	14,202,000
Interest	7,486,425
TOTAL -- Division of Highways	\$ 32,744,166

(55-06-000) Delaware Transportation Authority

Salary of Director	\$ 26,795
Authority Operations	273,477
Transportation Studies	16,000
Kent & Sussex Transportation	100,000
Rail Freight Subsidy	18,000
DART Operations	1,083,479
DAST Operations	236,000
TURNPIKE Operations	2,541,456
Deposits to Turnpike Reserve	
Maintenance Fund	980,000
Deposits to Turnpike Improvement	
Fund	500,000
Support Office of Secretary - DOT	70,000
Support Division of State Police	230,544
Support Division of Highways	1,100,000
Delaware Transportation Authority	
Regulatory Revolving Fund	6,700
Contingency	<u>25,000</u>

Sub-Total \$7,207,451

Debt Service	
Principal - State Obligations	74,000
Interest - State Obligations	87,286
Principal - Authority	
Obligations	3,100,000
Interest - Authority	
Obligations	<u>522,500</u>

TOTAL -- Delaware Transportation Authority \$10,991,237 \*

\* Delaware Transportation Authority, Chapter 13, Title 2, Delaware Code. These funds, except the Regulatory Revolving Funds, are not deposited with the State Treasurer.

TOTAL -- DEPARTMENT OF TRANSPORTATION \$ 33,376,508

(60-00-000) DEPARTMENT OF LABOR(60-01-000) Office of the Secretary

Salary of the Secretary (State Funds - \$10,550) (All Other Funds - \$19,595)	\$	10,550
(2.5) Salaries and Wages of Employees (.5)		9,744
F.I.C.A. - Employer's Share		762
Pensions		2,354
Health Insurance		356
Travel		700
Contractual Services		1,350
Supplies and Materials		610
Central Data Processing Services (All Other Funds - \$50,000)		
TOTAL -- Office of the Secretary	\$	26,426

(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

(295) Salaries and Wages of Employees	\$	- - - -
Unemployment Compensation		300,000
TOTAL -- Division of Unemployment Compensation	\$	300,000

(60-07-000) Division of Industrial Affairs(60-07-001) Administration

Salary of Director	\$	22,675
Salaries and Wages of Employees (5)		59,343
Salaries - Overtime		500
F.I.C.A. - Employer's Share		4,243
Pensions		9,573
Health Insurance		1,777
Travel		650
Contractual Services		
Rent		7,980
Other Contractual Services		7,750
Supplies and Materials		1,150
Capital Outlay		500
TOTAL -- Administration	\$	116,141

<u>(60-07-002) Inspection</u>	Year Ending June 30, 1978
Salaries and Wages of Employees (7)	\$ 84,593
F.I.C.A. - Employer's Share	4,591
Pensions	9,813
Health Insurance	1,422
Travel	1,375
Contractual Services	
Rent	4,900
Other Contractual Services	4,650
Supplies and Materials	1,150
Capital Outlay	4,200
TOTAL -- Inspection	\$ 116,694
<u>(60-07-003) Safety</u>	
Salaries and Wages of Employees (5)	\$ 65,797
F.I.C.A. - Employer's Share	3,604
Pensions	7,632
Health Insurance	1,066
Travel	1,000
Contractual Services	
Rent	4,900
Other Contractual Services	3,400
Supplies and Materials	1,950
Capital Outlay	600
TOTAL -- Safety	\$ 89,949
<u>(60-07-004) Statistics</u>	
(2) Salaries and Wages of Employees (2)	\$ 22,894
F.I.C.A. - Employer's Share	1,339
Pensions	2,656
Health Insurance	533
Travel	1,000
Contractual Services	
Rent	4,900
Other Contractual Services	10,600
Supplies and Materials	300
Capital Outlay	250
TOTAL -- Statistics	\$ 44,472

	Year Ending June 30, 1978
<u>(60-07-005) Equal Employment Opportunity</u>	
(4) Salaries and Wages of Employees (2)	\$ 21,996
F.I.C.A. - Employer's Share	1,150
Pensions	2,552
Health Insurance	355
Travel	800
Contractual Services	
Rent	4,800
Other Contractual Services	6,400
Supplies and Materials	1,200
Capital Outlay	300
TOTAL -- Equal Employment Opportunity	\$ 39,553
<u>(60-07-006) Apprenticeship and Training</u>	
Salaries and Wages of Employees (2)	\$ 23,042
F.I.C.A. - Employer's Share	1,325
Pensions	2,673
Health Insurance	355
Travel	1,000
Contractual Services	
Rent	3,150
Other Contractual Services	1,750
Supplies and Materials	450
Capital Outlay	300
TOTAL -- Apprenticeship and Training	\$ 34,045
<u>(60-07-007) Industrial Accident Board</u>	
Salaries of Board Members (3)	\$ 24,000
Salaries and Wages of Employees (7)	57,580
F.I.C.A. - Employer's Share	4,772
Pensions	9,463
Health Insurance	1,058
Personal Services	22,000
Travel	3,500
Contractual Services	
Rent	14,500
Other Contractual Services	10,900
Supplies and Materials	2,400
Capital Outlay	1,200
TOTAL -- Industrial Accident Board	\$ 151,373
TOTAL -- Division of Industrial Affairs	\$ 592,227

<u>(60-08-000) Division of Vocational Rehabilitation</u>	<u>Year Ending June 30, 1978</u>
(136) Salaries and Wages of Employees	\$ - - - -
Personal Services	170,000
Travel	4,000
Contractual Services	
Rent	80,000
Other Contractual Services	270,000
Supplies and Materials	<u>12,000</u>
TOTAL -- Division of Vocational Rehabilitation	\$ 536,000
TOTAL -- DEPARTMENT OF LABOR	\$ 1,454,653

(65-00-000) DEPARTMENT OF AGRICULTUREYear Ending  
June 30, 1978(65-01-000) Office of the Secretary

Salary of the Secretary	\$	22,500
Salaries and Wages of Employees (4)		52,850
F.I.C.A. - Employer's Share		3,975
Pensions		8,741
Health Insurance		1,777
Travel		750
Contractual Services		2,975
Supplies and Materials		1,525
Capital Outlay		500
Sub-Total	\$	95,593
Debt Service		
Principal		41,250
Interest		11,125
TOTAL -- Office of the Secretary	\$	147,968

(65-03-000) Division of Standards and Inspections

Salary of Director	\$	20,200
Salaries - Casual and Seasonal		5,000
Salaries and Wages of Employees (43)		523,000
Salaries - Overtime		17,000
F.I.C.A. - Employer's Share		31,690
Pensions		64,980
Health Insurance		9,952
Personal Services		21,000
Travel		7,000
Contractual Services		32,500
Supplies and Materials		20,000
Capital Outlay		6,800
TOTAL -- Division of Standards and Inspection	\$	759,122

	Year Ending June 30, 1978
<u>(65-04-000) Division of Production and Promotion</u>	
Salary of Director	\$ 20,200
Salaries - Casual and Seasonal	3,470
(8) Salaries and Wages of Employees (15)	171,980
F.I.C.A. - Employer's Share	11,040
Pensions	22,290
Health Insurance	4,620
Travel	1,000
Contractual Services	20,000
Supplies and Materials	6,000
Capital Outlay	<u>1,000</u>
Sub-Total	\$ 261,600
Debt Service	
Principal	10,000
Interest	<u>5,805</u>
TOTAL -- Division of Production and Promotion	\$ 277,405
TOTAL -- DEPARTMENT OF AGRICULTURE	\$ 1,184,495



(70-00-000) DEPARTMENT OF ELECTIONSYear Ending  
June 30, 1978(70-01-000) Commissioner of Elections

Salary of Election Commissioner	\$ 16,000
Salaries and Wages of Employees (4)	43,694
F.I.C.A. - Employer's Share	3,500
Pensions	6,950
Health Insurance	2,133
Travel	800
Contractual Services	16,650
Supplies and Materials	3,335
Capital Outlay	1,075
Central Data Processing Services	30,000
Contingency - Direct Primary	<u>10,000</u>
TOTAL -- Commissioner of Elections	\$ 134,137

(70-02-000) New Castle County Department of Elections

Salaries of Board Members (10)	\$ 10,500
Salary of Administrative Director	16,918
Salary of Deputy Administrative Director	16,392
Salaries - Casual and Seasonal	5,500
Salaries and Wages of Employees (11)	106,551
F.I.C.A. - Employer's Share	8,038
Pensions	16,209
Health Insurance	2,844
Personal Services	
Mobile Registration	10,000
Travel	500
Contractual Services	
Rent - Voting Machines Storage	13,680
Other Contractual Services	19,700
Supplies and Materials	3,050
Capital Outlay	<u>3,625</u>
TOTAL -- New Castle County Department of Elections	\$ 233,507

(70-03-000) Kent County Department of Elections

Salaries of Board Members (6)	\$ 6,500
Salary of Administrative Director	15,972
Salary of Deputy Administrative Director	15,447
Salaries - Casual and Seasonal	560
Salaries and Wages of Employees (2)	20,151
F.I.C.A. - Employer's Share	3,000
Pensions	6,050
Health Insurance	1,422
Personal Services	
Mobile Registration	1,982
Travel	150
Contractual Services	20,950
Supplies and Materials	<u>600</u>
TOTAL -- Kent County Department of Elections	\$ 92,784

<u>(70-04-000) Sussex County Department of Elections</u>	<u>Year Ending June 30, 1978</u>
Salaries of Board Members (6)	\$ 6,500
Salary of Administrative Director	15,972
Salary of Deputy Administrative Director	15,447
Salaries - Casual and Seasonal	2,400
Salaries and Wages of Employees (2)	20,151
F.I.C.A. - Employer's Share	3,000
Pensions	6,000
Health Insurance	1,422
Personal Services	
Mobile Registration	4,450
Travel	800
Contractual Services	11,800
Supplies and Materials	1,850
Capital Outlay	<u>1,300</u>
TOTAL -- Sussex County Department of Elections	\$ 91,092
TOTAL -- DEPARTMENT OF ELECTIONS	\$ 551,520

(75-00-000) FIRE PREVENTION COMMISSIONYear Ending  
June 30, 1978(75-01-000) Office of Fire Marshal

Salary of Fire Marshal	\$ 19,900
(1) Salaries and Wages of Employees (13)	160,233
Salaries - Casual and Seasonal	1,004
Salaries - Shift Differential	1,350
F.I.C.A. - Employer's Share	10,600
Pensions	21,050
Health Insurance	4,265
Personal Services	500
Travel	2,300
Contractual Services	10,650
Supplies and Materials	12,500
Capital Outlay	10,410
Fire Prevention Conferences	2,000
Computerized System	3,800
Contingency - Surety Bonds, Other Court Bonds	1,500

TOTAL -- Office of Fire Marshal	\$ 262,062
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(75-02-000) State Fire School

Salary of Director	\$ 19,900
Salaries and Wages of Employees (8)	92,888
F.I.C.A. - Employer's Share	6,400
Pensions	13,100
Health Insurance	2,844
Travel	
Meals - Fire School	18,165
Other Travel	2,000
Contractual Services	
Instructional Services	52,000
Other Contractual Services	10,750
Supplies and Materials	27,500
Capital Outlay	7,000

Sub-Total	\$ 252,547
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Debt Service	
Principal	37,000
Interest	13,506

TOTAL -- State Fire School	\$ 303,053
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(75-03-000) State Fire Prevention Commission

Salary and Wage of Employee (1)	\$ 7,048
F.I.C.A. - Employer's Share	418
Pensions	829
Travel	2,500

TOTAL -- State Fire Prevention Commission	\$ 10,795
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TOTAL -- FIRE PREVENTION COMMISSION	\$ 575,910
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		Year Ending June 30, 1978
<u>(76-00-000) DELAWARE NATIONAL GUARD</u>		
<u>(76-01-000) Delaware National Guard</u>		
Salary of Adjutant General	\$	26,164
(27) Salaries and Wages of Employees (26.7)		361,000
F.I.C.A. - Employer's Share		21,929
Pensions		44,764
Health Insurance		6,776
Travel		500
Contractual Services		275,000
Supplies and Materials		
Uniform Allowance - Officers		25,000
Other Supplies and Materials		50,000
Capital Outlay		2,500
Unit Fund Allowance		15,000
Minor Capital Improvements		40,000
Compensation		3,500
		<hr/>
Sub-Total	\$	872,133
Debt Service		
Principal		61,000
Interest		58,181
		<hr/>
TOTAL -- DELAWARE NATIONAL GUARD	\$	991,314

(77-00-000) ADVISORY COUNCIL FOR EXCEPTIONAL  
CHILDREN

Salary and Wage of Employee (1)	\$	4,000
F.I.C.A. - Employer's Share		234
Pensions		464
Health Insurance		355
Travel		2,400
Contractual Services		2,650
Supplies and Materials		650
Capital Outlay		600
		<hr/>
TOTAL -- ADVISORY COUNCIL FOR EXCEPTIONAL CHILDREN	\$	11,353

(90-00-000) HIGHER EDUCATIONYear Ending  
June 30, 1978(90-01-001) University of Delaware

Operations	\$ 19,855,000
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	1,906,080
Pensions	1,364,000
Health Insurance	586,000
Pensions Fund (TIAA)	<u>807,140</u>
Sub-Total	\$ 26,530,518
Debt Service	
Principal	2,917,500
Interest	<u>1,975,759</u>
TOTAL -- University of Delaware	\$ 31,423,777

(90-01-002) State Geologist

Salaries - Casual and Seasonal	\$ 2,000
Salaries and Wages of Employees (9.5)	146,000
F.I.C.A. - Employer's Share	7,480
Pensions	4,954
Travel	2,000
Contractual Services	
Rent	2,000
River Master Program	25,000
Federal Co-Op Program	50,000
Supplies and Materials	12,800
Capital Outlay	<u>5,300</u>
TOTAL -- State Geologist	\$ 257,534
TOTAL -- University of Delaware	\$ 31,681,311

(90-02-000) Delaware Institute of Medical Education  
and Research

Operations	\$ 800,000
Subvention Allowance	<u>50,000</u>
Scholarships	
TOTAL -- Delaware Institute of Medical Education and Research	\$ 850,000

	Year Ending June 30, 1978
<u>(90-03-000) Delaware State College</u>	
(122.5) Salaries and Wages of Employees (290.5)	\$ 3,977,823
F.I.C.A. - Employer's Share	209,133
Pensions	461,426
Health Insurance	79,022
Personal Services	
Work Study Program	25,000
Other Personal Services	5,000
Travel	3,000
Contractual Services	725,000
Supplies and Materials	160,000
Capital Outlay	10,000
Scholarships	56,000
State Matching Grants-In-Aid	50,000
Occupational Teacher Education (2)	48,733
Sub-Total	\$ 5,810,137
Debt Service	
Principal	876,000
Interest	509,422
TOTAL -- Delaware State College	\$ 7,195,559

(90-04-000) Delaware Technical & Community College(90-04-001) Administration

Salaries and Wages of Employees (33)	\$ 573,505
F.I.C.A. - Employer's Share	22,786
Pensions	66,525
Health Insurance	8,886
Personal Services	11,000
Travel	2,000
Contractual Services	
Computer Operations	20,000
Other Contractual Services	12,000
Supplies and Materials	16,500
Occupational Teacher Education	26,000
Sub-Total	\$ 759,202
Debt Service	
Principal	1,154,073
Interest	1,298,000
TOTAL -- Administration	o \$ 3,211,275

(90-04-002) Southern Campus	Year Ending June 30, 1978
Salaries and Wages of Employees (128)	\$ 2,087,347
Salaries - Casual and Seasonal	70,000
F.I.C.A. - Employer's Share	90,810
Pensions	242,153
Health Insurance	36,255
Personal Services	
Work Study Program	10,000
Other Personal Services	3,250
Travel	2,000
Contractual Services	
Utilities	171,000
University of Delaware	200,000
Computer Operations	60,000
Other Contractual Services	90,000
Supplies and Materials	72,000
Capital Outlay	15,000
Aid to Needy Students	5,000
Federal/State Matching	4,000
TOTAL -- Southern Campus	\$ 3,158,815

(90-04-004) Wilmington Campus	
Salaries and Wages of Employees (95)	\$ 1,436,360
Salaries - Casual and Seasonal	70,000
F.I.C.A. - Employer's Share	66,301
Pensions	168,358
Health Insurance	23,105
Personal Services	
Work Study Program	20,000
Other Personal Services	3,250
Travel	2,000
Contractual Services	
Utilities	184,000
University of Delaware	200,000
Computer Operations	50,000
Other Contractual Services	84,000
Supplies and Materials	60,000
Capital Outlay	15,000
Aid to Needy Students	10,000
Federal/State Matching	8,000
TOTAL -- Wilmington Campus	\$ 2,400,374

(90-04-005) Stanton Campus	Year Ending June 30, 1978
Salaries and Wages of Employees (119)	\$ 1,936,438
Salaries - Casual and Seasonal	70,000
F.I.C.A. - Employer's Share	88,371
Pensions	224,627
Health Insurance	27,724
Personal Services	
Work Study Program	10,000
Other Personal Services	3,250
Travel	2,000
Contractual Services	
Utilities	182,000
Computer Operations	30,000
Other Contractual Services	95,000
Supplies and Materials	65,000
Capital Outlay	13,000
Aid to Needy Students	5,000
Federal/State Matching	4,000
TOTAL -- Stanton Campus	\$ 2,756,410

(90-04-006) Charles L. Terry Campus	
Salaries and Wages of Employees (69)	\$ 1,017,823
Salaries - Casual and Seasonal	70,000
F.I.C.A. - Employer's Share	48,050
Pensions	118,068
Health Insurance	13,000
Personal Services	
Work Study Program	8,000
Other Personal Services	3,250
Travel	2,000
Contractual Services	
Utilities	140,000
Computer Operations	50,000
Other Contractual Services	78,000
Supplies and Materials	60,000
Aid to Needy Students	5,000
Federal/State Matching	4,000
TOTAL -- Charles L. Terry Campus	\$ 1,617,191
TOTAL -- Delaware Technical and Community College	\$ 13,144,065



(90-05-000) Delaware Postsecondary Education Commission	Year Ending June 30, 1978
Salary of Executive Director (State Funds - \$12,733) (All Other Funds - \$12,733) Salaries of Commission Members (12) Salary and Wage of Employee (1) F.I.C.A. - Employer's Share Pensions Health Insurance Travel Contractual Services Supplies and Materials	\$ 12,733 3,600 9,370 996 2,564 534 400 4,000 800
TOTAL -- Delaware Postsecondary Education Commission	\$ 34,997
(90-06-000) Delaware Higher Education Loan Program	
Salaries - Board Members Salary and Wage of Employee (.75) Travel Contractual Services Supplies and Materials Scholarship Incentive Program Scholarship Incentive Program - Administration	\$ 300 7,500 500 2,600 400 150,000 500
TOTAL -- Delaware Higher Education Loan Program	\$ 161,800
(90-07-000) Delaware Institute for Veterinary Medical Education	
Subvention	\$ 34,000
TOTAL -- Delaware Institute of Veterinary Medical Education	\$ 34,000
TOTAL -- HIGHER EDUCATION	\$ 53,101,732

(95-00-000) PUBLIC EDUCATIONYear Ending  
June 30, 1978(95-01-000) State Board of Education and State  
Board for Vocational Education(95-01-001) AdministrationDivision I - Salaries

Board Members (7)	\$ 8,400
Superintendent (State Funds - \$38,869)	
(All Other Funds - \$10,935)	38,869
Assistant Superintendents (3)	110,132
Directors (6)	
State Funds (3)	97,943
State and Other (2)	30,158
All Other Funds	- - - -
Administrative Assistant	
All Other Funds (1)	- - - -
Supervisors (48)	
State Funds (20)	515,886
State and Other (8)	98,299
All Other Funds (20)	- - - -
Specialists (19)	
State Funds (1)	18,357
All Other Funds (18)	- - - -
Others	
Statistician Research (All Other Funds)	- - - -
Librarian (All Other Funds)	- - - -
Clerical (53)	
State Funds (23)	235,085
State and Other (17)	79,051
All Other Funds (13)	- - - -
Other Employment Costs	
F.I.C.A. - Employer's Share	53,800
Pensions	141,950
Health Insurance	23,500
TOTAL -- Division I and Other Employment Costs	\$ 1,451,430

Division II - Other Costs

Personal Services	\$ 1,500
Travel	
State Board	3,500
Staff	5,000
Contractual Services	80,000
Supplies and Materials	23,000
Capital Outlay	2,500
Central Data Processing Services	35,000
TOTAL -- Division II - Other Costs	\$ 150,500
Budget Reduction	(250,000)
TOTAL -- Administration	\$ 1,351,930

Year Ending  
June 30, 1978

(95-01-002) Services to School Districts & Others

Division I - Salaries

Teachers	
Homebound	\$ 141,800
Substitutes in Districts	720,000
Vocational Programs	208,000
Apprenticeship Program	143,450
Other	
Student Work-Study Program	25,000
Nonpublic and Summer Driver Education	163,750
Other Employment Costs	
F.I.C.A. - Employer's Share	56,341
Pensions	117,950
Pensions - Retired & Disabled Teachers	101,000
Health Insurance	13,150
	<hr/>
TOTAL -- Division I and Other Employment Costs	\$ 1,690,441

Division II - Other Costs

Travel	
Homebound	\$ 5,500
Contractual Services	
Tuition - Deaf Program	13,870
James H. Groves High School	275,000
Pregnant Students	97,500
Supplies and Materials	
Adult Trade Extension	92,000
Apprenticeship Program	105,000
Capital Outlay	
Films	20,000
Tuition - Military & State Police Children	24,000
Scholarship Fund	200,000
Youth Organization	18,000
Delaware Educational Council Compact	12,000
Assessment of Educational Progress	55,000
Private Business and Trade School	2,000
Education in Science & Math - Del Mod	20,000
Computer Education	48,000
School Pupil Transportation	11,330,200
Optometric Institutional Aid	16,500
	<hr/>
Sub-Total	\$ 12,334,570
Debt Service	
Principal	721,850
Interest	618,031
	<hr/>
TOTAL -- Division II and Debt Service	\$ 13,674,451

<u>Division III - Equalization Funds</u>	<u>Year Ending June 30, 1978</u>
Regular Formula	\$ 4,567,500
Employment Costs - Equalization Funds	
F.I.C.A. - Employer's Share	213,750
Pensions	423,850
Health Insurance	<u>17,800</u>
TOTAL -- Division III	\$ 5,222,900
TOTAL -- Services to School Districts and Others	\$ 20,587,792
<u>(95-01-003) Educational Contingency</u>	
Growth & Upgrading - Positive Growth	\$ 130,000
Growth & Upgrading - Negative Growth	(2,277,000)
Summer School Occupational Vocational Program	100,000
Operation and Maintenance	
Driver Education Cars	74,300
Delmar Tuition	100,000
Learning Disabilities - Tuition	169,000
F.I.C.A. - Employer's Share	24,500
Pensions	48,700
(F.I.C.A. - Negative Growth)	(108,000)
(Pensions - Negative Growth)	<u>(215,000)</u>
TOTAL -- Educational Contingency	\$ (1,953,500)
TOTAL -- State Board of Education and State Board for Vocational Education	\$ 19,986,222
<u>(95-04-000) Delaware State Advisory Council on                     Career Education</u>	
(.6) Salaries and Wages of Employees (1.4)	\$ 23,454
F.I.C.A. - Employer's Share	1,350
Pensions	2,700
Health Insurance	<u>462</u>
TOTAL -- Delaware State Advisory Council on Career Education	\$ 27,966

(95-10-000) Caesar RodneyYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$ 22,753
Assistant Superintendent (1)		20,249
Directors (2)		37,995
Supervisors (2)		29,137
Principals (7)		118,738
Assistant Principals (7)		106,343
Administrative Assistant (1)		17,696
Clerical (25)		189,771
Teachers (289)		3,007,648
Teacher Psychologists (2)		20,812
Teachers - Speech & Hearing (2)		20,271
Teachers - Visiting (1)		11,081
Teachers - Drivers Education (3.2)		36,075
Custodial (45)		344,390
Nurses (7)		64,505
Cafeteria Managers (7)	\$57,097	- - -
Supervisor of Transportation (.67)		11,387
Supervisor of School Lunch (1)		12,271
Cafeteria Workers	- - -	47,284
TOTAL -- Division I	\$57,097	\$ 4,118,406
Other Employment Costs		
F.I.C.A. - Employer's Share		- - -
Cafeteria Employees	\$16,735	- - -
F.I.C.A. - Employer's Share		- - -
All Others	- - -	279,043
Pensions - Cafeteria Employees	33,183	- - -
Pensions - All Others	- - -	563,842
Health Insurance		112,674
TOTAL -- Other Employment Costs	\$49,918	\$ 955,559
TOTAL -- Division I and Other Employment Costs		\$ 5,073,965
<u>Division II - Other Costs (337)</u>		\$ 685,795
All Other Costs		
Debt Service		
Principal		\$ 367,480
Interest		151,142
TOTAL -- All Other Costs		\$ 1,204,417
TOTAL -- Caesar Rodney		\$ 6,278,382

(95-11-000) John S. Charlton School  
 (Administered by Caesar Rodney School District)

Year Ending  
June 30, 1978

Division I - Salaries

Principal (1)		\$	16,818
Clerical (1)			7,240
Teachers (12)			115,908
Custodial (1)			7,867
Nurse (1)			7,693
Cafeteria Manager (1)	\$7,240	-	-
Aides and Attendants (12)			70,933
Therapists (1.02)			12,570
TOTAL -- Division I	\$7,240	\$	239,029
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 438	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- - -		15,276
Pensions - Cafeteria Employees	868	-	- - -
Pensions - All Others	- - -		30,710
Health Insurance			6,398
TOTAL -- Other Employment Costs	\$1,306	\$	52,384
TOTAL -- Division I and Other Employment Costs		\$	291,413
<u>Division II - Other Costs (21)</u>		\$	42,735
All Other Costs			
Debt Service			
Principal			12,000
Interest			1,848
TOTAL -- All Other Costs		\$	56,583
TOTAL -- John S. Charlton School		\$	347,996

(95-12-000) Claymont

Year Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$ 22,149
Supervisor (1)		13,351
Principals (5)		86,054
Assistant Principals (3)		48,333
Administrative Assistant (1)		18,021
Clerical (14)		107,843
Teachers (159)		1,775,925
Teacher Psychologist (1)		12,974
Teacher - Speech & Hearing (1)		8,379
Teacher - Visiting (.64)		7,047
Teachers - Driver Education (1.8)		20,918
Custodial (33)		251,869
Nurses (3)		28,452
Cafeteria Managers (6)	\$42,879	- - - -
Supervisor of School Lunch (1)		12,271
Cafeteria Workers	- - -	23,923
TOTAL -- Division I	\$42,879	\$ 2,437,509
Other Employment Costs		
F.I.C.A. - Employer's Share		
Cafeteria Employees	\$ 8,321	\$ - - - -
F.I.C.A. - Employer's Share		
All Others	- - -	186,242
Pensions - Cafeteria Employees	16,500	- - - -
Pensions - All Others	- - -	380,051
Health Insurance		53,619
TOTAL -- Other Employment Costs	\$24,821	\$ 619,912
TOTAL -- Division I and Other Employment Costs		\$ 3,057,421
<u>Division II - Other Costs (182)</u>		
		\$ 370,370
All Other Costs		
Debt Service		
Principal		256,150
Interest		91,398
TOTAL -- All Other Costs		\$ 717,918
TOTAL -- Claymont		\$ 3,775,339

<u>(95-13-000) Capital</u>	<u>Year Ending</u> <u>June 30, 1978</u>	
<u>Division I - Salaries</u>		
Chief School Officer (1)	\$	23,399
Assistant Superintendent (1)		20,572
Directors (2)		38,256
Supervisors (2)		27,785
Principals (8)		134,550
Assistant Principals (7)		111,243
Administrative Assistant (1)		17,695
Clerical (27)		207,778
Teachers (305)		3,345,619
Teacher Psychologists (2)		25,947
Teachers - Speech and Hearing (2)		24,325
Teacher - Visiting (1)		10,811
Teachers - Driver Education (4)		46,489
Custodial (63)		476,178
Nurses (8)		76,432
Cafeteria Managers (9)	\$72,108	- - -
Aides and Attendants (10)		58,568
Supervisor of Transportation (.77)		13,087
Supervisor of School Lunch (1)		13,351
Cafeteria Workers	- - -	42,551
Therapists (.66)		9,419
TOTAL -- Division I	\$72,108	\$ 4,724,055
Other Employment Costs		
F.I.C.A. - Employer's Share	\$	- - - -
Cafeteria Employees	\$14,345	
F.I.C.A. - Employer's Share		
All Others	- - -	338,543
Pensions - Cafeteria Employees	28,445	- - - -
Pensions - All Others	- - -	688,050
Health Insurance		148,218
TOTAL -- Other Employment Costs	\$42,790	\$ 1,174,811
TOTAL -- Division I and Other Employment Costs		\$ 5,898,866
<u>Division II - Other Costs (317)</u>		\$ 645,095
All Other Costs		
Debt Service		
Principal		510,000
Interest		156,324
TOTAL -- All Other Costs		\$ 1,311,419
TOTAL -- Capital		\$ 7,210,285



(95-14-000) Alexis I. duPontYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	22,147
Supervisor (1)			14,434
Principals (5)			84,306
Assistant Principals (2)			29,524
Administrative Assistant (1)			18,019
Clerical (14)			106,257
Teachers (158)			1,787,849
Teacher Psychologist (1)			12,704
Teacher - Speech & Hearing (1)			11,891
Teacher - Visiting (.632)			7,174
Teachers - Driver Education (2)			21,892
Custodial (46)			352,887
Nurses (3)			30,828
Cafeteria Managers (7)	\$52,764	- - -	-
Supervisor of Transportation (.426)			4,943
Supervisor of School Lunch (1)			12,270
Cafeteria Workers	- - -		27,530
<b>TOTAL -- Division I</b>	<b>\$52,764</b>	<b>\$</b>	<b>2,544,655</b>
<b>Other Employment Costs</b>			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$11,141		-
F.I.C.A. - Employer's Share			216,002
All Others	- - -		- - - -
Pensions - Cafeteria Employees	22,092		443,886
Pensions - All Others	- - -		67,237
Health Insurance			-
<b>TOTAL -- Other Employment Costs</b>	<b>\$33,233</b>	<b>\$</b>	<b>727,125</b>
<b>TOTAL -- Division I and Other Employment Costs</b>		<b>\$</b>	<b>3,271,780</b>
<u><b>Division II - Other Costs (174)</b></u>		<b>\$</b>	<b>354,090</b>
<b>All Other Costs</b>			
Debt Service			
Principal			434,800
Interest			263,288
<b>TOTAL -- All Other Costs</b>		<b>\$</b>	<b>1,052,178</b>
<b>TOTAL -- Alexis I. duPont</b>		<b>\$</b>	<b>4,323,958</b>

<u>(95-15-000) Lake Forest</u>	<u>Year Ending</u> <u>June 30, 1978</u>	
<u>Division I - Salaries</u>		
Chief School Officer (1)	\$	20,526
Supervisor (1)		14,433
Principals (5)		84,333
Assistant Principals (3)		44,968
Administrative Assistant (1)		17,696
Clerical (16)		123,491
Teachers (178)		1,842,405
Teacher Psychologist (1)		11,485
Teacher - Speech & Hearing (1)		10,811
Teachers - Driver Education (2)		21,622
Custodial (28)		208,250
Nurses (4)		34,170
Cafeteria Managers (5)	\$39,485	- - -
Supervisor of Transportation (.443)		6,953
Supervisor of School Lunch (1)		12,270
Cafeteria Workers	- - -	37,642
TOTAL -- Division I	\$39,485	\$ 2,491,055
Other Employment Costs		
F.I.C.A. - Employer's Share		
Cafeteria Employees	\$11,286	\$ - - - -
F.I.C.A. - Employer's Share		
All Others	- - -	164,788
Pensions - Cafeteria Employees	22,380	- - - -
Pensions - All Others		331,953
Health Insurance		77,476
TOTAL -- Other Employment Costs	\$33,666	\$ 574,217
TOTAL -- Division I and Other Employment Costs		\$ 3,065,272
<u>Division II - Other Costs (202)</u>		\$ 411,070
All Other Costs		
Debt Service		
Principal		183,750
Interest		71,582
TOTAL -- All Other Costs		\$ 666,402
TOTAL -- Lake Forest		\$ 3,731,674

(95-16-000) LaurelYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	20,574
Supervisor (.73)			10,041
Principals (3)			49,000
Assistant Principals (2)			30,716
Administrative Assistant (1)			17,697
Clerical (10)			78,019
Teachers (109)			1,168,851
Teacher Psychologist (1)			9,460
Teacher - Speech & Hearing (1)			11,892
Teacher - Driver Education (1)			12,704
Custodial (26)			200,194
Nurses (2)			19,494
Cafeteria Managers (3)	\$23,984	- - -	-
Supervisor of School Lunch (1)			12,272
Cafeteria Workers	- - -		22,147
TOTAL -- Division I	\$23,984	\$	1,663,061
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$ 7,904		
F.I.C.A. - Employer's Share			
All Others	- - -		105,752
Pensions - Cafeteria Employees	15,674	- - -	-
Pensions - All Others	- - -		207,385
Health Insurance			58,647
TOTAL -- Other Employment Costs	\$23,578	\$	371,784
TOTAL -- Division I and Other Employment Costs		\$	2,034,845
<u>Division II - Other Costs (125)</u>		\$	254,375
All Other Costs			
Debt Service			
Principal			135,500
Interest			74,034
TOTAL -- All Other Costs		\$	463,909
TOTAL -- Laurel		\$	2,498,754

(95-17-000) Cape HenlopenYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$ 21,813
Supervisor (1)		14,163
Principals (7)		118,099
Assistant Principal (1)		15,871
Administrative Assistant (1)		17,685
Clerical (16)		121,637
Teachers (176)		1,886,285
Teacher Psychologist (1)		12,974
Teacher - Speech & Hearing (1)		10,271
Teacher - Visiting (1)		10,811
Teachers - Driver Education (2)		24,595
Custodial (42)		307,740
Nurses (4)		36,931
Cafeteria Managers (7)	\$53,981	- - -
Supervisor of School Lunch (1)		12,271
Cafeteria Workers	- - -	<u>31,850</u>
 TOTAL -- Division I	 \$53,981	 \$ 2,642,996
 Other Employment Costs		
F.I.C.A. - Employer's Share		\$ - - -
Cafeteria Employees	\$10,768	
F.I.C.A. - Employer's Share		
All Others	- - -	195,279
Pensions - Cafeteria Employees	21,352	- - -
Pensions - All Others	- - -	397,743
Health Insurance		<u>84,595</u>
 TOTAL -- Other Employment Costs	 \$32,120	 \$ 677,617
 TOTAL -- Division I and Other Employment Costs		 \$ 3,320,613
 <u>Division II - Other Costs (195)</u>		 \$ 396,825
All Other Costs		
Debt Service		
Principal		322,470
Interest		<u>240,930</u>
 TOTAL -- All Other Costs		 \$ 960,225
 TOTAL -- Cape Henlopen		 \$ 4,280,838

(95-18-000) MilfordYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	22,148
Supervisor (1)			14,163
Principals (5)			85,057
Assistant Principals (4)			60,186
Administrative Assistant (1)			17,372
Clerical (17)			130,373
Teachers (193)			2,025,459
Teacher Psychologist (1)			12,704
Teacher - Speech & Hearing (1)			8,649
Teacher - Visiting (1)			11,891
Teachers - Driver Education (2.6)			26,973
Custodial (35)			269,773
Nurses (4)			38,987
Cafeteria Managers (6)	\$47,406	-	- - -
Supervisor of Transportation (.974)			13,468
Supervisor of School Lunch (1)			12,271
Cafeteria Workers	- - -		<u>38,663</u>
TOTAL -- Division I	\$47,406	\$	2,788,137
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$12,238		
F.I.C.A. - Employer's Share			
All Others	- - -		180,315
Pensions - Cafeteria Employees	24,267		- - - -
Pensions - All Others	- - -		362,716
Health Insurance			<u>83,173</u>
TOTAL -- Other Employment Costs	\$36,505	\$	626,204
TOTAL -- Division I and Other Employment Costs		\$	3,414,341
<u>Division II - Other Costs (222)</u>		\$	451,770
All Other Costs			
Debt Service			
Principal			237,900
Interest			<u>96,857</u>
TOTAL -- All Other Costs		\$	786,527
TOTAL -- Milford		\$	4,200,868

(95-19-000) Mount PleasantYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	21,501
Director (1)			18,998
Supervisor (1)			13,081
Principals (6)			98,253
Assistant Principals (6)			92,482
Administrative Assistant (1)			17,372
Clerical (20)			151,494
Teachers (224)			2,581,257
Teacher Psychologist (1)			12,974
Teacher - Speech & Hearing (1)			9,999
Teacher - Visiting (.9)			10,702
Teachers - Driver Education (3.4)			40,218
Custodial (40)			305,258
Nurses (5)			50,991
Cafeteria Managers (6)	\$48,557	-	- - -
Supervisor of Transportation (.331)			4,659
Supervisor of School Lunch (1)			12,271
Cafeteria Workers	- - -		31,523
<b>TOTAL -- Division I</b>	<b>\$48,557</b>	<b>\$</b>	<b>3,473,033</b>
<b>Other Employment Costs</b>			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 9,733	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- - -		283,116
Pensions - Cafeteria Employees	19,300		- - - -
Pensions - All Others	- - -		579,911
Health Insurance			87,083
<b>TOTAL -- Other Employment Costs</b>	<b>\$29,033</b>	<b>\$</b>	<b>950,110</b>
<b>TOTAL -- Division I and Other Employment Costs</b>		<b>\$</b>	<b>4,423,143</b>
<u>Division II - Other Costs (253)</u>		<b>\$</b>	<b>514,855</b>
<b>All Other Costs</b>			
Debt Service			
Principal			407,100
Interest			127,715
<b>TOTAL -- All Other Costs</b>		<b>\$</b>	<b>1,049,670</b>
<b>TOTAL -- Mount Pleasant</b>		<b>\$</b>	<b>5,472,813</b>

(95-20-000) New Castle-Gunning BedfordYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	23,078
Assistant Superintendent (1)			20,574
Directors (3)			56,666
Supervisors (2)			28,474
Principals (10)			168,820
Assistant Principals (10)			156,957
Administrative Assistant (1)			16,397
Clerical (36)			266,704
Teachers (419)			4,464,422
Teacher Psychologists (2)			25,948
Teachers - Speech & Hearing (3)			30,542
Teacher - Visiting (1)			10,540
Teachers - Driver Education (5)			55,409
Custodial (73)			539,072
Nurses (10)			98,441
Cafeteria Managers (11)	\$83,242	- - -	-
Supervisor of Transportation (.868)			14,753
Supervisor of School Lunch (1)			13,351
Cafeteria Workers	- - -		59,005
TOTAL -- Division I	\$83,242	\$	6,049,153
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$20,966	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- - -		451,078
Pensions - Cafeteria Employees	41,573	- - - -	-
Pensions - All Others	- - -		919,149
Health Insurance			162,436
TOTAL -- Other Employment Costs	\$62,539	\$	1,532,663
TOTAL -- Division I and Other Employment Costs		\$	7,581,816
<u>Division II - Other Costs (479)</u>		\$	974,765
All Other Costs			
Debt Service			
Principal			808,100
Interest			362,007
TOTAL -- All Other Costs		\$	2,144,872
TOTAL -- New Castle-Gunning Bedford		\$	9,726,688

(95-21-000) NewarkYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	23,401
Assistant Superintendents (2)			41,795
Directors (6)			116,580
Supervisors (5)			72,436
Principals (23)			391,991
Assistant Principals (15)			232,058
Administrative Assistant (1)			18,021
Clerical (67)			513,334
Teachers (787)			8,651,286
Teacher Psychologists (5)			62,163
Teachers - Speech & Hearing (5)			50,272
Teachers - Visiting (3)			32,974
Teachers - Driver Education (9.8)			106,598
Custodial (134)			990,297
Nurses (19)			177,067
Cafeteria Managers (19)	\$162,061	-	-
Supervisor of Transportation (1)			16,021
Supervisor of School Lunch (1)			12,271
Cafeteria Workers	- - - -		100,441
<b>TOTAL -- Division I</b>	<b>\$162,061</b>	<b>\$</b>	<b>11,609,006</b>
<b>Other Employment Costs</b>			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$ 33,014		
F.I.C.A. - Employer's Share			
All Others	- - - -		933,893
Pensions - Cafeteria Employees	65,463		- - - -
Pensions - All Others	- - - -		1,913,450
Health Insurance			328,782
<b>TOTAL -- Other Employment Costs</b>	<b>\$98,477</b>	<b>\$</b>	<b>3,176,125</b>
<b>TOTAL -- Division I and Other Employment Costs</b>		<b>\$</b>	<b>14,785,131</b>
<u><b>Division II - Other Costs (878)</b></u>			
<b>All Other Costs</b>			
Debt Service			
Principal			1,663,700
Interest			893,221
<b>TOTAL -- All Other Costs</b>		<b>\$</b>	<b>4,343,651</b>
<b>TOTAL -- Newark</b>		<b>\$</b>	<b>19,128,782</b>



(95-22-000) Margaret S. Sterck  
(Administered by Newark District)

Year Ending  
June 30, 1978

Division I - Salaries

Principal (1)		\$	16,747
Clerical (2)			15,017
Teachers (22)			239,199
Teacher - Audiologist (1)			11,081
Teacher - Speech & Hearing (1)			9,190
Custodial (5)			36,146
Nurse (1)			10,242
Cafeteria Manager (1)	\$7,248	-	- - -
Aides and Attendants (18)			99,731
Salaries - Resident Supervision (11)			102,659
Salaries - Interpreter - Tutors (3)			25,677
TOTAL -- Division I	\$7,248	\$	565,689
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 424	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- -		38,366
Pensions - Cafeteria Employees	841	-	- - -
Pensions - All Others	- -		77,319
Health Insurance			13,862
TOTAL -- Other Employment Costs	\$1,265	\$	129,547
TOTAL -- Division I and Other Employment Costs		\$	695,236
<u>Division II - Other Costs (22)</u>		\$	44,770
Residence - Other Cost			53,000
Consultant Services			11,500
All Other Costs			
Debt Service			
Principal			48,550
Interest			29,189
TOTAL -- All Other Costs		\$	187,009
TOTAL -- Margaret S. Sterck		\$	882,245

<u>(95-23-000) Seaford</u>		<u>Year Ending</u> <u>June 30, 1978</u>
<u>Division I - Salaries</u>		
Chief School Officer (1)		\$ 21,501
Supervisor (1)		14,164
Principals (5)		83,258
Assistant Principals (3)		46,612
Administrative Assistant (1)		17,372
Clerical (16)		122,279
Teachers (182)		1,920,981
Teacher Psychologist (1)		12,704
Teacher - Speech & Hearing (1)		10,811
Teacher - Visiting (.728)		7,083
Teachers - Driver Education (2.4)		24,379
Custodial (32)		243,590
Nurses (5)		47,450
Cafeteria Managers (5)	\$41,990	- - -
Aides and Attendants (5)		28,342
Supervisor of Transportation (1)		16,996
Supervisor of School Lunch (1)		12,272
Cafeteria Workers	- - -	37,742
TOTAL -- Division I	\$41,990	\$ 2,667,536
Other Employment Costs		
F.I.C.A. - Employer's Share		
Cafeteria Employees	\$11,933	\$ - - -
F.I.C.A. - Employer's Share		
All Others	- - -	179,285
Pensions - Cafeteria Employees	23,662	- - -
Pensions - All Others	- - -	361,651
Health Insurance		62,446
TOTAL -- Other Employment Costs	\$35,595	\$ 603,382
TOTAL -- Division I and Other Employment Costs		\$ 3,270,918
<u>Division II - Other Costs (205)</u>		\$ 417,175
All Other Costs		
Debt Service		
Principal		184,400
Interest		54,031
TOTAL -- All Other Costs		\$ 655,606
TOTAL -- Seaford		\$ 3,926,524

(95-24-000) SmyrnaYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	21,824
Supervisor (1)			14,163
Principals (5)			82,858
Assistant Principals (3)			44,015
Administrative Assistant (1)			17,372
Clerical (15)			113,138
Teachers (160)			1,634,241
Teacher Psychologist (1)			12,704
Teacher - Speech & Hearing (1)			9,730
Teacher - Visiting (.64)			7,610
Teacher - Driver Education (1.8)			20,325
Custodial (31)			233,650
Nurses (4)			38,987
Cafeteria Managers (5)	\$39,552	- - -	-
Supervisor of Transportation (.3)			4,806
Supervisor of School Lunch (1)			12,000
Cafeteria Workers	- - -		24,474
TOTAL -- Division I	\$39,552	\$	2,294,897
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 8,743	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- - -		150,429
Pensions - Cafeteria Employees	17,336	- - - -	-
Pensions - All Others	- - -		302,925
Health Insurance			53,760
TOTAL -- Other Employment Costs	\$26,079	\$	507,114
TOTAL -- Division I and Other Employment Costs		\$	2,829,485
<u>Division II - Other Costs (180)</u>		\$	366,300
All Other Costs			
Debt Service			
Principal			256,600
Interest			151,222
TOTAL -- All Other Costs		\$	774,122
TOTAL -- Smyrna		\$	3,603,607

(95-25-000) WilmingtonYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	23,401
Assistant Superintendents (2)			41,147
Directors (5)			94,661
Supervisors (4)			57,195
Principals (19)			317,696
Assistant Principals (12)			186,167
Administrative Assistant (1)			18,020
Clerical (59)			461,557
Teachers (686)			7,687,339
Teacher Psychologists (4)			49,459
Teachers - Speech & Hearing (5.68)			68,829
Teachers - Visiting (2)			25,408
Teachers - Driver Education (7.8)			87,409
Custodial (134)			1,028,445
Nurses (17)			171,000
Cafeteria Managers (22)	\$171,826	-	-
Aides and Attendants (17)			101,432
Supervisor of Transportation (.347)			5,724
Supervisor of School Lunch (1)			12,272
Cafeteria Workers	- - - -		128,030
TOTAL -- Division I	\$171,826	\$	10,565,191
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 41,289	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- - - -		925,959
Pensions - Cafeteria Employees	81,873		- - - -
Pensions - All Others	- - - -		1,907,017
Health Insurance			359,822
TOTAL -- Other Employment Costs	\$123,062	\$	3,192,798
TOTAL -- Division I and Other Employment Costs		\$	13,757,989
<u>Division II - Other Costs</u> (804)		\$	1,636,140
All Other Costs			
Debt Service			
Principal			1,709,290
Interest			1,275,278
TOTAL -- All Other Costs		\$	4,620,708
TOTAL -- Wilmington		\$	18,378,697

(95-26-000) Alfred I. duPontYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	23,401
Assistant Superintendent (1)			20,897
Directors (3)			57,315
Supervisors (3)			42,217
Principals (14)			229,097
Assistant Principals (5)			77,278
Administrative Assistant (1)			17,372
Clerical (39)			294,287
Teachers (448)			5,193,927
Teacher Psychologists (2)			25,407
Teachers - Speech & Hearing (3)			34,597
Teacher - Visiting (1)			11,891
Teachers - Driver Education (6)			71,893
Custodial (105)			796,805
Nurses (11)			110,187
Cafeteria Managers (14)	\$111,824	- - - -	
Aides and Attendants (3)			15,978
Supervisor of Transportation (.582)			8,192
Supervisor of School Lunch (1)			12,271
Cafeteria Workers	- - - -		52,995
TOTAL -- Division I	\$111,824	\$	7,096,007
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 18,942	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- - -		605,059
Pensions - Cafeteria Employees	37,561	- - - -	
Pensions - All Others	- - -		1,243,981
Health Insurance			211,131
TOTAL -- Other Employment Costs	\$ 56,503	\$	2,060,171
TOTAL -- Division I and Other Employment Costs		\$	9,156,178
<u>Division II - Other Costs</u> (491)		\$	999,185
All Other Costs			
Debt Service			
Principal			1,000,900
Interest			343,192
TOTAL -- All Other Costs		\$	2,343,277
TOTAL -- Alfred I. duPont		\$	11,499,455

(95-27-000) Charles W. Bush Trainable  
(Administered by Alfred I. duPont District)

Year Ending  
June 30, 1978

Division I - Salaries

Principal (1)		\$	16,893
Clerical (1)			7,365
Teachers (13)			141,384
Custodial (2)			15,484
Nurse (1)			10,499
Cafeteria Manager (1)	\$7,038		- - -
Aides and Attendants (12)			<u>71,473</u>

TOTAL -- Division I	\$7,038	\$	263,098
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Other Employment Costs

F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 412	\$	- - -
F.I.C.A. - Employer's Share			
All Others	- - -		20,638
Pensions - Cafeteria Employees	816		- - -
Pensions - All Others	- - -		41,984
Health Insurance			<u>5,687</u>

TOTAL -- Other Employment Costs	\$1,228	\$	68,309
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TOTAL -- Division I and Other Employment Costs		\$	331,407
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<u>Division II - Other Costs (19)</u>		\$	38,665
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All Other Costs

Debt Service			
Principal			49,500
Interest			<u>27,370</u>

TOTAL -- All Other Costs		\$	115,535
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TOTAL -- Charles W. Bush Trainable		\$	446,942
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(95-28-000) Marshallton-McKeanYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	22,148
Supervisor (1)			14,163
Principals (5)			84,984
Assistant Principals (4)			63,480
Administrative Assistant (1)			17,372
Clerical (16)			122,865
Teachers (179)			2,003,840
Teacher Psychologist (1)			11,621
Teacher - Speech & Hearing (1)			8,378
Teacher - Visiting (.716)			9,096
Teachers - Driver Education (2.2)			25,296
Custodial (35)			266,259
Nurses (4)			38,986
Cafeteria Managers (5)	\$40,498		- - - -
Supervisor of School Lunch (1)			11,189
Cafeteria Workers	- - -		<u>22,199</u>
TOTAL -- Division I	\$40,498	\$	2,721,876
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$ 8,109		
F.I.C.A. - Employer's Share			215,033
All Others	- - -		- - - -
Pensions - Cafeteria Employees	16,080		439,327
Pensions - All Others	- - -		<u>62,876</u>
Health Insurance			
TOTAL -- Other Employment Costs	\$24,189	\$	717,236
TOTAL -- Division I and Other Employment Costs		\$	3,439,112
<u>Division II - Other Costs (213)</u>		\$	433,455
All Other Costs			
Debt Service			262,050
Principal			<u>85,156</u>
Interest			
TOTAL -- All Other Costs		\$	780,661
TOTAL -- Marshallton-McKean		\$	4,219,773

<u>(95-29-000) Appoquinimink</u>	<u>Year Ending</u> <u>June 30, 1978</u>	
<u>Division I - Salaries</u>		
Chief School Officer (1)	\$	20,898
Supervisor (.88)		11,749
Principals (4)		66,884
Assistant Principals (3)		45,180
Administrative Assistant (1)		18,020
Clerical (12)		91,860
Teachers (132)		1,362,048
Teacher Psychologist (.88)		11,179
Teacher - Speech & Hearing (.943)		8,921
Teacher - Visiting (.528)		4,852
Teachers - Driver Education (1.4)		15,243
Custodial (24)		180,847
Nurses (3)		28,470
Cafeteria Managers (5)	\$31,831	- - -
Supervisor of Transportation (.277)		4,528
Supervisor of School Lunch (1)		12,270
Cafeteria Workers	- - -	18,143
TOTAL -- Division I	\$31,831	\$ 1,901,092
Other Employment Costs		
F.I.C.A. - Employer's Share		
Cafeteria Employees	\$ 6,077	\$ - - -
F.I.C.A. - Employer's Share		
All Others	- - -	137,271
Pensions - Cafeteria Employees	12,039	- - -
Pensions - All Others	- - -	278,757
Health Insurance		55,094
TOTAL -- Other Employment Costs	\$18,116	\$ 471,122
TOTAL -- Division I and Other Employment Costs		\$ 2,372,214
<u>Division II - Other Costs (151)</u>		\$ 307,285
All Other Costs		
Debt Service		
Principal		246,200
Interest		169,663
TOTAL -- All Other Costs		\$ 723,148
TOTAL -- Appoquinimink		\$ 3,095,362



(95-30-000) Conrad AreaYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	23,076
Director (1)			19,646
Supervisor (1)			14,163
Principals (9)			150,599
Assistant Principals (4)			63,377
Administrative Assistant (1)			17,372
Clerical (24)			179,052
Teachers (270)			2,921,506
Teacher Psychologist (1)			13,068
Teacher - Speech & Hearing (1)			11,928
Teacher - Visiting (1)			11,913
Teachers - Driver Education (3.0)			32,142
Custodial (40)			307,290
Nurses (6)			58,702
Cafeteria Managers (6)	\$46,937	- - -	-
Supervisor of Transportation (.32)			2,828
Supervisor of School Lunch (1)			12,563
Cafeteria Workers	- - -		43,257
TOTAL -- Division I	\$46,937	\$	3,882,482
Other Employment Costs			
F.I.C.A. - Employer's Share			- - - -
Cafeteria Employees	\$13,397	\$	- - - -
F.I.C.A. - Employer's Share			- - - -
All Others	- - -		292,224
Pensions - Cafeteria Employees	26,565	- - - -	-
Pensions - All Others	- - -		595,937
Health Insurance			99,168
TOTAL -- Other Employment Costs	\$39,962	\$	987,329
TOTAL -- Division I and Other Employment Costs		\$	4,869,811
<u>Division II - Other Costs (307)</u>			
In Service Program		\$	14,850
All Other Costs			
Debt Service			
Principal			446,250
Interest			93,565
TOTAL -- All Other Costs		\$	1,179,410
TOTAL -- Conrad Area		\$	6,049,221

(95-31-000) De La Warr	Year Ending June 30, 1978	
<u>Division I - Salaries</u>		
Chief School Officer (1)	\$	21,824
Supervisor (1)		14,709
Principals (5)		83,480
Assistant Principals (4)		60,182
Administrative Assistant (1)		17,608
Clerical (16)		121,234
Teachers (176)		1,872,242
Teacher Psychologist (1)		12,704
Teacher - Speech & Hearing (1)		9,730
Teacher - Visiting (.704)		6,660
Teachers - Driver Education (1.4)		17,081
Custodial (32)		236,105
Nurses (4)		39,740
Cafeteria Managers (5)	\$41,985	- - -
Supervisor of Transportation (.226)		3,181
Supervisor of School Lunch (1)		12,269
Cafeteria Workers	- - -	32,535
TOTAL -- Division I	\$41,985	\$ 2,561,284
Other Employment Costs		
F.I.C.A. - Employer's Share		
Cafeteria Employees	\$10,712	\$ - - - -
F.I.C.A. - Employer's Share		
All Others	- - -	178,540
Pensions - Cafeteria Employees	21,241	- - - -
Pensions - All Others	- - -	361,455
Health Insurance		58,292
TOTAL -- Other Employment Costs	\$31,953	\$ 598,287
TOTAL -- Division I and Other Employment Costs		\$ 3,159,571
<u>Division II - Other Costs (241)</u>		\$ 490,435
All Other Costs		
Debt Service		
Principal		240,000
Interest		54,258
TOTAL -- All Other Costs		\$ 784,693
TOTAL -- De La Warr		\$ 3,944,264

(95-32-000) John G. Leach  
(Administered by De La Warr)

Year Ending  
June 30, 1978

Division I - Salaries

Principal (1)		\$	16,496
Clerical (1)			7,510
Teachers (15)			160,007
Custodial (2)			15,609
Nurses (1)			9,747
Aides and Attendants (15)			<u>82,590</u>
TOTAL -- Division I		\$	291,959
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$287	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- -		20,050
Pensions - Cafeteria Employees	568		- - - -
Pensions - All Others	- -		40,350
Health Insurance			<u>12,796</u>
TOTAL -- Other Employment Costs	\$855	\$	73,196
TOTAL -- Division I and Other Employment Costs		\$	365,155
<u>Division II - Other Costs (15)</u>		\$	30,525
All Other Costs			
Debt Service			
Principal			21,000
Interest			<u>1,314</u>
TOTAL -- All Other Costs		\$	52,839
TOTAL -- John G. Leach		\$	417,994

(95-33-000) StantonYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	22,753
Director (1)			16,728
Supervisor (1)			14,703
Principals (8)			133,891
Assistant Principals (4)			62,508
Administrative Assistant (1)			17,373
Clerical (21)			157,973
Teachers (236)			2,690,093
Teacher Psychologist (1)			12,704
Teacher - Speech & Hearing (1)			10,812
Teacher - Visiting (1)			8,420
Teachers - Driver Education (2.8)			30,994
Custodial (49)			366,944
Nurses (5)			48,735
Cafeteria Managers (8)	\$63,664	- - - -	
Supervisor of Transportation (.948)			15,187
Supervisor of School Lunch (1)			12,232
Cafeteria Workers	- - -		29,002
<b>TOTAL -- Division I</b>	<b>\$63,664</b>	<b>\$</b>	<b>3,651,052</b>
<b>Other Employment Costs</b>			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$13,311		
F.I.C.A. - Employer's Share			
All Others	- - -		294,529
Pensions - Cafeteria Employees	26,393		- - - -
Pensions - All Others	- - -		603,251
Health Insurance			116,229
<b>TOTAL -- Other Employment Costs</b>	<b>\$39,704</b>	<b>\$</b>	<b>1,014,009</b>
<b>TOTAL -- Division I and Other Employment Costs</b>		<b>\$</b>	<b>4,665,061</b>
<u><b>Division II - Other Costs (271)</b></u>		<b>\$</b>	<b>551,485</b>
<b>All Other Costs</b>			
Debt Service			
Principal			481,190
Interest			161,858
<b>TOTAL -- All Other Costs</b>		<b>\$</b>	<b>1,194,533</b>
<b>TOTAL -- Stanton</b>		<b>\$</b>	<b>5,859,594</b>

(95-34-000) Meadowood Trainable  
(Administered by Stanton)

Year Ending  
June 30, 1978

Division I - Salaries

Principal (1)		\$	17,395
Clerical (1)			7,374
Teachers (17)			174,872
Custodial (3)			22,758
Nurse (1)			9,747
Cafeteria Manager (1)	\$6,437		- - -
Aides and Attendants (12)			<u>72,282</u>
TOTAL -- Division I	\$6,437	\$	304,428
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$ 533		
F.I.C.A. - Employer's Share			22,444
All Others	- -		- - - -
Pensions - Cafeteria Employees	1,056		- - - -
Pensions - All Others	- -		45,614
Health Insurance			<u>8,886</u>
TOTAL -- Other Employment Costs	\$1,589	\$	76,944
TOTAL -- Division I and Other Employment Costs		\$	381,372
<u>Division II - Other Costs (21)</u>		\$	42,735
All Other Costs			
Debt Service			
Principal			10,000
Interest			<u>2,070</u>
TOTAL -- All Other Costs		\$	54,805
TOTAL -- Meadowood Trainable		\$	436,177

(95-35-000) WoodbridgeYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	20,898
Supervisor (.633)			7,845
Principals (3)			49,264
Assistant Principal (1)			12,228
Administrative Assistant (1)			17,372
Clerical (9)			70,517
Teachers (95)			984,456
Teacher Psychologist (.633)			6,501
Teacher - Speech & Hearing (.679)			5,873
Teacher - Driver Education (1)			10,811
Custodial (11)			111,491
Nurses (2)			18,271
Cafeteria Managers (3)	\$23,435		- - -
Cafeteria Workers	- - -		21,357
TOTAL -- Division I	\$23,435	\$	1,336,884
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$ 6,455		
F.I.C.A. - Employer's Share			
All Others	- - -		88,030
Pensions - Cafeteria Employees	12,799		- - - -
Pensions - All Others	- - -		177,705
Health Insurance			40,876
TOTAL -- Other Employment Costs	\$19,254	\$	306,611
TOTAL -- Division I and Other Employment Costs		\$	1,643,495
<u>Division II - Other Costs (105)</u>		\$	213,675
All Other Costs			
Debt Service			
Principal			72,500
Interest			13,529
TOTAL -- All Other Costs		\$	299,704
TOTAL -- Woodbridge		\$	1,943,199

(95-36-000) Indian RiverYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	23,077
Assistant Superintendent (1)			20,249
Directors (2)			38,319
Supervisors (2)			28,596
Principals (10)			167,967
Assistant Principals (4)			59,641
Administrative Assistant (1)			17,372
Clerical (27)			204,397
Teachers (308)			3,175,515
Teacher Psychologists (2)			25,000
Teachers - Speech & Hearing (2)			21,621
Teacher - Visiting (1)			10,540
Teachers - Driver Education (3.6)			40,891
Custodial (45)			348,496
Nurses (7)			68,980
Cafeteria Managers (9)	\$71,112	- - -	-
Supervisor of Transportation (.858)			13,468
Supervisor of School Lunch (1)			12,271
Cafeteria Workers	- - -		66,616
TOTAL -- Division I	\$71,112	\$	4,343,016
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$20,537	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- - -		318,743
Pensions - Cafeteria Employees	40,723	- - -	-
Pensions - All Others	- - -		648,874
Health Insurance			120,494
TOTAL -- Other Employment Costs	\$61,260	\$	1,088,111
TOTAL -- Division I and Other Employment Costs		\$	5,431,127
<u>Division II - Other Costs (350)</u>		\$	712,250
All Other Costs			
Debt Service			
Principal			206,523
Interest			32,526
TOTAL -- All Other Costs		\$	951,299
TOTAL -- Indian River		\$	6,382,426

(95-37-000) DelmarYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	19,321
Principal (1)			17,696
Assistant Principal (1)			14,896
Administrative Assistant (1)			15,101
Clerical (4)			33,741
Teachers (43)			458,597
Teacher - Driver Education (.96)			10,379
Custodial (8)			62,055
Nurse (1)			9,746
Cafeteria Manager (1)	\$7,045	- - -	-
Cafeteria Workers	- - -		8,000
TOTAL -- Division I	\$7,045	\$	649,532
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$2,525		
F.I.C.A. - Employer's Share			
All Others	- - -		41,670
Pensions - Cafeteria Employees	5,006	- - -	-
Pensions - All Others	- - -		84,005
Health Insurance			13,083
TOTAL -- Other Employment Costs	\$7,531	\$	138,758
TOTAL -- Division I and Other Employment Costs		\$	788,290
<u>Division II - Other Costs (56)</u>		\$	113,960
All Other Costs			
Debt Service			
Principal			51,800
Interest			30,484
TOTAL -- All Other Costs		\$	196,244
TOTAL -- Delmar		\$	984,534



(95-38-000) New Castle Vocational-TechnicalYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	20,894
Supervisor (.74)			9,401
Principal (1)			17,747
Assistant Principals (4)			63,030
Administrative Assistant (1)			18,021
Clerical (10)			77,704
Teachers (111)			1,245,814
Teacher - Psychologist (.74)			9,001
Teachers - Driver Education (3.8)			41,517
Custodial (18)			137,942
Nurses (2)			19,199
Cafeteria Manager (1)	\$9,072	- - -	-
Cafeteria Workers	- - -		8,796
TOTAL -- Division I	\$9,072	\$	1,669,066
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$2,721		
F.I.C.A. - Employer's Share			
All Others	- - -		134,454
Pensions - Cafeteria Employees	5,395	- - -	-
Pensions - All Others	- - -		275,277
Health Insurance			51,183
TOTAL -- Other Employment Costs	\$8,116	\$	460,914
TOTAL -- Division I and Other Employment Costs		\$	2,129,980
<u>Division II - Other Costs (214)</u>		\$	435,490
All Other Costs			
Debt Service			
Principal			580,800
Interest			386,904
TOTAL -- All Other Costs		\$	1,403,194
TOTAL -- New Castle Vocational-Technical		\$	3,533,174

<u>(95-39-000) Kent Vocational-Technical</u>		Year Ending June 30, 1978
<u>Division I - Salaries</u>		
Chief School Officer (1)		\$ 18,998
Principals (2)		32,895
Assistant Principal (1)		15,871
Administrative Assistant (1)		17,697
Clerical (4)		34,106
Teachers (44)		491,094
Custodial (9)		71,360
Nurse (1)		8,462
Cafeteria Managers (2)	\$16,522	- - -
Cafeteria Workers	- - -	7,632
TOTAL -- Division I	\$16,522	\$ 698,115
Other Employment Costs		
F.I.C.A. - Employer's Share		
Cafeteria Employees	\$ 2,782	\$ - - -
F.I.C.A. - Employer's Share		
All Others	- - -	45,937
Pensions - Cafeteria Employees	5,516	- - -
Pensions - All Others	- - -	92,898
Health Insurance		17,417
TOTAL -- Other Employment Costs	\$ 8,298	\$ 156,252
TOTAL -- Division I and Other Employment Costs		\$ 854,367
<u>Division II - Other Costs (123)</u>		\$ 250,305
All Other Costs		
Debt Service		
Principal		289,970
Interest		204,408
TOTAL -- All Other Costs		\$ 744,683
TOTAL -- Kent Vocational-Technical		\$ 1,599,050

(95-40-000) Sussex Vocational-TechnicalYear Ending  
June 30, 1978Division I - Salaries

Chief School Officer (1)		\$	16,728
Principal (1)			16,398
Assistant Principal (1)			15,853
Administrative Assistant (1)			17,373
Clerical (4)			34,105
Teachers (42)			490,030
Custodial (12)			93,706
Nurse (1)			9,488
Cafeteria Manager (1)	\$7,857		- - -
TOTAL -- Division I	\$7,857	\$	693,681
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 503	\$	- - -
F.I.C.A. - Employer's Share			
All Others	- -		46,991
Pensions - Cafeteria Employees	998		- - -
Pensions - All Others	- -		94,789
Health Insurance			16,355
TOTAL -- Other Employment Costs	\$1,501	\$	158,135
TOTAL -- Division I and Other Employment Costs		\$	851,816
<u>Division II - Other Costs (117)</u>		\$	238,095
All Other Costs			
Debt Service			
Principal			229,352
Interest			125,531
TOTAL -- All Other Costs		\$	592,978
TOTAL -- Sussex Vocational-Technical		\$	1,444,794

Year Ending  
June 30, 1978

(95-42-000) Wallace Wallin School for Trainables  
(Administered by New Castle-Gunning Bedford  
District)

Division I - Salaries

Principal (1)		\$	16,495
Clerical (1)			6,509
Teachers (10)			104,329
Custodial (2)			15,093
Nurse (1)			9,747
Cafeteria Manager (1)	\$6,237	- - - -	
Aides and Attendants (9)			52,524
TOTAL -- Division I	\$6,237	\$	204,697
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	- - - -
Cafeteria Employees	\$ 385		
F.I.C.A. - Employer's Share			14,535
All Others	- -		- - - -
Pensions - Cafeteria Employees	764		29,526
Pensions - All Others	- -		5,332
Health Insurance			
TOTAL -- Other Employment Costs	\$1,149	\$	49,393
TOTAL -- Division I and Other Employment Costs		\$	254,090
<u>Division II - Other Costs (14)</u>		\$	28,490
All Other Costs			
Debt Service			
Principal			20,000
Interest			13,830
TOTAL -- All Other Costs		\$	62,320
TOTAL -- Wallace Wallin School for Trainables		\$	316,410

(95-43-000) Howard T. Ennis, Sr. Trainable  
(Administered by Indian River)

Year Ending  
June 30, 1978

Division I - Salaries

Principal (1)		\$	16,996
Clerical (1)			7,510
Teachers (23)			222,281
Custodial (2)			15,484
Nurse (1)			9,979
Cafeteria Manager (1)	\$7,720	-	-
Aides and Attendants (20)			125,089
Therapists (2.04)			25,141
			<hr/>
TOTAL -- Division I	\$7,720	\$	422,480
Other Employment Costs			
F.I.C.A. - Employer's Share			
Cafeteria Employees	\$ 498	\$	- - - -
F.I.C.A. - Employer's Share			
All Others	- -		29,949
Pensions - Cafeteria Employees	988	-	- - - -
Pensions - All Others	- -		60,705
Health Insurance			6,042
			<hr/>
TOTAL -- Other Employment Costs	\$1,486	\$	96,696
TOTAL -- Division I and Other Employment Costs		\$	519,176
<u>Division II - Other Costs (30)</u>		\$	61,050
All Other Costs			
Debt Service			
Principal			29,000
Interest			22,097
			<hr/>
TOTAL -- All Other Costs		\$	112,147
TOTAL -- Howard T. Ennis, Sr. Trainable		\$	631,323

Year Ending  
June 30, 1978

(95-44-000) Paul M. Hodgson Vocational School  
(Administered by Newark District)

Division I - Salaries

Principal (1)	\$ 17,747
Assistant Principal (2)	31,741
Clerical (3)	21,801
Teachers (35)	354,753
Custodial (16)	117,842
Nurse (1)	<u>7,435</u>

TOTAL -- Division I \$ 551,319

## Other Employment Costs

F.I.C.A. - Employer's Share		
All Others	\$ - - -	\$ 44,250
Pensions - All Others	- - -	90,553
Health Insurance		<u>14,217</u>

TOTAL -- Other Employment Costs \$ 149,020

TOTAL -- Division I and Other Employment Costs \$ 700,339

Division II - Other Costs (105) \$ 213,675

## All Other Costs

Debt Service	
Principal	574,350
Interest	<u>686,644</u>

TOTAL -- All Other Costs \$ 1,474,669

TOTAL -- Paul M. Hodgson Vocational School \$ 2,175,008

TOTALSYear Ending  
June 30, 1978

TOTAL AGENCIES	\$231,638,610
TOTAL HIGHER EDUCATION      \$ 53,101,732	
TOTAL PUBLIC EDUCATION <u>172,732,864</u>	
TOTAL EDUCATION	<u>225,834,596</u>
TOTAL -- AGENCIES AND EDUCATION	\$457,473,206
REDUCTION - PER SECTION 95	(2,700,000)
REDUCTION - CENTRALIZED PURCHASING	<u>(1,300,000)</u>
GRAND TOTAL	<u>\$453,473,206</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. 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 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, 1978. Line item salary positions are also reflected within department or agency budgets of Section 1 of this Act. No department or agency shall change the total number of positions except with the approval of the Delaware State Clearinghouse Committee. No department or agency shall change 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, 1978, 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, 1978, 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) During the fiscal year ending June 30, 1978, 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 14 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 on July 1, 1977. 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 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, 1978, but prior to June 15, 1978, there should be a casual deficiency of revenue in the General Fund to pay General Fund obligations, or to pay existing debts, the Governor, Secretary of State and State Treasurer (the "Issuing Officers") are authorized to issue revenue anticipation notes of The State of Delaware (the "State") in an amount they determine necessary to meet and to pay any or all of such obligations or debts.

(b) The Issuing Officers are hereby authorized to determine the terms, form and contents of such notes and to sell such notes at such price or prices, 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. Such notes and any renewals thereof shall mature within one year from date of the original issuance of such notes, shall be payable at the Farmers Bank of the State of Delaware in Dover, Delaware, and additionally, at the discretion of the Issuing Officers at a bank or trust company in The City of New York, New York.

Such 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 or shall be reproduced thereon, in facsimile, and such signatures and such notes shall be authenticated by an office of the Farmers Bank of the State of Delaware.

(c) The faith and credit of the State are hereby pledged for the payment of the principal of and interest on such notes.

(d) If, at any time during the fiscal year ending June 30, 1978, but prior to June 15, 1978, there shall be a casual deficiency of revenue in the General Fund to pay General Fund obligations or to pay existing debts, the State Treasurer may transfer available money from the State's Special Funds to the General Fund to pay such obligations or debts. Such money shall be reimbursed to the appropriate Special Funds as soon as sufficient General Fund monies become available, but not later than June 15, 1978.

Section 9. All expenses incident to the advertisement, preparation, issuance and delivery of revenue anticipation notes and the principal of and interest on such notes shall be paid by the State Treasurer from the General Fund. 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 issued in the prior fiscal year and including their cost of issuance.

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 education 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. (a) In the event that any school district shall have more certified units of pupils based on the actual enrollment for September 30, 1977, 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, 1977, 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, 1977, 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, 1977, 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, 1977.

(c) No funds appropriated in Section 1 of this Act shall be used for either salaries or non-salaries of a summer vocational school program other than Vocational-Technical School Districts for participation in program development in accordance with Section 1703 (j), Title 14, Delaware Code. Agricultural teachers may be hired for twelve (12) months and paid from Teacher funds appropriated (Fund 01-09) in Section 1 of this Act to local school districts.

Section 13. 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, 1977, except in the event such employee is reduced in classification or in months employed.

Section 14. (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 a third shift at a vocational school and in-services 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 re-evaluated 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 \$720,000 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, 1977. 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 15. 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 16. (a) For the purposes of this Act, line item salaried positions are defined as any salary line that is described by position title.

(b) Except as specifically authorized to the contrary by the Delaware Code, 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.

Section 17. The funds appropriated to the Department of Health and Social Services for Child Care, provides funds for the Head Start Program which 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 18. The sum of \$9,201,190 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) For the fiscal year 1978, the Department of Health and Social Services is hereby authorized an automatic appropriation for the sole purpose of paying the State's share of Title XIX Medicaid per diem costs in State institutions. Such automatic appropriation shall be expended solely in accordance with the following conditions and limitations:

(1) Such automatic appropriation 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) An amount, subject to approval by the Budget Director, may be expended by the Department of Health and Social Services for administrative costs involved in carrying out the purposes of this Section.

(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 19. No payments from the amount of \$157,500 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, 1978.

Section 20. For the fiscal year ending June 30, 1978, 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 21. (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 22. 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 1977 and 1978, as



well as projections for Fiscal Years 1979, 1980, and 1981. 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.

(3) The report shall be typewritten on standard-sized paper and reproduced by the most economical means. In final analysis, the report is to transmit information rather than be a promotional publication.

Section 23. (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. For purposes of maximizing matching Federal funds, Delaware Technical and Community College shall be allowed to transfer Student Financial Aid Funds among the Campuses.

(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 24. 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 25. 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, Controlled Substances Program, and Capitol Security for surveillance.

Section 26. (a) The limitation of \$2,200 with respect to the cost of passenger motor vehicles purchased for State use, prescribed by Section 6902, Chapter 69, Title 29 of the Delaware Code, is hereby increased to \$3,900 for such new vehicles purchased during the fiscal year ending June 30, 1978.

(b) Lease purchase agreements for vehicles, except the Governor's car, are prohibited.

(c) Air-conditioning on vehicles, except State Police vehicles, purchased during fiscal year 1978 is prohibited.

(d) The purchase of station wagons, without the written approval of the Budget Director and the Controller General, is prohibited.

(e) The Department of Health and Social Services may be excepted from (c) and (d) of this Section, with the approval of the Budget Director, for vehicles used exclusively to transport institutionalized patients.

Section 27. 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 28. 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, 1978, in excess of, or other than, the amounts set forth in this Act as have been or may be authorized in Supplementary Appropriations Act enacted by the General Assembly.

Section 29. 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, 1978, or any subsequent fiscal year, or any part thereof, during which such contract is effective.

Section 30. 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 of this Act. 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 31. The total appropriation in Section 1 of this Act to Central Data Processing for fiscal year 1978, contemplates data processing services for State Department/Agencies as indicated, subject to the following requirements:

(a) No new computer or computer-programming related systems study may be initiated by any Department/Agency in fiscal year 1978 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 1978 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 32. 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 33. 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, 1978.

Section 34. 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 1978 are hereby appropriated to the State Employees Retirement Fund. The General Fund appropriation will be reduced by any amount received.

Section 35. 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 or Pension Costs, such additional sum as may be required for this purpose is hereby appropriated and shall be paid from the General Fund.

Section 36. 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 37. Three hundred thousand dollars (\$300,000) is hereby advanced from the General Fund of the State to Legislative Council, Division of Maintenance, Communications and Capitol Security in order that telephone charges can be paid on a reasonable timely basis.

Section 38. 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.

Section 39. Section 1 of this Act appropriates \$2,169,434 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 1978 contemplates the enrollment of 20 new students in the program in September, 1977.

Section 40. (a) 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 following additions shall be made to the public school teachers pay scale commencing the fiscal year shown below. Amounts so authorized shall be paid to the qualified persons and shall not be used in lieu of previously authorized salary supplements provided by Delaware school districts:

(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.

(3) The public school pay plan for personnel in the fol-

lowing 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 Manger - \$982
- (vii) School Lunch Worker - \$1,114
- (viii) Attendants and Aides - \$1,189.

Section 41. (a) Anticipated salary savings due to employee turnover expectancy have been deducted from the salary lines in Section 1 of this Act of those agencies or sections, other than public school districts, that normally experience employee turnover.

(b) The Budget Director shall determine the actual salary savings and/or attrition factor, for fiscal year 1977 for each agency or section, other than public school districts. Such data shall be made available on or before October 1 to the Controller General.

Section 42. The amount appropriated to the Legislative Council, Division of Maintenance, Communications and Capitol Security entitled, Contingency - Wilmington State Office Building, shall be used for relocation expenses, utilities, maintenance, custodial and security services.

Section 43. Salaries of employees of Delaware State College and Delaware Technical and Community College shall be increased by five (5) percent effective July 1, 1977; but in no event shall an employee receive a total increase in fiscal year 1978 of more than five (5) percent.

Section 44. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Section 45. If any provision of this Act, or of any rule, regulation or order thereunder of 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.

Section 46. Section 1 of this Act provides for \$5,000 to the Office of the Controller General (01-08-002) for Salaries - Casual and Seasonal for Standing Legislative Committees. Requests from Chairmen of Standing Legislative Committees for professional staff assistance shall be submitted in writing to the Legislative Council for approval or disapproval. Approvals for professional staff assistance shall be allowed within the limits of the appropriation and as provided by guidelines established by the Legislative Council.

Section 47. Fifty thousand dollars (\$50,000) is hereby advanced from the General Fund of the State to the Legislative Council, Division of Maintenance, Communications and Capitol Security (01-08-003) in order that postage charges can be paid on a reasonable timely basis.

Section 48. Section 1 of this Act contemplates the occupancy of the Wilmington State Office Building in the fall of 1977, and the relocation of certain State agencies offices to the Wilmington State Office Building. At the time certain State agencies offices are relocated to the Wilmington State Office Building, the Budget Director is authorized to transfer from the agencies involved to the Division of Maintenance, Communications and Capitol Security (01-08-003), Legislative Council, such appropriations and employee maintenance, custodial and security positions as are mutually recommended by the agencies involved.

Section 49. Section 1 of this Act provides an appropriation for Salaries and Wages of Employees in the Family Court of Delaware (02-08-000) for fiscal year 1978. Of the 173 positions, this appropriation includes funding for three (3) positions:

Non-Professional Community Workers (2)	\$17,539
Presentence Officer (1)	12,688

Section 50. (a) Section 1 of this Act provides an appropriation to the Justice of the Peace Courts (02-13-000) for fifty-three (53) Justices of the Peace as follows for fiscal year 1978: Funding for fifty-two (52) Justices of the Peace, partial funding for one (1) Justice of the Peace, and three (3) percent salary savings. It is the intent of this Section that when one (1) Justice of Peace position becomes vacant through attrition, the position shall remain vacant for the remainder of fiscal year 1978.

(b) Section 1 of this Act provides an appropriation to the Justice of Peace Courts (02-13-000) for Salaries and Wages of Employees for fiscal year 1978. Of the twenty-four (24) positions, this appropriation includes funding for seventeen (17) positions:

Assistant Deputy Administrators (2)	\$37,198
Bailiffs (7)	61,415
Presentence Officers (3)	32,899
Administrative Assistants (2)	16,694
Capias Control Clerks (3)	23,863

(c) During fiscal year 1978, the Administrator of the Justice of Peace Courts (02-13-000) shall have the discretion to determine the hours of the Justice of Peace Courts.

(d) Section 1 of this Act appropriates \$21,526 to Justice of the Peace Courts (02-13-000) for Capital Outlay. Of this appropriation, \$4,500 is provided for the purchase of a truck.

Section 51. For the fiscal year ending June 30, 1978, the amount of \$147,000 encumbered by the Office of Budget Director (10-02-001) from fiscal year 1977 appropriations for Management Improvement Program shall be considered as a continuing appropriation and shall not be subject to reversion until June 30, 1978. The disbursement of these funds are subject to approval of the Budget Director, the Controller General, the Secretary of Finance, and the Director, Office of Management, Budget and Planning. It is the intent of this Section that these funds shall be used for the purpose of studying and recommending methods of improving the State's financial management systems. Further, the object of such recommendations will be to enhance the decision-making capability of the Governor and the General Assembly.

Section 52. (a) The funds appropriated to the State Board of Education and the State Board for Vocational Education under (95-01-001) Administration in Section 1 of this Act are hereby reduced by \$250,000.

(b) Reductions may include Other Employment Costs (F.I.C.A. -- Employer's Share, Pensions, and Health Insurance) as part of the total reduction, if the primary reduction contemplated is in authorized positions and salaries and wages of employees.

Section 53. The sum of \$162,309 appropriated to Governor's Commission on Criminal Justice (10-07-000) for Program Grants - State Agencies provide funds available for matching funds from the Federal Government. This appropriation shall not revert on June 30, 1978, 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 54. The line item, Expenses - Lieutenant Governor, in the amount of \$3,000 appropriated to (12-01-000) in Section 1 of this Act, shall be disbursed in twenty-four (24) semi-monthly equal installments during fiscal year 1978 to the Lieutenant Governor.



Section 55. Section 1 of this Act provides an appropriation of \$15,735 for Capital Outlay to the Office of the Attorney General (15-01-001) for fiscal year 1978. This appropriation includes \$6,035 for the purpose of procuring certain equipment items for the Economic Crime Unit.

Section 56. (a) Section 1 of this Act provides an appropriation to the Public Defender (15-02-000) for Salaries and Wages of Employees for fiscal year 1978. Of the nineteen (19) positions, this appropriation includes funding for five (5) positions:

Chief of Appellate Division (1)	\$25,000
Investigators - Screening (2)	23,075
Administrator II (1)	11,500
Secretary (1)	10,000

Employees to include a liaison assistant to coordinate the courts and the Defender's Office; and a stenographer. Both positions are exempt.

(b) Section 1 of this Act provides an appropriation to Public Defender (15-02-000), and authorizes positions for fiscal year ending June 30, 1978. It is the intent of this appropriation and authorization of positions that the Office of the Public Defender shall be exempted from any freeze on hiring invoked by the Executive Branch during the fiscal year.

Section 57. Section 1 of this Act appropriates \$25,743 for Operations to Delaware Arts Council (20-06-016). It is the intent of this appropriation to be allocated as follows:

Personal Services	\$20,000
Travel	800
Contractual Services	3,079
Supplies and Materials	1,000
Capital Outlay	864

Section 58. (a) Section 1 of this Act provides for a memorandum budget for the State Lottery (25-07-000) for fiscal year 1978 in accordance with projected Gross Sales. Chapter 48, Title 29, Delaware Code, provides that receipts from Gross Sales shall be allocated, generally, in accordance with the following schedule: 30% to General Fund; 20% to Operating Budget; 5% to Agent Fees; and 45% to Lottery Prizes. In the event that the estimated Gross Sales are revised and shall exceed the original projected amount during fiscal year 1978, and it is necessary to amend the operating budget set forth in memorandum form in Section 1 of this Act, the Secretary of Finance and the Lottery Director may request, in writing, authorization to expend such funds to cover operating expenses provided the total operating budget for fiscal year 1978 shall not exceed the 20% Gross Sales limit as defined by the Code. Such request in writing

shall be officially submitted for approval or disapproval to the Controller General of the State and the Budget Director of the State.

(b) The memorandum budget for the State Lottery (25-07-000) provides for the services of a resident auditor under the appropriation for Personal Services. In addition to his duties as the resident auditor, he shall perform such other duties as are assigned by the Secretary of Finance.

Section 59. Section 1 of this Act provides appropriations to the Department of Health and Social Services for the Emily P. Bissell Hospital and Governor Bacon Health Center for the fiscal year ending June 30, 1978. It is the intent of this appropriation that the Banton Building will become operative as a medical care facility in the late fall of 1977. It is the further intent of this appropriation that the renovation of the Tilton Building will continue within the limits of the authorized appropriation for that purpose and that it will continue to operate as a medical care facility during fiscal year 1978.

Section 60. Section 1 of this Act provides an appropriation to State Service Centers (35-12-000) for fiscal year ending June 30, 1978. This appropriation provides for the operation of the Absolum Jones Community Center. This appropriation authorizes the relocation of the Belvedere Service Center to the Absolum Jones Community Center.

Section 61. Section 1 of this Act provides an appropriation for Salaries and Wages of Employees to Probation and Parole (38-08-007). The (Counselors) shall be called Probation and Parole Officers and shall be charged with the dual, primary responsibilities of protection of the community and the rehabilitation of the offenders, which responsibilities would entail counseling, surveillance in the community, involvement of community resources, and cooperation with law enforcement agencies.

Section 62. Section 1 of this Act provides an appropriation of \$17,500 for Youth Conservation Program to (40-06-004) Recreation, Division of Parks and Recreation, Department of Natural Resources and Environmental Control. The Division of Parks and Recreation shall provide the following information to the members of the General Assembly within thirty (30) days following the commencement of the Youth Conservation Program:

(a) That the Division is maximizing the amount of Federal Funds available to match State Funds; and

(b) Names of the youths participating in the Program and the school districts in which they have permanent residence.

Section 63. (a) Section 1 of this Act provides an appropriation for Salaries and Wages of Employees and an authorization of 449.5 Special Fund positions and 662.5 General Fund positions

to the Department of Transportation, Division of Highways (55-05-000). It is the intent of this Section for fiscal year 1978, that the Division of Highways shall:

(i) Notwithstanding the authorization for 662.5 General Fund positions in Section 1 of this Act, be permitted appropriate action to achieve a reduction in number of such positions from 762.5 (authorized as of June 30, 1977) to 662.6 by an immediate reduction of vacant positions;

(ii) Notwithstanding the authorization of 662.5 General Fund positions in Section 1 of this Act, be permitted to achieve a further reduction in the remaining positions through an attrition process during the fiscal year; and

(iii) Not achieve the reduction by reducing filled positions. In the event that the Division of Highways cannot achieve the mandated reduction in authorized positions referenced in paragraphs (a) and (b) of this Section, the additional position(s) will be authorized and such additional sum as may be required for this purpose is hereby appropriated and shall be paid from the General Fund.

(b) Section 1 of this Act appropriates \$2,400,000 to (55-05-000) Division of Highways for Operations. This appropriation includes an authorization for the installation of a traffic light at Carr Road and Shipley Road in Shellburne. The traffic light shall be equipped with a pedestrian crossing manual control.

Section 64. Section 1 of this Act provides for a memorandum budget for the Delaware Transportation Authority for fiscal year 1978. This memorandum budget provides authorization and use of certain Turnpike funds in support of the following:

(a) The Line Item, "Salaries of Uniformed Division", for the Division of State Police (45-06-000) in Section 1 of this Act, shall be funded in the amount of \$230,544 from the Delaware Transportation Authority. This is in addition to \$6,258,516 from the General Funds.

(b) The line item, "Operations", for the Division of Highways (55-05-000) in Section 1 of this Act, shall be funded in the amount of \$1,100,000 from the Delaware Transportation Authority. This is in addition to \$2,400,000 from General Funds.

(c) Of the \$273,477 authorized for the Delaware Transportation Authority Operations, \$100,000 is provided for support of Taxi Services. It is the intent that the \$100,000 will be utilized to provide an experimental "Advance Subscription -- Demand Responsive" service during evenings and on weekends in Northern New Castle County; and the service would be designed to serve the

areas of most concentrated, transportation dependent, senior citizens. It is further intended that management and direction of these services shall reside with the Delaware Transportation Authority and shall not be delegated to either DART nor DAST.

(d) Of the remaining \$173,477 authorized for the Delaware Transportation Authority Operations, the funds cover nine (9) authorized positions, which positions do not include nor fund the position of Aviation Specialist.

Section 65. Section 1 of this Act appropriates 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 66. All tuition payments and fees collected by the Continuing Education Division, Delaware Technical and Community College, shall be expended for tuition refunds, salaries and wages, Other Employment Costs, and operation expenses of the Continuing Education Program. It is the intent of this Section that eventually the Continuing Education Program shall be self-sustaining and the fiscal year 1978 operating budget has been adjusted accordingly.

Section 67. No funds appropriated to, nor fees collected by, Delaware Technical and Community College shall be expended for parking lot attendants.

Section 68. During the fiscal year ending June 30, 1978, no student enrolled in the Meadowood Trainable School as of September 1, 1976, 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 69. During the fiscal year ending June 30, 1978, 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.

to the Department of Transportation, Division of Highways (55-05-000). It is the intent of this Section for fiscal year 1978, that the Division of Highways shall:

(i) Notwithstanding the authorization for 662.5 General Fund positions in Section 1 of this Act, be permitted appropriate action to achieve a reduction in number of such positions from 762.5 (authorized as of June 30, 1977) to 662.6 by an immediate reduction of vacant positions;

(ii) Notwithstanding the authorization of 662.5 General Fund positions in Section 1 of this Act, be permitted to achieve a further reduction in the remaining positions through an attrition process during the fiscal year; and

(iii) Not achieve the reduction by reducing filled positions. In the event that the Division of Highways cannot achieve the mandated reduction in authorized positions referenced in paragraphs (a) and (b) of this Section, the additional position(s) will be authorized and such additional sum as may be required for this purpose is hereby appropriated and shall be paid from the General Fund.

(b) Section 1 of this Act appropriates \$2,400,000 to (55-05-000) Division of Highways for Operations. This appropriation includes an authorization for the installation of a traffic light at Carr Road and Shipley Road in Shellburne. The traffic light shall be equipped with a pedestrian crossing manual control.

Section 64. Section 1 of this Act provides for a memorandum budget for the Delaware Transportation Authority for fiscal year 1978. This memorandum budget provides authorization and use of certain Turnpike funds in support of the following:

(a) The Line Item, "Salaries of Uniformed Division", for the Division of State Police (45-06-000) in Section 1 of this Act, shall be funded in the amount of \$230,544 from the Delaware Transportation Authority. This is in addition to \$6,258,516 from the General Funds.

(b) The line item, "Operations", for the Division of Highways (55-05-000) in Section 1 of this Act, shall be funded in the amount of \$1,100,000 from the Delaware Transportation Authority. This is in addition to \$2,400,000 from General Funds.

(c) Of the \$273,477 authorized for the Delaware Transportation Authority Operations, \$100,000 is provided for support of Taxi Services. It is the intent that the \$100,000 will be utilized to provide an experimental "Advance Subscription -- Demand Responsive" service during evenings and on weekends in Northern New Castle County; and the service would be designed to serve the

areas of most concentrated, transportation dependent, senior citizens. It is further intended that management and direction of these services shall reside with the Delaware Transportation Authority and shall not be delegated to either DART nor DAST.

(d) Of the remaining \$173,477 authorized for the Delaware Transportation Authority Operations, the funds cover nine (9) authorized positions, which positions do not include nor fund the position of Aviation Specialist.

Section 65. Section 1 of this Act appropriates 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 66. All tuition payments and fees collected by the Continuing Education Division, Delaware Technical and Community College, shall be expended for tuition refunds, salaries and wages, Other Employment Costs, and operation expenses of the Continuing Education Program. It is the intent of this Section that eventually the Continuing Education Program shall be self-sustaining and the fiscal year 1978 operating budget has been adjusted accordingly.

Section 67. No funds appropriated to, nor fees collected by, Delaware Technical and Community College shall be expended for parking lot attendants.

Section 68. During the fiscal year ending June 30, 1978, no student enrolled in the Meadowood Trainable School as of September 1, 1976, 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 69. During the fiscal year ending June 30, 1978, 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 70. Delaware students attending the Benedictine School for Exceptional Children in Ridgely, Maryland, shall qualify for tuition assistance from funds appropriated in the (95-01-003) Educational Contingency labeled "Learning Disabilities - Tuition".

Section 71. Section 1 of this Act provides an appropriation of \$130,000 to (95-01-003) Educational Contingency for Growth and Upgrading - Positive Growth. Of this appropriation, \$30,000 shall be allocated to the Wilmington Public School District for the continuation of the services of the Parent Early Education Center.

Section 72. The total amount of \$275,000 appropriated for James H. Groves High School shall be allocated to the several participating school districts in amounts not to exceed each participating school district's proportion of eligible students to the total number of eligible students as of October 31, 1977, and February 28, 1978.

Section 73. Section 1 of this Act appropriates \$25,677 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 Vocational/Technical School program for a period of ten months each year. Such interpreter/tutor shall be registered and certified according to the standards prescribed by the Department of Public Instruction for such positions.

Section 74. (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 75. (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 State Treasurer, the Budget Director, the Personnel Director, the Director, Office of Management, Budget and Planning, 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 Director, Office of Management, Budget and Planning shall function as the Secretary of the Committee; and the Office of Management, Budget and 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 departments, 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) Prior to submitting State or local Plan(s) or application(s) to federal authorities for the purpose of receiving funds, such Plan(s) or application(s) shall be submitted to the Office of Management, Budget and Planning for review and approval or disapproval by the Clearinghouse Committee. Subsection (b) of this Section shall apply to:

(i) All State departments and agencies, including agencies of public and higher education, receiving funds pursuant to Section 1 of this Act; and

(ii) Any other agency or entity, whether public or private, including political subdivisions of the State,



receiving State funds to be used in part or in total as match for receiving federal funds, or which through the receipt and expenditure of federal funds impact State expenditures.

(c) The Office of the Director of Management, Budget and Planning shall inform the Governor and others of all proposed applications for Federal Aid and all Federal Aid applications approved and funds received.

Section 76. (a) Section 1 of this Act provides for an appropriation to the Division of Motor Vehicles (45-07-000) for Salaries and Wages of Employees for fiscal year 1978. Of the 163 positions, this appropriation includes the authorization and funding for one (1) position:

Chief, Motor Vehicle Services	\$23,641
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(b) Section 1 of this Act provides for a memorandum budget in the Division of Motor Vehicles (45-07-000) for Motor Vehicles Inspection to be funded from the collection of motor vehicle inspection fees authorized in accordance with legislation enacted by the General Assembly.

(c) The General Fund budget for the Division of Motor Vehicles (45-07-000) in Section 1 of this Act provides an appropriation for Debt Service. The General Fund appropriation for Debt Service shall be reduced by an amount of \$75,000 received from the collection of motor vehicle inspection fees authorized in accordance with legislation enacted by the General Assembly.

(d) In the event that legislation authorizing the collection of motor vehicle inspection fees will not have been enacted into law, the positions will be authorized and such additional sum as may be required for paragraphs (b) and (c) of this Section is hereby appropriated and shall be paid from the General Fund.

Section 77. (a) 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, 1978. 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, except as provided for in subsection (b) and (c) of this Section, 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.

(b) Any school district that employs more employees in any classification in excess of State formula for such employees in Title 14, Delaware Code, for the fiscal year beginning July 1, 1977, and ending June 30, 1978, than were employed in the same classification in excess of State formula in Title 14, Delaware Code, during the fiscal year beginning July 1, 1976, and ending June 30, 1977, shall pay to the Treasurer of the State of Delaware each quarter of the fiscal year the fringe benefit cost of such employee.

(c) Any school district that agrees to pay from non-State funds more money as a result of a salary schedule or schedules approved by the district board of education after the effective date of this Act, shall pay to the Treasurer of the State of Delaware each quarter of the fiscal year the fringe benefit costs for the additional salary expenses from non-State funds; provided, however, this Section shall not apply to increases resulting from increases in the State or Federal Minimum Wage Laws.

Section 78. Each school district shall continue to use salary schedules not less than those in Section 1322, Title 14, Delaware Code, for all Cafeteria employees.

Section 79. (a) Section 1 of this Act appropriates \$11,330,200 to (95-01-002) Services to School Districts and Others for School Pupil Transportation. This appropriation shall be allocated as follows:

Nonpublic School Transportation	\$1,600,000
Public School Pupil Transportation Program	
Department of Public Instruction	
Contractual Services	18,000
Supplies and Materials	200
Capital Outlay	100,000
Contingency	9,612,000

(b) 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, shall remain in effect and be applicable without modification for the fiscal year beginning July 1, 1977, notwithstanding any laws of the State to the contrary.

(c) The allocation in subsection (a) of this Section for Public School Pupil Transportation Program shall be used by the public school districts for costs related to pupil transportation as provided for by rules and regulations adopted by the State Board

of Education. Transportation funds for public school districts shall not exceed the amount allowed in the bus contract or district transportation formula approved by the State Board of Education and shall be subject to the availability of funds.

Funds remaining in public school district transportation lines after January 1, 1978, which have not been committed or approved by State Board of Education action, shall be transferred to the school pupil transportation line of the Department of Public Instruction.

(d) School districts that operate Special Schools for the Trainable, Hearing Impaired, Orthopedic, or Other Special Schools serving students from one or more school districts, shall not use any funds appropriated in Section 1 of this Act for the purpose of transportation of said special school students. For the fiscal year commencing July 1, 1977, and ending June 30, 1978, school districts that operate such special schools shall include the cost of transportation in the tuition charges to students from other school districts, and for students of the home district, transportation costs shall be paid from the tax funds collected to pay tuition.

Section 80. The State Board of Education is hereby authorized and directed to allocate from its non-public school funds transportation reimbursement \$27,317 and \$18,360 for fiscal year 1976 and fiscal year 1977, respectively, for pupils attending nonpublic schools who are not eligible for pupil transportation reimbursement but who would have had to cross the hazardous construction in progress on Route 141 between Justice Street and Kiamensi Road.

Section 81. Section 1 of this Act appropriates \$543,560 to Delaware Technical and Community College, Administration (90-04-001) for Salaries and Wages of Employees for fiscal year 1978. Of the thirty-one (31) positions authorized, the position of College Photographer is authorized and funded in the appropriation.

Section 82. (a) Amend Chapter 711, Volume 60, Laws of Delaware, by striking Section 18 in its entirety as it appears in said Chapter 711, Volume 60, Laws of Delaware, and substituting in lieu thereof the following:

"Section 18. The sum of \$32,000 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 1978."

(b) Amend Chapter 711, Volume 60, Laws of Delaware, by striking Section 22 in its entirety as it appears in said Chapter 711, Volume 60, Laws of Delaware, and substituting in lieu thereof the following:

"Section 22. This Act shall become effective July 1, 1977."

(c) Section 1 of this Act appropriates \$32,000 to (12-05-002) Pensions, State Treasurer, for the purpose of making special pension benefits payments in accordance with the provisions of (a) and (b) of this Section.

Section 83. The negative appropriation of \$1,300,000 which reflects the estimated savings resulting from the centralization of the procurement function, is to be distributed as follows:

(i) The Director of the Budget and the Secretary of Administrative Services will jointly develop an allocation plan for this projected savings. This allocation plan will propose a projected savings for departments, divisions, agencies, boards and commissions, higher education and public education, including local school districts, and including the legislative and judicial branches. A copy of the completed allocation plan will be provided to the Controller General for his concurrence.

(ii) The negative appropriation will be transferred in accordance with the plan as a reduction of the appropriate budget lines.

Section 84. The sum of \$1,300,000 appropriated to the Budget Office (10-02-001) for "Contingency - Salaries and Fringe Benefits" is to be allocated in accordance with a plan recommended by the Governor's Select Committee on State Employment Practices and approved by the Governor. It is the intent of the plan that these monies be used to provide salary increases to those permanent, full-time State employees not otherwise eligible to receive a salary increase in fiscal year 1978. The salary increase referenced in this Section 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, and State Geologist and employees. Any classified employee, who is found not eligible to advance to longevity Step 9, as a result of Attorney General Opinion 77-016 dated June 14, 1977, shall be entitled to receive the same special salary increase as approved by the Governor's Select Committee on State Employment Practices; however, such payment shall be made from the employing agency salary and wage line as provided in Section 1 of this Act, from funds appropriated for longevity increments, now denied by Attorney General Opinion 77-016.

Section 85. Section 1 of this Act appropriates \$24,500,000 to the State Treasurer (12-05-000) for Revenue Refunds. Such sums in excess of the appropriation as are certified by the State Treasurer as necessary for refunds for overpayments of taxes and fees required by Delaware State Law and deposited in the General Fund are hereby appropriated and shall be paid from the General

Fund.

Section 86. (a) Effective July 1, 1977, the base salary rate of State employees, who are eligible for and receive the authorized cost-of-living adjustment of 5.076 percent shall be adjusted to include the cost-of-living adjustment as part of the base salary rate. All appropriate State pay plan(s) and/or salary and wage schedules shall be adjusted accordingly to reflect the new base salary rates.

(b) Section 6532, Chapter 65, Title 29, Delaware Code, is hereby repealed effective July 1, 1977.

Section 87. Section 1 of this Act provides an incremental increase in salary for those employees who are eligible for incremental adjustments. It is the intent of this Section that such employees shall receive their incremental adjustment effective on their anniversary date or July 1, 1977, whichever is applicable. In the event that an employee's incremental adjustment is conditioned on employee performance evaluation, such exception will be allowed provided the exception is in accord with the existing rules and regulations governing same.

Section 88. (a) Amend Sections 9103, 9104, 9105, 9106, 9108, 9109, 9110, 9111, 9112, 9113, 9122, and 9131 of Chapter 91, Title 29, and Sections 7002 and 7005, of Chapter 70, Title 7, Delaware Code, by striking the words "State Planning Office" in their entirety as they appear in said sections and substituting in lieu thereof the following words, "Office of Management, Budget and Planning".

(b) Amend Sections 9105, 9106, 9107, 9108, 9109, 9110, and 9111 of Chapter 91, Title 29, Delaware Code, by striking the words "Director of State Planning" in their entirety as they appear in said sections and substituting in lieu thereof the following words, "Director of the Office of Management, Budget and Planning".

(c) Amend Sections 7004, 7005, 7007, and 7008, of Chapter 70, Title 7, Delaware Code, by striking the words "State Planner" in their entirety as they appear in said Sections and substituting in lieu thereof the following words "Director of the Office of Management, Budget and Planning".

Section 89. Section 1 of this Act provides appropriations for Salaries and Wages of Employees of various State agencies and departments. Subsection (a) of this Section lists positions which have been included in the number of authorized General Fund positions for the respective agencies budgets for fiscal year 1978. Subsection (b) of this Section lists those positions which have been deleted from the General Fund authorization for fiscal year 1978 for the listed respective agencies budgets.

## Subsection (a) POSITIONS ADDED

<u>Accounting Code</u>	<u>Agency/Title of Position</u>	<u>No. of Positions</u>
01-08-001	Office of Research Director Part-time position made full-time	1
01-08-002	Office of the Controller General Legis. Fiscal/Management Analyst Legal Steon	2 1
01-08-003	Div. of Maint., Comm. & Capitol Security Security Police position from part-time to full-time	.5
02-03-000	Superior Court Superior Court Administrator	1
02-06-000	Court of Common Pleas Clerk Typist Court Reporter Secretary Assistant Clerk Bailliff Typist	1 1 1 1 1 1 .5
02-08-000	Family Court Clerk Typist II Support Officer Juvenile Group Leader I Clerk III Probation Officer	5 2 1 1 2
02-13-000	Justice of the Peace Courts Bailliff	1
10-02-001	Budget Office Assistant to Director	1
12-01-000	Lieutenant Governor Administrative Assistant	1
12-03-000	Insurance Commissioner Deputy Attorney General Licensing Supervisor	1 1
15-01-001	Office of Attorney General Deputy Attorney General Clerk Typist III Clerk Steno III	3 1 2
15-02-000	Public Defender Assistant Public Defenders Administrator II Investigator Chief of Appellate Division Secretary	3 1 2 1 1

POSITIONS ADDED (Continued)		
Accounting Code	Agency/Title of Position	No. of Positions
20-05-001	Incorporating Section Part-time position made full-time	.5
20-06-002	Bureau of Archives & Modern Records Micro-Film Operator	1
	Laborer	1
20-06-003	Bureau of Archaeology & Historic Preservation Cultural Res. Specialist	.3
	Historical Architect	.3
20-06-004	Bureau of Museums & Historic Sites Museum Aide	1.5
	Custodial Worker I	1
	Clerk Steno III	1
30-15-000	Div. of State Banking Commissioner Administrative Assistant II	1
35-02-001	Ofc. of Business Administration & General Services Reallocation between State & Special Funds	.72
35-03-000	Ofc. of Planning, Research & Evaluation Case Reviewer	2
35-05-003	Emily P. Bissell Hospital Medical Coding Clerk	1
	Ward Clerk	1
	Clerk Typist II	1
	Accounting Clerk II	1
	Dietary Aide	4
	Chef	1
	Linen Supply Clerk	.5
	Attendant I	30
	Attendant II	3
	Attendant Chauffeur	1
	Occup. Therapy Aide	1
	Physical Therapy Aide	1
	Activity Aide II	2
	LPN I	4.5
	LPN II	3
	Custodial Worker I	3
	Custodial Worker II	1
	Pharmacist II	1
	Activity Therapist II	1
	Nurse II	6.5
	Nurse III	1
	Nursing Instructor II	1
	Social Worker I	1
	Lab Technician II	.5
	Pharmacy Technician	.5
	Physician II	1

POSITIONS ADDED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
35-05-004	Delaware Hospital for the Chronically Ill	
	Nurse	6.5
	Attendants	57.5
	Nurse III	3
35-06-001	Office of the Director	
	Administrative Assistant transferred from Hygiene Clinic	.5
35-06-004	Governor Bacon Health Center	
	Psychiatrist	.5
	Mental Hygiene Assistant	1
	Clerk Steno III	1
	Activity Therapist	1
	Nurse II	1
	Occupational Therapist	1
	Clinical Psychologist II	1
	Clinical Psychologist III	1
	Psychiatric Social Worker II	2
	Psychiatric Attendant	9
	Psychiatric Technician	8
	LPN I	2
	LPN II	2
	RN IV	1
	RN III	1
	RN II	.6
	Ward Clerk	.5
	Pharmacy Technician	1
35-06-007	Terry Children's Psychiatric Center	
	Clerk Steno II	1
	Secretary II	1
	Child Counselor I	8
	Child Counselor II	3
	LPN II	2
	Custodial Worker I	2
	Custodial Worker II	2
	Psychiatrist II	2
	Physician III	.5
	Activity Therapist I	1
	Activity Therapist II	1
	Nurse I	2
	Nurse II	4
	Nurse III	1
	Teacher Special Education	4
	Psychiatric Social Worker II	1
	Psychiatric Social Worker III	1



POSITIONS ADDED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
35-07-002	Public Welfare	
	Nurse III	.25
	Health Nurse II	.25
	Social Worker II	.75
	Clerk Typist II	.5
	Clerk Typist III	.5
	Assistant Payments Administrator II	.25
	Assistant Payments Specialist II	1.25
	Accounting Clerk III	.25
	Social Worker I	.75
35-10-000	Div. of Services to Children & Youth Secretary	1
35-11-002	Hospital for the Mentally Retarded	
	Activity Aide I	4
	Activity Aide II	1
	Clerk Typist I	2
	Cook III	1
	Dietary Aide I	6
	Laboratory Technician II	1
	Medical Records Librarian	1
	Seamstress	1
	Custodial Worker I	1
	Training Aide	20
	Human Development Workers	5
	Nurse I	4
	Nurse II	2
	Clerk Steno III	1
	Custodial Worker I	2
	Canteen Clerk I	1
	Laborer	3
	Stores Clerk	1
	Carpenter	1
	Painter	1
	Electrician	1
	Vehicle Operator	1
	Groundskeeper I	2
	Nurse IV	1
	Child Development Counselor I	2
	Attendant	20
	Psychiatric Social Worker I	3
	Activity Aide II	1
	Activity Aide I	3
	Clerk Typist I	4
	Cook II	1
	Dietician	1
	Security Officer	2
	Training Aide	10
	Human Development Worker	2
	Nurse I	2
	Nurse II	2
	Clinical Psychologist I	1
	Laundry Worker I	3

POSITIONS ADDED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
35-12-000	State Service Centers	
	Neighborhood Worker III	2
	Custodial Worker	4
35-14-000	Div. of Aging	
	Administrative Assistant II	.25
	Clerk Typist II	.5
	Clerk Typist III	.5
	Clerk Steno III	.25
38-01-002	Administration	
	Correctional Officer I	20
38-08-003	Delaware Correctional Center	
	Correctional Officer I	25
38-08-004	Sussex Correctional Center	
	Correctional Officer I	25
	Correctional Officer Medical Attendant	3
	Recreation Specialist	1
	Correctional Officer/Cook	2
38-08-007	Probation and Parole	
	Counselor	5
	Probation and Parole Supervisor	1
38-08-009	Work Release	
	State Supervisor	1
	Accounting Clerk III	1
	Secretary I	1
	Lieutenant	2
	Counselor	4
	Clerk Steno	2
	Cook I	1
	Correctional Officer II	9
	Social Service Specialist	1
38-13-002	Ferris School for Boys	
	Secretary I	1
	Juvenile Group Leader/Foreman I	1
	Juvenile Group Leader I	3
	Juvenile Group Leader II	8
	Juvenile Group Leader III	4
	Juvenile Group Leader Superintendent I	4
	Correctional Superintendent I	1
	Counselor	1
	Nurse III	1

POSITIONS ADDED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
45-03-000	Div. of Communications Administrative Services Officer III	1
45-07-000	Div. of Motor Vehicles Custodian	3
50-08-000	Div. of Economic Development Deputy Director	.3
55-01-000	Office of the Secretary Principal Assistant	1
65-03-000	Div. of Standards and Inspection Seed Analyst	1
65-04-000	Div. of Production and Promotion Agricultural Products Inspector I	1
75-03-000	Fire Prevention Commission Secretary	1
76-01-000	Delaware National Guard Supervisor	1
	Plumber	1
	Carpenter	1
	Heating & Air Conditioning Mechanic	1
	Electrician	1
90-01-002	State Geologist Clerk Typist part-time to full-time	.5
90-03-000	Delaware State College Physical Education Instructor	.5
	Invoicing Clerk	1
	A.I.D.P. - Title III	2
	Teacher - Business Administration	1
90-04-004	Wilmington Campus Dental Instructor	1
02-08-000	Family Court Probation Officer	2
	Deputy Clerk	1
15-02-000	Public Defender Liaison Assistant	1
	Stenographer	1
30-15-000	Div. of State Banking Commissioner Bank Examiner I	1

POSITIONS ADDED  
(Continued)

<u>Accounting Code</u>	<u>Agency/Title of Position</u>	<u>No. of Positions</u>
35-04-000	Office of the Medical Examiner	
	Photographer II	1
	Building Maintenance Mechanic II	1
35-06-002	Delaware State Hospital	
	Social Service Aide	1
38-08-010	Kent Correctional Center	
	Correctional Officer I	15
	Correctional Lieutenant	4
	Correctional Officer/Cook	1
	Correctional Captain	1
40-06-004	Recreation	
	Supervisor, Program for the Handicapped	1
40-08-003	Water Resources	
	Resource Engineer III	1
	Resource Control Specialist	1
	Clerk Steno III	1
45-06-000	Division of State Police	
	Communications Specialist	2

<u>Subsection (b) Accounting Code</u>	<u>POSITIONS DELETED Agency/Title of Position</u>	<u>No. of Positions</u>
01-08-003	Div. of Maintenance, Communications & Capitol Security	
	Custodian	3
02-03-000	Superior Court	
	Associate Judges	2
	Secretary to Judges	2
02-08-000	Family Court	
	Program Staff Developer	1
	Chief of Family Service	1
02-13-000	Justice of the Peace Courts	
	Part-time position adjustment	.5
02-17-001	Administrative Office of Courts	
	Office of Director	
	Superior Court Administrator	1

POSITIONS DELETED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
10-06-000	Off. of Highway Safety Coordinator Reallocate positions between General and Special Funds	1.6
15-01-001	Office of Attorney General Detectives	1
20-06-001	Office of Administration Assistant Director	1
20-06-003	Bureau of Archaeology & Historic Preservation Secretary I	.7
	Cultural Res. Specialist	2.2
25-01-000	Office of the Secretary Complaints Coordinator	1
30-08-001	Office of the Director License Investigator Supervisor	1
	License Investigator	1
30-10-000	Div. of Graphics and Printing Director transferred to Special Funds	1
35-01-000	Office of the Secretary Secretary	1
	Complaints Coordinator	1
35-02-002	Office of Education Teacher	1
	Teacher Aides	2
35-02-003	Child Support Enforcement Counselor	.5
35-04-000	Office of the Medical Examiner Building Maint. Mechanic II	1
	Photographer II	1
35-05-002	Community Health Clerk Typist II	2
	Clerk Typist I	1
	Clerk Steno II	1
	Clerk Steno III	2
	Neighborhood Worker I	1
	Env. Health Inspec. I	1
	Deputy Director	1
	Dental Health Director	1
	Nurse I	3

POSITIONS DELETED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
	Community Health (Continued)	
	Audiologist II	.2
	Public Health Physician III	1
	Public Health Nurse Super.	2
	Public Health Nurse Director	1
	Sanitarian I	3
	Health Program Rep. Trainee	1
	Sanitarian II	2
	Physical Health Nurse II	1
	Microbiologist I	1
35-05-019	Rodent Control	
	Public Health Educator II	1
35-06-001	Office of the Director	
	Secretary	1
	Accounting Clerk	1
35-06-002	Delaware State Hospital	
	Psychiatrist	.5
	Mental Hygiene Assistant	1
	Clerk Steno III	1
	Activity Therapist	1
	Nurse II	1
	Occupational Therapist	1
	Clinical Psychologist II	1
	Clinical Psychologist III	1
	Psychiatric Social Worker II	2
	Psychiatric Attendant	9
	Psychiatric Technician	8
	L.P.N. I	2
	L.P.N. II	1
	Reallocation	.8
	R.N. II	2
	Psychiatric Technician	1
	Psychiatric Attendant	1
	Clerk Steno II	2
	Security Officer	1
	Custodial Worker I	1
	Clerk Typist II	1
	Psychiatric Social Worker	1
35-06-003	Mental Hygiene Clinics	
	Position transferred to Ofc. of Director	
	Psy. Social Director II	.2
	Physician I	.3
35-06-007	Terry Children's Psychiatric Center	
	Mental Health Assistant	4
	Psychiatric Social Worker	4
	Unclassified	1

POSITIONS DELETED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
35-06-008	Bureau of Substance Abuse	
	Substance Administrator	1
	Human Services Worker II	1
	Clerk Typist II	1
	Drug Counselor II	2
	Drug Counselor I	1
	Clerk Steno II	1
35-07-005	Food Stamp Program	
	Chief	1
	Case Reviewer	2
35-11-003	Community Mental Retardation Program	
	Training Aide	5
	Cook I	.4
	Nurse III	2
35-12-000	State Service Centers	
	Unclassified	1
35-14-000	Division of Aging	
	Planner II	.25
	Clerk Typist II	.40
	Reallocation	.04
38-01-002	Administration	
	Mechanical Engineer	1
38-08-004	Sussex Correctional Center	
	Correctional Superintendent II	1
38-08-006	Pre Trial Release	
	Counselor Supervisor	1
	Part-time	.5
38-13-003	Woods Haven-Kruse School	
	Unclassified	1
38-13-010	Community Services	
	Counselor	1
40-05-003	Fisheries	
	Accounting Clerk II	.5
40-06-002	Parks	
	Environmental Protection Officer I	1
	Environmental Protection Officer II	7
	Environmental Protection Officer III	1
	Parks and Forestry Supervisor I	2
	Parks and Forestry Supervisor II	1

POSITIONS DELETED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
40-06-004	Recreation	
	Recreation Specialist II	1
	Clerk Steno III	1
40-07-003	Beach Preservation	
	Clerk Steno II	1
	Conservation Aide	2
	Highway Maintenance Supervisor	1
	Labor Foreman III	1
	Equipment Operator III	1
	Geo-Hydrologist II	1
	Draftsman II	1
	Highway Engineer Technician III	1
40-08-004	Technical Services	
	Research Lab Technician II	1
45-03-000	Div. of Communications	
	Electronics Technician	2
45-05-000	Division of Administration	
	Director	1
45-06-000	Div. of State Police	
	Trooper	30
45-07-000	Div. of Motor Vehicles	
	Clerk Typist II	3
	Motor Vehicle Officers	20
45-08-000	Div. of Emergency Planning & Operations	
	Procurement Technician	.5
	Emergency Planning Officer	.5
50-06-000	Office of Human Relations	
	Human Relations Representative	1
50-10-000	Div. of Libraries	
	Library Assistant II	1
55-01-000	Office of the Secretary	
	Highway Engineer V	1
55-05-000	Div. of Highways	
	Unclassified	3
	Discretion	100
60-01-000	Office of the Secretary	
	Secretary	1



POSITIONS DELETED  
(Continued)

Accounting Code	Agency/Title of Position	No. of Positions
60-07-005	Equal Employment Opportunity Labor Inspector	1
65-03-000	Div. of Standards and Inspection Agricultural Products Inspector II	2
	Agricultural Products Inspector I	1
70-01-000	Commissioner of Elections Part-time position	1
90-04-002	Southern Campus Director - Continuing Education	1
	Assistant Director - Continuing Education	1
90-04-004	Wilmington Campus Director - Continuing Education	1
	Assistant to Campus Director	1
90-04-005	Stanton Campus Director - Continuing Education	1
	Assistant Director - Continuing Education	1
90-04-006	Terry Campus Director - Continuing Education	1
10-03-000	Office of Management, Budget & Planning Planner VI	1
10-04-000	Office of State Personnel Training Administrator	1
	Accountant I	1

Section 90. Section 1 of this Act provides an appropriation to Division of Parks and Recreation Section (40-06-004) for the purpose of providing a recreational program for handicapped youth and adults.

Section 91. House Bill No. 383, enacted into law by the 129th General Assembly, created a special account in the General Fund entitled, "The State of Delaware General Obligation Bonds (Special General Fund Issue) Account" to accrue certain General Fund receipts for the purpose of making certain principal and interest payments. Sufficient funds are hereby appropriated from the said special account to enable the State Treasurer to make payments on the principal of and interest on the outstanding and unpaid General Obligation Bonds authorized in accordance with said House Bill No. 383. In the event that there are insufficient

funds in the said special account to make the principal and/or interest payments as required, such sums as are certified by the Secretary of Finance as necessary are hereby appropriated and shall be paid from the General Fund.

Section 92. All entitlement payments from the Federal Anti-recession Fiscal Assistance to State and Local Governments Act (Title II of the Public Works Employment Act of 1976, P.L. 94-269) received by the State during fiscal year 1978 are hereby appropriated to the State Treasurer for Employees Health Insurance. The General Fund appropriations for Health Insurance in Section 1 of this Act shall be reduced by the amount of entitlement payments received during the fiscal year.

Section 93. Any costs incurred by reclassification of the Equipment Operator class series by the State Personnel Director in maintaining the State Classification Plan, shall be funded by the Appointing Authority from salary and wage lines, Section 1 of this Act, from funds appropriated for longevity increments which have been denied by Attorney General Opinion 77-016, of June 14, 1977.

Section 94. The provisions of Chapter 65, Title 18, Delaware Code, to the contrary notwithstanding, the State Self-Insurance Fund shall be capitalized in the amount of \$1,000,000 for the fiscal year ending June 30, 1978.

Section 95. (a) For purposes of compliance with this Section, the provisions of Section 23 (b) and (c) of this Act shall be waived.

(b) The total amount appropriated, less the exclusions listed below, to each of the State agencies named in Section 1 of this Act is hereby reduced by one percent (1%) for the fiscal year ending June 30, 1978. The following appropriations are excluded from the total amount appropriated for purposes of calculating the one percent (1%) reduction: Debt Service; reduction amount per Section 85 of this Act for savings under Centralized Purchasing; line item salary position such as Cabinet Secretary, Division Director, etc.; F.I.C.A. - Employer's Share; Pensions; Health Insurance; Revenue Refunds; Health and Welfare Grants; Jury Fees; and Central Data Processing Services. State agencies may include a reduction in applicable Other Employment Costs (F.I.C.A. - Employer's Share, Pensions and Health Insurance) as part of their total Agency reduction, if the primary reduction contemplated is in authorized positions and salaries and wages of employees.

(c) The State agencies named in Section 1 of this Act must submit a reduction plan or program to carry out the intent of this Section on or before September 1, 1977, jointly to the Budget Director and the Controller General for their final approval. Upon failure by any State agency to comply with the intent of this Section, reductions in line item appropriations will be made by

the Joint Finance Committee, or at its direction. The State agency will comply with the resulting revised budgetary appropriation amounts.

(d) The Budget Director and the Controller General shall prepare an official copy of the FY 1978 Budget Appropriation Bill as amended by this Section on or before October 31, 1977. Copies of this final budget shall be made available, within reasonable limitations, to members of the General Assembly and State agencies upon request.

Section 96. In the event that the monies appropriated to Office of Attorney General (15-01-001) for Extradition and other related expenses under Section 1 of this Act are insufficient to carry out the provisions of Title 11, Delaware Code, Sections 2505 subsection (a), 2522, 2523, 2524, 2542 and 2544, to return fugitives and sentenced prisoners to the State of Delaware, such additional sum as may be required for that purpose is hereby appropriated and shall be paid by the General Fund.

Approved July 6, 1977.

## CHAPTER 117

## FORMERLY HOUSE BILL NO. 590

AN ACT TO AMEND CHAPTERS 23, 25, 27 AND 29 OF TITLE 30, DELAWARE CODE RELATING TO OCCUPATIONAL LICENSE TAXES, CONTRACTORS' LICENSE TAXES, MANUFACTURERS' LICENSE TAXES, WHOLESALER LICENSE TAXES, FOOD PROCESSOR LICENSE TAXES, GRAIN AND FEED DEALER LICENSE TAXES, RETAILER LICENSE TAXES, RESTAURANT RETAILER LICENSE TAXES AND FARM MACHINERY RETAILER LICENSE TAXES ON AGGREGATE GROSS RECEIPTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2301(d), Chapter 23, Title 30 of the Delaware Code by striking the words and numbers "of 3/10 of 1 percent" as the same appear in the first sentence of said subsection (d) and substituting in lieu thereof the following:

"of 4/10 of 1 percent"

Section 2. Amend §2502(c), Chapter 25, Title 30 of the Delaware Code by striking the words and numbers "of 1/2 percent" as the same appear in the first sentence of said subsection (c) and substituting in lieu thereof the following:

"of 65/100 of 1 percent"

Section 3. Amend §2702(b), Chapter 27, Title 30 of the Delaware Code by striking the words and numbers "of 3/10 of 1 percent" as the same appear in the first sentence of said subsection (b) and substituting in lieu thereof the following:

"of 4/10 of 1 percent"

Section 4. Amend §2902(c), Chapter 29, Title 30 of the Delaware Code by striking the words and numbers "of 3/10 of 1 percent" as the same appear in the first sentence of said subsection (c) and substituting in lieu thereof the following:

"of 4/10 of 1 percent"

Section 5. Amend §2903(c), Chapter 29, Title 30 of the Delaware Code by striking the words and numbers "of 3/20 of 1 percent" as the same appear in the first sentence of said subsection (c) and substituting in lieu thereof the following:

"of 2/10 of 1 percent"

Section 6. Amend §2904(c), Chapter 29, Title 30 of the Delaware Code by striking the words and numbers "of 1/15 of 1

percent" as the same appear in the first sentence of said subsection (c) and substituting in lieu thereof the following:

"of 1/10 of 1 percent"

Section 7. Amend §2905(g), Chapter 29, Title 30 of the Delaware Code by striking the words and numbers "of 55/100 of 1 percent" as the same appear in the first sentence of said subsection (g) and substituting in lieu thereof the following:

"of 75/100 of 1 percent"

Section 8. Amend §2906 (c), Chapter 29, Title 30 of the Delaware Code by striking the words and numbers "of 5/10 of 1 percent" as the same appear in the first sentence of said subsection (c) and substituting in lieu thereof the following:

"of 65/100 of 1 percent"

Section 9. Amend §2907 (c), Chapter 29, Title 30 of the Delaware Code by striking the words and numbers "of 1/15 of 1 percent" as the same appear in the first sentence of said subsection (c) and substituting in lieu thereof the following:

"of 1/10 of 1 percent"

Approved July 6, 1977.

## CHAPTER 118

## FORMERLY SENATE BILL NO. 111

AN ACT TO AMEND TITLE 29, DELAWARE CODE, CHAPTER 59, SECTION 5910, RELATING TO THE APPOINTMENT AND QUALIFICATIONS OF THE DIRECTOR OF PERSONNEL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 29, Delaware Code, Chapter 59, Section 5910, by striking therefrom subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) A Director of Personnel shall be appointed by the Governor, with the advise and consent of the Senate. The Director shall be a person qualified by training and experience to perform the duties of his office. He shall receive such compensation as may be authorized by the Governor within the appropriation of the General Assembly."

Approved July 6, 1977.

## CHAPTER 119

## FORMERLY SENATE BILL NO. 341

AN ACT TO AMEND CHAPTER 31, TITLE 10, DELAWARE CODE RELATING TO SERVICE OF PROCESS ON NON-RESIDENT DIRECTORS, TRUSTEES OR MEMBERS OF THE GOVERNING BODY OF DELAWARE CORPORATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 31, of Title 10, Delaware Code by adding thereto a new section to be designated as §3114 which new section shall read as follows:

"§3114. Service of Process on non-resident Directors, Trustees or members of the governing body of Delaware corporations

(a) Every non-resident of this State who after September 1, 1977 accepts election or appointment as a director, trustee or member of the governing body of a corporation organized under the laws of this State or who after June 30, 1978 serves in such capacity and every resident of this State who so accepts election or appointment or serves in such capacity and thereafter removes his residence from this State shall, by such acceptance or by such service, be deemed thereby to have consented to the appointment of the registered agent of such corporation (or, if there is none, the Secretary of State) as his agent upon whom service of process may be made in all civil actions or proceedings brought in this State, by or on behalf of, or against such corporation, in which such director, trustee or member is a necessary or proper party, or in any action or proceeding against such director, trustee or member for violation of his duty in such capacity, whether or not he continues to serve as such director, trustee or member at the time suit is commenced. Such acceptance or service as such director, trustee or member shall be a signification of the consent of such director, trustee or member that any process when so served shall be of the same legal force and validity as if served upon such director, trustee or member within this State and such appointment of the registered agent (or, if there is none, the Secretary of State) shall be irrevocable.

(b) Service of process shall be effected by serving the registered agent (or, if there is none, the Secretary of State) with one copy of such process in the manner provided by law for service of writs of summons. In addition, the Prothonotary or the Register in Chancery of the Court in which the civil action or proceeding is pending shall,

within seven (7) days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this Section, addressed to such director, trustee or member at the corporation's principal place of business and at his residence address as the same appears on the records of the Secretary of State, or, if no such residence address appears, at his address last known to the party desiring to make such service.

(c) In any action in which any such director, trustee or member has been served with process as hereinabove provided, the time in which a defendant shall be required to appear and file a responsive pleading shall be computed from the date of mailing by the Prothonotary or the Register in Chancery as provided in Subsection (b); however, the court in which such action has been commenced may order such continuance or continuances as may be necessary to afford such director, trustee or member reasonable opportunity to defend the action.

(d) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This Section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon non-residents.

(e) The Court of Chancery and the Superior Court may make all necessary rules respecting the form of process, the manner of issuance and return thereof and such other rules which may be necessary to implement the provisions of this Section and are not inconsistent with this Section."

Section 2. This Act shall apply only to causes of action or claims arising or accruing subsequent to the effective date of this Act.

Section 3. If any provisions of this Section or amendments hereto, or the application hereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions of application of this Section or such amendments as can be given effect without the invalid provisions or application, and to this end the provisions of this Section are declared to be severable.

Section 4. This Act shall become effective on September 1, 1977.

Approved July 7, 1977.



CHAPTER 120

FORMERLY HOUSE BILL NO. 98  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 AND  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 7, DELAWARE CODE, RELATING TO  
FEES FOR HUNTING AND TRAPPING LICENSES FOR NONRESIDENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §508(1) of Chapter 5, Title 7, Delaware Code, by striking the figures "\$25.25" as they appear and substituting in lieu thereof the figures "\$40.25".

Section 2. This Act shall become law with the signature of the Governor.

Approved July 8, 1977.

## CHAPTER 121

FORMERLY HOUSE BILL NO. 408  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 AND  
SENATE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE BY PROVIDING FOR A MINIMUM SENTENCE FOR A SECOND OBSCENITY OFFENSE.

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 11, Delaware Code, by striking Section 1361, and inserting a new Section in lieu thereof as follows:

"§1361. Obscenity

(a) A person is guilty of obscenity when he knowingly:

(1) Sells, delivers or provides any obscene picture, writing, record, or other representation or embodiment of the obscene; or

(2) Presents or directs an obscene play, dance, or performance or participates in that portion thereof which makes it obscene; or

(3) Publishes, exhibits or otherwise makes available any obscene material; or

(4) Possesses any obscene material for purposes of sale or other commercial dissemination; or

(5) Permits a person under the age of 12 to be on the premises where material harmful to minors, as defined by 11 Del. C. Section 1365, is either sold or made available for commercial distribution and which material is readily accessible to or easily viewed by such minors.

Any material covered by this subsection shall not be considered readily accessible to or easily viewed by minors if it has been placed or otherwise located five feet or more above the floor of the subject premises or if the material is concealed so that no more than the top three inches is visible to the passerby.

(b) Obscenity is a Class D Felony if a person sells, delivers or provides any obscene picture, writing, record,

or other representation or embodiment of the obscene to a person under the age of 18, which notwithstanding the provisions of Chapter 42 of this Title shall be punishable by a minimum period of incarceration for 60 days, no portion of which may be suspended or reduced in any manner whatsoever. In all other cases obscenity is a Class A Misdemeanor.

(c) Notwithstanding the provisions of Chapter 42 of this Title, the minimum sentence for a subsequent violation of this Section for Class A Misdemeanor obscenity occurring within five years of a former conviction shall be a fine in the amount of \$5,000 and imprisonment for a minimum period of 60 days, no portion of which may be suspended or reduced; provided, however, that where the defendant is a corporation, the fine shall be \$10,000.

(d) Where the criminality of conduct depends on a child's being under the age of 12, subsection (a) (5) or under the age of 18, subsection (b), it is no defense that the actor did not know the child's age."

Approved July 8, 1977.

## CHAPTER 122

FORMERLY HOUSE BILL NO. 407  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1, 2, 3 & 4 AND  
SENATE AMENDMENT NO. 4

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE BY PROVIDING FOR  
THE LICENSING OF MASSAGE ESTABLISHMENTS AND ADULT BOOK  
STORES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Title 24 of the Delaware Code by adding  
thereto a new Chapter, to be designated Chapter 16, which new  
Chapter shall read as follows:

"CHAPTER 16. MASSAGE ESTABLISHMENTS AND ADULT BOOK STORES

"§1601. Purpose

It is the finding of the Legislature that the health, safety and welfare of the People of the State of Delaware are imperiled by the increasing incidence of the crimes of obscenity, prostitution, and of offenses related thereto. The Legislature finds that the foregoing crimes are principally facilitated by the widespread abuse of legitimate occupations and establishments, to wit, adult book stores and massage establishments. It is the further finding of the Legislature that existing criminal penalties for the foregoing offenses have been rendered ineffective by the active concealment of the identities of the individuals who create, control, and promote such businesses; by the failure of these individuals and businesses to exercise adequate control and supervision over the activities of their employees; and by the active promotion of prostitution and obscenity by these individuals and business for their own financial gain.

To the end of furthering the substantial and compelling interest of the People of this State in being free of the crimes of obscenity, prostitution and its companion offenses, and in order to promote the health, safety and welfare, the Legislature does hereby act.

§1602. Definitions

As used in this Chapter:

(1) 'Adult' shall mean a person who has attained the age of 18.

(2) 'Adult bookstore' shall mean any corporation, partnership, or business of any kind which has as part of its stock books, magazines, or other periodicals and which offers, sells, provides, or rents for a fee:

(a) any sexually oriented material, and which business restricts or purports to restrict admission to adults, within the meaning of this chapter, or to any class of adults; or

(b) any sexually oriented material which is available for viewing by patrons on the premises by means of the operation of any type of movie machine or slide projector; or

(c) any sexually oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or

(d) any sexually oriented material which has as its principal theme the depiction of sexual activity by, or the lewd or lascivious exhibition of the uncovered genitals, pubic region, or buttock of, children who are or who appear to be under the age of 18.

This term shall not include a motion picture theater which is licensed pursuant to Title 30, Chapter 23 of the Delaware Code.

(3) 'Applicant' shall mean the person in whose name or on whose behalf a license under this chapter is requested.

(4) 'Bestiality' shall mean sexual activity, actual or simulated, between a human being and an animal.

(5) 'Commission' shall mean the Commission on Massage Establishments and Adult Book Stores.

(6) 'Conviction' means a verdict of guilty by the trier of fact, whether judge or jury, or a plea of guilty or a plea of nolo contendere accepted by the court.

(7) 'Licensee' shall mean the person to whom and in whose name a license is issued under this chapter.

(8) 'Masochism' shall mean sexual gratification achieved by a person through, or the association of

sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture or death.

(9) 'Massage Establishments' shall mean any business or enterprise which offers, sells, or provides, or which holds itself out as offering, selling, or providing, massages which include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body, by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. This term shall not include the business or occupation of a chiropractor, chiropodist, podiatrist, barber, nurse, optometrist, cosmetologist, dentist, physician, physical therapist, or operator of a funeral establishment, who is certified, registered or licensed pursuant to Title 24, or a hospital which is licensed pursuant to Title 16 of the Delaware Code, or athletic coach or trainer.

(10) 'Massagist' shall mean any person who performs massage services for a massage establishment, and shall include self-employed individuals.

(11) 'Partner' shall include both a general and a limited partner.

(12) 'Partnership' shall include both a general and a limited partnership.

(13) 'Person' means a human being who has been born and is alive, and, where appropriate, a public or private corporation, an unincorporated association, a government, or a governmental instrumentality.

(14) 'Principal stockholder' shall mean a person who owns equity securities of the licensee, whether voting or non-voting, preferred or common, in an amount equal to or greater than 10 percent of the total amount of equity securities of the licensee issued and outstanding.

(15) 'Peace Officer' shall include police officers, the Attorney General and his Deputies and Assistants.

(16) 'Sadism' shall mean sexual gratification achieved through or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture, or death upon another person or animal.

(17) 'Sexual activity' shall mean any act of sexual intercourse, masturbation, sodomy, cunnilingus, or any excretory function, or any fondling or other erotic touching of genitals, pubic region, buttock or female breast.

(18) 'Sexually oriented material' shall mean any book, article, magazine, publication, or written matter of any kind, drawing, etching, painting, photograph, motion picture film, or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals; or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits human male genitals in a discernibly turgid state, even if completely covered.

(19) 'Treat' shall mean to administer the services provided by a massage establishment as described by this section.

\$1603. Commission on Massage Establishments and Adult Book Stores

(a) The Commission on Massage Establishments and Adult Book Stores is hereby established. The Commission shall consist of five members who shall be appointed by the Governor and who shall be residents of this State.

(b) The Governor shall appoint the five members of the Commission within 30 days of the enactment of this Act. Two members shall be appointed for two years and two members for three years. Upon the expiration of said terms the Governor shall appoint successors for terms of three years. The Chairman shall be designated by and serve at the pleasure of the Governor. In the event that a member of the Commission for any reason cannot complete his term of office, the Governor shall appoint another person to serve for the remainder of the term. The Commission shall designate one of its members as Secretary-Treasurer. All members of the Commission appointed by the Governor under the provisions of this Chapter shall be made by and with the consent of a majority of all the members elected to the Senate.

(c) Within 60 days from the enactment of this Act, the Commission shall be prepared to carry out the duties imposed herein.

(d) Each member of the Commission shall receive as compensation the sum of thirty (\$30.00) dollars per diem for each day or part thereof actually engaged in the dis-

charge of his duties under this Act, and shall be reimbursed by the State Treasurer for reasonable expenses and costs incurred in traveling to and from meetings of the Commission.

(e) Three members of the Commission shall constitute a quorum to conduct business. In the absence of the Chairman, an Acting Chairman shall be designated by the quorum of Commissioners present.

**\$1604. Duties and Powers**

(a) The Commission shall issue, revoke, and suspend licenses for operation of massage establishments and adult book stores, and for the occupation of massagist in accordance with the provisions of this Chapter.

(b) The Commission shall meet regularly not less than one day per month or within 30 days, whichever comes sooner, after receipt of a completed application for a license, and shall conduct such special meetings and hearings as shall be necessary to implement the provisions of this Chapter.

(c) Each member of the Commission shall have the power to administer oaths, and to compel the attendance of witnesses and the production of documents and other tangible objects material to its proceedings by the issuance of subpoenas to carry out the purposes of this Chapter.

(d) No findings of fact shall be made by the Commission except upon a hearing before at least three members, three of which shall concur in said finding. All findings of fact shall be written or recorded.

(e) All fees received by the Commission shall be paid over to the State Treasurer in accordance with Chapter 61 of Title 29. All expenses of the Commission, within the limits of the appropriations made to it, shall be paid by the State Treasurer upon vouchers signed by the Secretary-Treasurer of the Commission.

(f) All documents filed with the Commission and all records maintained shall become public, official, and business records of the State of Delaware and shall be admissible in evidence in any judicial proceeding in this State in accordance with the Laws of Delaware applicable to the admissibility of such records.

**\$1605. Records**

(a) The Commission shall maintain separate indexes relating to the licensing of massage establishments, mass-



agists, and adult book stores.

(b) The Commission shall maintain an alphabetized or a computerized index containing the full name(s), including nicknames or aliases, residential address(es), business address(es), social security number, driver license number, a picture and the identity of any banks within or without the State wherein accounts are maintained, of every applicant and licensee under this Act. The same information shall be provided for any other person whose signature appears upon any document comprising an application for license submitted under this Act. Said index shall be kept current and shall indicate the eligibility of such persons as licensees under this Act, and whether the signatures of such persons on an application for license preclude the issuance of a license based thereon.

(c) In carrying out its responsibilities, the Commission may submit names of applicants and those appearing in applications to the Department of Justice for the purpose of a record check.

§1606. License requirement

(1) No person shall engage in, carry on, or participate in the operation of a massage establishment, adult book store, or engage in the occupation of massagist without first having been issued a license therefore by the Commission.

(a) Whoever engages in the occupation of massagist in violation of this section shall be fined not more than \$500 or imprisoned not more than six (6) months, or both.

(b) Any person, and in the case of corporation this shall include its principal stockholders, Board of Directors, officers, and persons engaged in the management of such establishment, who shall engage in, carry on or participate in the operation of a massage establishment or an adult book store in violation of this section shall be fined not more than \$10,000 and imprisoned not more than six (6) months, or both.

(c) Any person engaging in, carrying on, or who participates in the operation of a massage establishment who is found to have upon the premises a massagist in violation of this section shall be fined not less than \$2,500, which fine shall not be subject to suspension, nor more than \$10,000. For the purposes of this section, neither arrest, prosecution or conviction of a massagist for violation of this section shall be

necessary in order for liability to attach.

(d) A certificate, certified by a member of the Commission, that a diligent search of the Commission's records, those pertaining to licenses kept in conformity with the provisions of this Act, has failed to disclose the existence of a valid license for the massage establishment or adult book store in question shall be prima facie evidence of a violation of this section.

**§1607. Fee; Term of license**

(a) No license for the operation of a massage establishment under this chapter shall be issued unless the applicant thereof shall have paid an annual license fee of Two Hundred (\$200) dollars plus a fee of Twenty-five (\$25) dollars for each separate branch or business location.

(b) No license to engage in the occupation of massagist shall be issued under this chapter unless the applicant therefore shall have paid an annual license fee of Twenty-five (\$25) dollars.

(c) No license for the operation of an adult book store under this chapter shall be issued unless the applicant therefore shall have paid an annual license fee of Fifty (\$50) dollars plus a fee of Ten (\$10) dollars for each separate branch or business location; provided, however, that applicants who have paid for and obtained a license prior to the effective date of this Act pursuant to Title 30, Section 2905 of the Delaware Code shall pay no fee in addition thereto for issuance of a license under this Chapter. Nothing in this Chapter, however, shall be construed to affect or impair in any manner the requirements of Title 30 of the Delaware Code.

(d) Each license granted pursuant to this Act shall be paid for a period of one year and may only be renewed by making a new application in the manner provided in this Act.

**§1608. Transferability of license**

(a) Each license issued under this Chapter shall be for the sole use and benefit of the licensee to whom it is issued and shall not be transferable.

(b) Whoever intentionally uses or permits the use, or attempts to use or permit the use of a license issued under this Chapter by or on behalf of a person other than the

licensee to whom said license shall be issued shall be fined not more than Five Hundred (\$500) dollars, or imprisoned for not more than six (6) months, or both.

§1609. Form and content of licenses

(a) Every license issued under this Chapter shall be signed by the signature or by the facsimile signature of the Secretary-Treasurer of the Commission, shall bear in bold letters the date of issuance and termination, and shall state the name and address of the licensee.

(b) Every license for the operation of a massage establishment or an adult book store shall describe the nature of the business or enterprise as 'massage establishment' or 'adult book store', and the location of the premises at which such business is authorized. Where the licensee is a corporation, the license shall state the name and address of said corporation's registered agent in this State, and the name of its registered agent at such address.

(c) Every license issued to a massagist shall bear the photograph of the licensee.

§1610. Place of business specified in license; Change of location; Penalty

(a) No license issued under this Chapter shall authorized the licensee to engage in or carry on the business of operating a massage establishment or an adult book store in any place other than the premises set forth in such license. If a licensee changes the location of his place of business during the period for which the license is issued, the license shall be amended by making application in accordance with the provisions of this Act in making a new application, to authorize business at the new location, provided said business is otherwise permitted at the new location by applicable law and ordinance.

(b) Any person, and in the case of a corporation this shall include its principal stockholders, Board of Directors, officers, and persons engaged in the management of such establishment, who is the holder of a license issued under this Act and who engages in, carries on, or participates in the operation of the business of operating a massage establishment or an adult book store at a place other than that authorized by said license shall be fined not more than Five Hundred (\$500) dollars, or imprisoned for not more than six months, or both.

\$1611. Display of license; Penalty

(a) Every person licensed to operate a massage establishment or an adult book store under this Chapter shall display each license in a conspicuous manner on the premises for which the license shall have been issued.

(b) Every massagist licensed under this Chapter shall have in his possession during the course of performance of services as a massagist, and while on the premises of a massage establishment, and shall display upon request of a peace officer, the license issued under this Chapter.

(c) Violation of this section shall be punished by a fine of not more than One Thousand (\$1,000) dollars.

\$1612. Application for license; Massagist

No license to engage in the occupation of massagist shall be issued under this Act unless the applicant has executed and filed with the Commission an application for license which shall include:

(1) His full name(s), including nicknames or aliases, residential address(es), place(s) of employment, including address(es) and phone number(s), social security number, date of birth, driver license number, and a photograph of the applicant taken within 30 days of application.

(2) His sworn statement that he has never been convicted of any of the following offenses: lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape, or sodomy, in this State or any other State or jurisdiction within three years of the date of application.

(3) A letter or certification of a physician stating that the applicant has been examined and found free of communicable diseases as of a date not more than thirty days prior to submission of the application.

(4) A copy of the applicant's fingerprints on a Delaware State Police fingerprint card.

\$1613. Application for license; Massage establishment and adult book store

(a) No license for the operation of a massage establishment or an adult book store shall be issued under this Chapter unless the applicant has executed and filed with the

Commission an Application for License under oath on a form prepared by the Commission which is in compliance with this Chapter.

(b) Every Application for License for the operation of a massage establishment or an adult book store shall state the full name(s), of the applicant appearing pursuant to Section 1615 of this Act, including nicknames or aliases, residential address(es), place(s) of employment, including address(es) and phone number(s), social security number, date of birth, drivers license number, and a photograph of the applicant taken within thirty days of the application, Federal Employer's Identification Number, and address of the premises for which the application for license is made. Each application shall further provide the full name(s), including nicknames and aliases, residential address(es), place(s) of employment, including address(es) and phone number(s), social security number, and a recent photograph taken within thirty days of providing this information to the Commission, of the person(s) to be primarily responsible for the day to day management of the massage establishment or adult book store.

(c) Where the applicant is a corporation, no license shall be issued unless there first be filed with the Commission, as part of the Application of License:

(1) a copy of the certificate of incorporation certified by the Secretary of State of the state of incorporation; and

(2) where the applicant is a foreign corporation within the meaning of Title 8, Section 371 of the Delaware Code, a copy of the certificate of the Secretary of State prescribed by subsection (c) of that section; and

(3) a certificate which shall bear the full name(s), including nicknames or aliases, place(s) of employment, including address(es) and phone number(s), social security number, date of birth, drivers license number, and a photograph taken within thirty days of application of every director, officer, and principal stockholder of the applicant, and each such signature shall be separately witnessed and acknowledged by a notary public of the district of execution; and

(4) the names and addresses of all holders of stock of the applicant as of a date thirty days or less prior to the date of application, which shall be certified as true and correct by an authorized director or officer of said corporation.

(d) Where the applicant is a partnership or other unincorporated association, no license shall be issued unless there is first filed with the Commission, as part of the application for license, a certificate which shall bear the full name(s), including nicknames or aliases, signature, place(s) of employment, including address(es) and phone number(s), social security number, date of birth, drivers license number, and a photograph taken within thirty days of application of every partner or member, and each such signature shall be separately witnessed and acknowledged by a notary public of the district of execution.

(e) An application for license for the operation of an adult book store shall include a certificate stating the full name(s), including nicknames or aliases, signature(s), residential address(es), place of employment, including address(es) and phone number(s), date of birth, social security number, drivers license number, and a photograph taken within thirty days of application of the person or persons who shall be responsible for the selection or procurement of all sexually oriented material for each such establishment and each such signature shall be separately witnessed and acknowledged by a notary public of the district of execution. This subsection shall not be construed to preclude the responsibility of any other person or persons for the procurement of sexually oriented materials.

\$1614. Form of signature

No signature of an applicant or licensee, or of any director, officer, principal stockholder or employee of an applicant or licensee, or of any partner associated with an applicant or licensee, which is required to be affixed to any document filed under this chapter, shall be a facsimile signature.

\$1615. Personal appearance required

(a) No license shall be issued under this chapter except upon personal appearance of the applicant before a member of the Commission. The applicant shall affix his signature and social security number to the Application for License in said member's presence and shall acknowledge under oath that said application for license is his act and deed and that the facts stated therein are true.

(b) Where the applicant is a corporation, the provisions of subsection (a) of this section shall be satisfied by the appearance, signature, and social security number of a director on behalf of the corporation in the same manner. Where the applicant is a partnership or other unincorporated

association, the provisions of subsection (a) shall be satisfied by the appearance, signature and social security number of a general partner or member on behalf of the applicant.

§1616. Grounds for denial of license

(a) The Commission shall issue a license for the operation of an adult book store to every applicant who shall have satisfactorily completed and filed an Application for License as required by this chapter and shall have paid the required fee.

(b) No license to engage in the occupation of massagist shall be issued to any person convicted of any of the following offenses: lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other State or jurisdiction within three years of the date of application.

(c) No license for the operation of a massage establishment shall be issued under this chapter:

(1) To any person convicted within three years of the date of application of any of the following offenses: lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other State or jurisdiction; or

(2) To any person who formerly held a license for the operation of a massage establishment under this chapter, which license was revoked pursuant to Section 1617 of this chapter, for two years following revocation; or

(3) To any person who was an officer, director, or principal stockholder of a corporation, or a partner or member of a partnership or other unincorporated association, which was licensed as a massage establishment and which license was revoked pursuant to Section 1617 of this chapter for an offense or violation committed by anyone while said person served in that capacity, for two years following revocation; or

(4) To any person on the basis of an Application of License which bears the signature of any person specified in subsection (c) (1) of this section who has been convicted within three years of the date of application of any of the crimes set forth in subparagraph (c)(1) of this section; or

(5) To any person on the basis of an Application for license which bears the signature of any person specified in subsections (c) (2) or (c) (3) of this section, for two years following revocation.

§1617. Grounds for revocation of license

(a) The license for the operation of an adult book store shall be revoked for the following reasons:

1. The intentional misrepresentation or omission of any material fact required to be filed pursuant to this Act; or

2. The transfer of a license in violation of Section 1608 (a) or 1610 (a) of this Act; or the failure to comply with the provisions of Sections 1623 or 1624 of this Act.

Nothing provided herein shall preclude the licensee from applying for a new license pursuant to the provisions of this Act. The person or persons responsible for any intentional misrepresentation or omission of any material fact required to be filed pursuant to this Act shall be fined \$1,000 and imprisoned for thirty days, or both.

For the purpose of this subsection, a fact is deemed 'material' when it could have affected the decision as to whether to grant or deny an application for license.

(b) A license to engage in the occupation of massagist shall be revoked for a period of two years upon the conviction of the licensee for any of the following offenses, including conspiracy to commit any of the following offenses: lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape, or sodomy, in this State or any other State or jurisdiction.

(c) A license for the operation of a massage establishment shall be revoked for a period of two years:

(1) Upon conviction of the licensee for any of the following offenses, including conspiracy to commit any of the following offenses: lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape, or sodomy, in this State or any other State or jurisdiction.

(2) Upon a conviction of any director, officer, principal stockholder, or employee of the licensee or of a partner associated with the licensee for any of the following offenses, including conspiracy to commit



any of the following offenses: lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape, or sodomy, in this State or any other State or jurisdiction, occurring on the licensed premises.

(3) Upon conviction of any director, officer, principal stockholder, or employee of the licensee, or of a partner associated with the licensee for any of the following offenses, including conspiracy to commit any of the following offenses: lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape, or sodomy, in this State or any other state or jurisdiction, not occurring on licensed premises, where said director, officer, principal stockholder, partner, or employee, at the time of the conduct constituting the offense, was off the premises at the request or direction of the licensee for the purpose of furthering the business of the licensee.

\$1618. Suspension of license to operate massage establishment or act as a massagist

(a) A license for the operation of a massage establishment shall be suspended for a period of sixty days upon conviction of the licensee for a violation of Section 1620 of this Act.

(b) A license to engage in the occupation of massagist shall be suspended for a period of two years upon conviction of the licensee for a violation of Section 1620 of this Act.

\$1619. Notice and hearing

(a) The Commission shall not deny, suspend or revoke any license issued under this Act, or deny any application for license thereunder, except after a hearing where the applicant or licensee has been given at least twenty days notice in writing, specifying the reason or reasons for such denial, suspension or revocation, and the date of the hearing. Notice for the purpose of this section shall be as provided by the Superior Court Rules of Civil Procedure.

(b) Any hearing held pursuant to this Act shall be at such time and place as the Commission shall prescribe, but no later than twenty days after receiving notice. Failure of the person or persons to appear after receiving notice shall constitute a waiver of the right to appear at said hearing.

(c) Hearings shall be before a panel of no less than three Commissioners and the applicant or licensee shall be permitted the assistance of counsel at his own expense, to present witnesses in his own behalf and to cross-examine witnesses against him. The proceedings shall be recorded either electronically or stenographically. The Commission shall make specific findings of fact based upon a preponderance of the evidence upon the concurring vote of no fewer than three Commissioners. The Commission shall give written notice, accompanied by its findings of fact and conclusion of law, of its action within ten days of said hearing.

(d) The applicant or licensee shall have the right of appeal to the Superior Court upon filing notice of appeal within twenty days of the decision of the Commission. Such review shall be on the record and shall not be de novo; and the cost of transportation shall be borne by the appellant

§1620. Prohibited acts

(a) Permit a massagist in its employ to treat a patron of the opposite sex; or

(b) Permit a massagist in its employ to treat a patron while public area, buttocks, or female breasts of either massagist or patron are not fully covered; or

(c) Permit a massagist in its employ to treat the genitals of a patron.

(d) No massage parlor shall be located on the premises or have an adjoining door to an establishment that sells alcoholic beverages.

A violation of this section by either a massage establishment or a massagist shall be punished by a fine in the amount of \$1,000 or by imprisonment for not more than thirty days, or both.

§1621. Records; inspection

(a) Every massage establishment which is licensed under this chapter shall maintain on the premises and keep current a record of all massagists in its employ, a record of all massagists who have been employed after the effective date of this chapter, and a record containing the names and addresses of all customers, the date of attendance and the name of the massagist.

(b) Every adult book store which is licensed under this chapter shall maintain on the premises a record which

shall state the name and address of every person, distributor, wholesaler or publisher from whom said book store has received any sexually oriented material, and the date such material was received, for purposes of sale, exhibition or dissemination on the premises after the effective date of this chapter.

(c) All records which are required to be maintained pursuant to this section shall be subject to inspection on demand by any peace officer or by the Commission or any member thereof.

(d) Violation of this section shall be punished by a fine of not more than Two Hundred (\$200) dollars or by imprisonment for not more than six months, or both.

**\$1622. Severability**

If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter shall be severable.

**\$1623. Change of daily management**

A massage establishment or adult book store shall notify the Commission in writing within ten days of any change, containing the full name(s), including nicknames or aliases, residential address(es), place(s) of employment, including address(es) and phone number(s), social security number, date of birth, driver license number, and a photograph taken within thirty days of notification, of any change in the identity of the persons identified pursuant to Section 1613 (b) and (e) of this Act.

A violation of this section shall be punishable by a fine in the amount of \$1,000.

**\$1624. Retroactive application**

The provisions of this Act, except as provided in Section 1607(c) of this Act, shall apply with equal force and effect to businesses and enterprises in existence prior to the effective date of this chapter and to those undertaken thereafter. The information required of all applicants hereunder shall be supplied to the Commission by any business subject to the provisions of this Act previously licensed pursuant to Title 30, Section 2905 of the Delaware Code within twenty days after the effective date of this Act if

such business has more than ninety days remaining on its then existing license.

**\$1625. Inspections**

The premises at which the business of a massage establishment is carried on shall be subject to periodic inspection by the State Board of Health upon reasonable notice to said establishment for the prevention of the spread of communicable diseases.

**\$1626. Rules and regulations**

The Commission shall have the power to make such rules and regulations not inconsistent with the law as are necessary for the performance of its duties.

**\$1627. Offenses**

Unless otherwise provided, all violations of this Act are misdemeanors.

**\$1628. Jurisdiction**

Exclusive jurisdiction for all criminal violations of this Act shall be in the Superior Court.

**\$1629. Words of gender or number**

Unless the context otherwise requires, words denoting the singular number may, and where necessary, shall be construed as denoting the plural number, and words denoting the plural number may, and where necessary, shall be construed as denoting the singular number, and words denoting the masculine gender may, and where necessary, shall be construed as denoting the feminine gender or the neuter gender.

Section 2. The provisions of this Act shall become effective ninety days after all members of the Commission on Massage Establishments and Adult Book Stores have been appointed by the Governor and confirmed by the Senate.

Approved July 8, 1977

## CHAPTER 123

## FORMERLY HOUSE BILL NO. 127

AN ACT TO AMEND CHAPTER 60, TITLE 7 OF THE DELAWARE CODE RELATING TO WATER ALLOCATION BY THE SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 60, Title 7 of the Delaware Code by adding thereto a new section, designated as §6031, which new section shall read as follows:

"§6031. Obligation of recipients of water allocations

(a) The Secretary shall, when the use of water pursuant to an allocation granted under §6010 (f) of this Chapter causes the depletion or exhaustion of an existing use of water, require as a condition of such allocation that the recipient of such allocation take one or more of the following actions:

(1) To provide free of charge to the affected person a complete water supply connection to a water supply distribution system and to provide water to the affected person for a term of three years in an amount not to exceed 100,000 gallons per year. Water used by the affected person which exceeds 100,000 gallons per year shall be paid for by the affected person on a quarterly basis at the rates established by the Public Service Commission as applicable to the supply of public water in the area in question; and/or

(2) To provide free of charge to the affected person an alternative source of water supply at least equal in quality and quantity to that existing at the time of the granting of the allocation.

(b) The Secretary shall, when an allocation granted pursuant to §6010 (f) of this Chapter causes the depletion or exhaustion of an existing use of water, require as a condition of such allocation that the person receiving such allocation provide free of charge to the affected person an interim water supply which is adequate to meet such person's need. The Secretary shall determine the level of interim water supply sufficient to meet the needs of the affected person and shall further determine the dates on which the interim water supply will commence and terminate.

(c) The Secretary shall, upon receipt of a verified petition setting forth factual allegations that an allocation granted pursuant to §6010 (f) of this Chapter caused the depletion or exhaustion of petitioner's existing use of water, schedule and conduct a hearing to consider the petition. Prior to a hearing under this subsection the Secretary shall give at least twenty (20) days' notification of the date of the hearing to the petitioner and the person granted the allocation. The petitioner or the person granted the allocation may appear personally or by counsel at the hearing and produce any competent evidence. The Secretary or his designee may administer oaths, examine witnesses, and issue in the name of the Department subpoenae when requested by a petitioner or a person granted an allocation. A verbatim transcript of testimony at the hearing shall be prepared and shall, along with the exhibits and other documents introduced into evidence, constitute the record. The Secretary or his designee shall make findings of fact based on the record and issue an order to effectuate such findings and further the purposes of this subsection. Any person whose interest is substantially affected by any order of the Secretary may appeal to the Environmental Appeals Board as provided in §6008 of this Chapter."

Approved July 8, 1977.

## CHAPTER 124

## FORMERLY HOUSE BILL NO. 373

## AN ACT TO AMEND CHAPTER 28, TITLE 24, DELAWARE CODE RELATING TO PROFESSIONAL ENGINEERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 2803, Title 24 of the Delaware Code by striking subsection (7) in its entirety and substituting in lieu thereof the following:

"(7) 'Practice of engineering' or 'to practice engineering' or 'practive engineering' includes any professional service performed for the general public such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health or property is concerned or involved when such professional service requires the application of engineering principles and data, but it does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, neither does it include engineering services performed by an employee of a firm or corporation that does not offer professional engineering services to the general public."

Section 2. Amend Section 2802, Title 24, of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§2802. Declaration of purpose; unlawful practice

In order to safeguard life, health, and property and to promote the public welfare, the practice of engineering in this State is hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice or to offer to practice engineering in this State, to use in connection with his name, by verbal claim, sign, advertisement, letterhead, card or to in any other way, represent himself to be an engineer, a Professional Engineer or through the use of some other title imply that he is a Professional Engineer registered under this act; or to advertise any title or description tending to convey the impression that he is an engineer unless such person has been duly registered or exempted under the provisions of this act. The right to engage in the practice

of engineering shall be deemed a personal right based on the qualifications of the individual as evidenced by his certificate of registration, which shall not be transferable."

Section 3. Amend Section 2820, Title 24, of the Delaware Code by adding the following sentence to the second paragraph of §2820:

"Applicants for the permit must comply with all applicable State tax laws to the same extent as required by Delaware residents. Proof of compliance with all applicable State laws is required by the Council prior to actual issuance of permit."

Approved July 8, 1977.



CHAPTER 125

FORMERLY SENATE BILL NO. 155

AN ACT TO AMEND CHAPTER 7, TITLE 7 OF THE DELAWARE CODE RELATING  
TO SHOT SIZE ALLOWED TO TAKE GAME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend subsection (d), §704, Chapter 7, Title 7  
of the Delaware Code by striking the period (.) at the end there-  
of and substitute in lieu thereof the following:

"; provided however, a person may use for hunting or  
carry when hunting, shotgun shells loaded with steel  
missiles or approved non-toxic missiles of size up to but not  
larger than No. B shot (.170 in in diameter)."

Approved July 8, 1977.

## CHAPTER 126

## FORMERLY HOUSE BILL NO. 341

AN ACT TO AMEND CHAPTER 23, TITLE 30, DELAWARE CODE, PERTAINING  
TO OCCUPATIONAL LICENSES AND FEES FOR PROFESSIONAL ENGINEERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 2301, Title 30, Delaware Code by  
striking subparagraph (59) of Section 2301 in its entirety and  
substituting in lieu thereof the following:

"(59) Professional Engineer, \$50.

'Professional engineer' includes every individual  
qualified under the laws of the State to practice pro-  
fessional engineering and is engaged in active practice  
of such profession, whether self-employed or a member  
or employee of a firm or private corporation offering  
professional engineering services to the general  
public."

Approved July 8, 1977.

## CHAPTER 127

FORMERLY SENATE BILL NO. 300  
AS AMENDED BY  
SENATE AMENDMENT NOS. 1 AND 2 AND  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE TO CONFER UPON THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL THE POWER TO DEAL WITH THE HAZARDS AND THREATS OF DANGER AND DAMAGE POSED BY SPILLS OF OIL AND PETROLEUM PRODUCTS UPON THE WATERS AND WITHIN THE BOUNDARIES OF THIS STATE; TO REQUIRE THE PROMPT CONTAINMENT AND REMOVAL OF POLLUTION OCCASIONED THEREBY; TO PROVIDE PROCEDURES WHEREBY PERSONS SUFFERING DAMAGES FROM SUCH OCCURRENCES MAY BE PROMPTLY MADE WHOLE; TO GUARANTEE THAT ALL PERSONS USING THE WATERS OF THE STATE FOR THE TRANSPORTATION OR TRANSFER OF OIL, PETROLEUM PRODUCTS AND THEIR BY-PRODUCTS MEET MINIMUM REQUIREMENTS OF FINANCIAL RESPONSIBILITY; TO PROVIDE PENALTIES FOR VIOLATING PROVISIONS THEREOF; TO PROVIDE FOR SERVICE OF PROCESS UPON NON-RESIDENT OWNERS OR OPERATORS; AND PROVIDING AN APPROPRIATION TO CARRY OUT THE PROVISIONS OF THIS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 7 of the Delaware Code by adding thereto a new chapter, designated as Chapter 62, which new Chapter shall read as follows:

"CHAPTER 62. OIL POLLUTION LIABILITY

§6201. Findings and purpose

The Legislature finds and declares that the highest and best uses of the seacoast of the State are as a source of public and private recreation and solace from the pressures of an industrialized society and as a source of public use and private commerce in fishing, crabbing and gathering other marine life used and useful in food production and other commercial activities.

The Legislature further finds and declares that the preservation of these uses is a matter of the highest urgency and priority and that such uses can only be served effectively by maintaining the coastal waters, estuaries, tidal flats, beaches and public lands adjoining the seacoast in as close to a pristine condition as possible, taking into account multiple use accommodations necessary to provide the broadest possible promotion of public and private interest with the least possible conflicts in such

diverse uses.

The Legislature further finds and declares that the transfer of oil, petroleum products and their by-products between vessels and vessels and onshore facilities and vessels within the jurisdiction of the State and State waters is a hazardous undertaking; that the spills, discharges and escape of oil, petroleum products and their by-products occurring as a result of procedures involved in the transfer and storage of such products pose threats of great danger and damage to the marine, estuarine and adjacent terrestrial environment of the State; to owners and users of shorefront property; to public and private recreation; to citizens of the State and other interests deriving livelihood from marine related activities; and to the beauty of the Delaware coast; that such hazards have frequently occurred in the past, are occurring now and present future threats of potentially catastrophic proportions, all of which are expressly declared to be inimical to the paramount interests of the State as herein set forth and that such State interests outweigh any restrictions or burdens imposed by the Legislature upon those engaged in transferring oil, petroleum products and their by-products and related activities.

The Legislature intends by the enactment of this legislation to exercise the police power of the State through the Department of Natural Resources and Environmental Control by conferring upon said Department the exclusive power to deal with the hazards and threats of danger and damage posed by such transfers and related activities; to require the prompt containment and removal of pollution occasioned thereby; to provide procedures whereby persons suffering damage from such occurrences may be promptly made whole; and to guarantee that all persons using the waters of the State for the transportation or transfer of oil, petroleum products and their by-products meet minimum requirements of financial responsibility.

The Legislature further finds and declares that the preservation of the public uses referred to herein is of grave public interest and concern to the State in promoting its general welfare, preventing disease, promoting health and providing for the public safety, and that the State's interest in such preservation outweighs any burdens of absolute liability imposed by the Legislature upon those engaged in transferring oil, petroleum products and their by-products and related activities.

#### §6202. Definitions

The following words and phrases shall have the meanings

ascribed to them in this Chapter unless the context clearly indicates otherwise:

- (a) 'Claim' shall mean a demand in writing for damages.
- (b) 'Claimant' shall mean anyone who asserts a claim.
- (c) 'Cleanup costs' shall mean costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate further oil pollution from that incident.
- (d) 'Discharge' shall mean any emission, intentional or unintentional, and shall include spilling, leaking, pumping, pouring, emptying, or dumping.
- (e) 'Facility' shall mean a structure or group of structures (other than a vessel or vessels) including trucks, pipelines, bulk storage tanks, and tank cars, used for the purpose of transporting, producing, processing, storing, transferring, or handling oil.
- (f) 'Guarantor' shall mean the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator.
- (g) 'Incident' shall mean any occurrence or series of occurrences, involving one or more vessels, facilities, or any combination thereof, which causes, or poses any threat of oil pollution in or upon the waters and lands of the State of Delaware.
- (h) 'Oil' shall mean petroleum, including crude oil or any fraction or residue therefrom.
- (i) 'Oil pollution' shall mean any discharge of oil that results in a film on, emulsion in, or sludge beneath the waters of the State of Delaware or its shoreline.
- (j) 'Operator' shall mean -
  - (1) in the case of a vessel, a charterer by demise or any other person, who is responsible for the operation, manning, victualing, and supplying of the vessel, or
  - (2) in the case of a facility, any person responsible for the operation of the facility by agreement with the owner.
- (k) 'Owner' shall mean any person holding title to, or, in the absence of title, any other indicia of ownership

of a vessel or facility, but does not include a person having only a security interest in, or security title to, a vessel or facility, under a contract of conditional sale, an equipment trust, a chattel or corporate mortgage, a lease which is the functional equivalent of an extension of credit, or any similar instrument.

(l) 'Person' shall mean an individual, firm, corporation, association, or partnership.

(m) 'Person in charge' shall mean the individual immediately responsible for the operation of a vessel or facility.

(n) 'Refinery' shall mean a terminal which receives crude oil for the purpose of refinement.

(o) 'Secretary' shall mean the Secretary of the Department of Natural Resources and Environmental Control.

(p) 'Ship' shall mean any vessel carrying oil in bulk as cargo.

(q) 'Terminal' shall mean a facility, located within the boundaries of the State of Delaware which receives oil in bulk directly from any vessel, offshore production facility, offshore port facility or onshore pipeline.

(r) 'Vessel' shall mean every description of watercraft or other artificial contrivance used, or capable of being used, as a means of water transportation.

(s) 'Waters of the State of Delaware' shall mean those waters within the boundaries of the State as defined in §201, Title 29 of the Delaware Code, including those waters of the territorial sea which are in direct contact with the coast of Delaware and extending from the line of ordinary low water seaward for a distance of three geographical miles.

§6203. Pollution of waters and lands of the State prohibited

The discharge of oil which causes an incident is prohibited.

§6204. Removal of illegal discharge

Any person determined by the Secretary to be responsible for causing an incident shall immediately undertake to remove such oil pollution to the Secretary's satisfaction. If the person responsible fails immediately to undertake to remove the oil pollution to the Secretary's satisfaction, the Secretary may undertake the removal of such oil pollution

and may retain agents and contractors for such purpose who shall operate under the direction of the Secretary. The Secretary may authorize a third person, affected by such oil pollution to expend funds to remove said oil pollution at the expense of the person responsible for same. All monies expended by the Secretary under this section and recovered under §6205 of this Chapter are hereby appropriated to the Department of Natural Resources and Environmental Control to carry out the purposes of this Chapter.

§6205. Injunction to prohibit violations; action to recover moneys expended for removal; action for penalties

If any person violates any of the provisions of this Chapter or any rule or regulation promulgated thereunder, the Secretary, through the Attorney General, may institute a civil action in the Court of Chancery for appropriate relief including injunctive relief to prohibit and prevent such violation or violations. The Secretary, through the Attorney General, may also bring an action in the Superior Court against any person in violation of this Chapter to recover any moneys expended by him or any moneys expended by third persons which the Secretary so authorized. The Superior Court shall have jurisdiction over all actions for penalties under this Chapter.

§6206. Service of process on owners or operators of vessels or facilities who are non-residents or corporations not incorporated in Delaware

(a) Any non-resident who, either in person or through others, owns or operates a vessel or facility in or upon the lands or waters of this State or any non-resident who, either in person or through others, owns or operates a vessel or facility outside the State, which while located outside the State causes an incident in or upon the lands or waters of the State shall be deemed thereby to have submitted himself to the jurisdiction of the courts of this State and to have appointed and constituted the Secretary of State of this State or his designee as his agent for the acceptance of legal process in any action under this Chapter. The force, validity and effect of service of process under this subsection as well as the procedure for effectuating said service shall be governed in all respects by the provisions of §3112, Title 10 of the Delaware Code.

(b) Any corporation, not incorporated in this State, which itself or through others owns or operates a vessel or facility in or upon the lands or waters of this State or any such corporation which itself or through others owns or operates a vessel or facility outside the State which, while outside the State, causes an incident in or upon the lands

or waters of this State, shall be deemed thereby to have sufficient contacts with this State to have submitted itself to the jurisdiction of the courts of this State. The force, validity and effect of service of process under this subsection as well as the procedure for effectuating said service shall be governed in all respects by the provisions of §3111, Title 10 of the Delaware Code.

§6207. Damages and claimants

(a) In addition to all necessary costs of investigation and prosecution, claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for:

- (1) cleanup costs;
- (2) injury to, or destruction of, real or personal property;
- (3) loss of use of real or personal property;
- (4) injury to, or destruction of, natural resources;
- (5) loss of use of natural resources;
- (6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and
- (7) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) A claim authorized by subsection (a) may be asserted:

- (1) under any items, by the Attorney General on behalf of the State, its citizens or subdivisions; however, the right of any claimant or claimants to proceed in their own behalf shall not be impaired;
- (2) under paragraph (1) of subsection (a), by any claimant;
- (3) under paragraphs (2), (3) and (5) of subsection (a), by any claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;
- (4) under paragraph (4) of subsection (a), by the Governor, as trustee for natural resources over



which the State of Delaware has sovereign rights;

(5) under paragraph (6) of subsection (a), by any claimant, if the claimant derives at least fifteen percentum (15%) of his income from activities which utilize the property or natural resources;

(6) under paragraph (7) of subsection (a), by the State or political subdivision thereof.

**\$6208. Liability**

(a) Subject to provisions of subsections (b) and (c) of this section, the owner and operator of a vessel or of a facility, which is the source of, or poses a threat of, oil pollution, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under §6207 of this Chapter.

(b) Except when the incident is caused by gross negligence or willful misconduct within the privity or knowledge of the owner or operator, or when the incident is caused by a gross or willful violation by the owner or operator of applicable safety, construction, or operating standards or regulations of the State of Delaware, or when the owner or operator fails or refuses to provide a certificate of financial responsibility as required by subsection (d) of this section, the total liability under subsection (a) shall not exceed:

(1) in the case of a vessel other than a ship, one hundred fifty dollars (\$150.00) per gross ton;

(2) in the case of a ship, three hundred dollars (\$300.00) per gross ton or two hundred fifty thousand dollars (\$250,000.00), whichever is greater, up to a maximum of thirty million dollars (\$30,000,000.00); or

(3) in the case of a facility, fifty million dollars (\$50,000,000.00) or such lesser limit as is established under subsection (e) of this section.

(c) There shall be no liability under subsection (a):

(1) to the extent that the incident is caused by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an unforeseen, exceptional, inevitable, and irresistible character;

(2) as to a particular claimant, where the incident or the economic loss is caused by the gross negligence or willful misconduct of that claimant.

(d) A certificate of financial responsibility, duly issued or approved by the Secretary, shall be an absolute condition precedent to any limitation of liability under this section.

(e) The Secretary shall issue regulations establishing limits of liability, up to fifty million dollars (\$50,000,000.00), for various classes of facilities. These regulations shall take into account the size, type, location, oil storage and handling capacity, and other matters relating to the likelihood of incidents as to those classes. Such limits shall, to the extent practicable, be comparable to those limits established under paragraph (2), subsection (b) of this section, taking into account the relative potential threat of oil pollution. In no case shall it exceed the limits imposed by the federal government.

(f) The Secretary shall, from time to time, report to the General Assembly on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

(g) In addition to the damages for which claims may be asserted under §6207, and without regard to the limitation of liability provided in §6208, the owner, operator, or guarantor shall be liable to the claimant for such interest as may be awarded in the discretion of the Court as well as court costs and attorneys' fees.

(h) Nothing in this Chapter shall bar a cause of action that an owner or operator, subject to liability under subsection (a) of this section, or a guarantor has or would have, by reason of subrogation or otherwise, against any person or governmental entity other than the State of Delaware and its agencies or subdivisions.

#### §6209. Financial responsibility

(a) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo) over 300 gross tons, which uses the waters of the State of Delaware shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability applicable to that vessel under the provisions of subsection (b), §6208 of this Chapter. Financial responsibility may be established by any one or any combination of the following methods: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the State of Delaware. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence

of financial responsibility must be established to meet the maximum liability applicable to the largest of such vessels.

(b) The owner or operator of a facility shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability applicable to that facility under the provisions of §6208 (b) of this Chapter.

(c) The master or operator of any vessel subject to the provisions of this Chapter shall have in his possession at all times certification that the financial responsibility provisions of this section have been complied with. Pilots holding a license issued by the State of Delaware shall demand that such certification of financial responsibility be produced before providing any pilot service to said vessel.

(d) The owner or operator of any vessel or facility subject to this Chapter who, upon request, does not produce certification furnished by the Secretary that the financial responsibility provisions of this section have been complied with, shall be punished by a fine of not less than five thousand dollars (\$5,000.00) nor more than fifteen thousand dollars (\$15,000.00) for each such violation.

(e) Any claim authorized by §6207 of this Chapter may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this Title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

§6210. Notification, designation, and advertisement

(a) The person in charge of a vessel or facility, which is subject to the provisions of this Chapter, as soon as he has knowledge of an incident in which the vessel or facility is involved, shall immediately notify the Secretary of the incident.

(b)(1) When the Secretary receives information, pursuant to subsection (a) of this section or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of

the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation as well as the Attorney General of the State of Delaware.

(2) When a source designated under paragraph (1) of this subsection is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, in accordance with regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

(c) Advertisement under subsection (b) of this section shall commence no later than fifteen (15) days from the date of the designation made thereunder to continue for a period of no less than thirty (30) days.

§6211. Claims settlement or actions in Superior Court

(a) Except as provided in subsection (b) of this section, all claims shall be presented to the owner, operator, or guarantor.

(b) In the case of a claim presented in accordance with subsection (a), and in which:

(1) the person to whom the claim is presented denies all liability for the claim, for any reason; or

(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (i) the claim was presented, or (ii) advertising was commenced pursuant to §6210 (b) (2), whichever is later, the claimant may elect to commence an action in Superior Court against the owner, operator, or guarantor.

(c) (1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the Attorney General and Secretary at the same time those pleadings are served upon the opposing parties.

(2) The Attorney General may intervene in the action as a matter of right.

(3) In any action to which the Secretary is a party, if the owner, operator, or guarantor admits liability under this Chapter, the Secretary upon his motion shall be dismissed therefrom.

(d) No claim may be presented, nor may an action be commenced for damages recoverable under this Chapter, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under subsection (a) of §6207, or within six years of the date of the incident which resulted in that loss, whichever is earlier.

§6212. Adjudication by the Secretary

In lieu of any action under subsections (a) or (b) of §6211 of this Chapter, the claimant may elect to submit his claim to the Secretary for adjudication, that election to be irrevocable and exclusive.

§6213. Appeal to Board

Any person whose interest is substantially affected by the adjudication of the Secretary under §6212 may appeal to the Environmental Appeals Board within twenty (20) days after the Secretary has announced his decision. The Board may affirm, modify, or reverse the decision of the Secretary. If the decision of the Secretary is overruled or modified by the Board, then the Board shall state reasons for its decision. No decision of the Board shall be valid unless signed by a minimum of five members.

§6214. Appeal from Board's decision

(a) Any person or persons, jointly or severally, aggrieved by any decision of the Board, may appeal to the Superior Court in and for the county in which the incident in question wholly or principally occurred by filing a petition, duly verified, setting forth the grounds of the appeal. Any such appeal shall be perfected within thirty (30) days of the receipt of the written 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.

**\$6215. Subrogation**

Any person or governmental entity who shall pay compensation to any claimant for an economic loss, compensable under §8207 (a) of this Chapter, shall be subrogated to all rights, claims and causes of action which that claimant has under this Chapter.

**\$6216. Rules and regulations**

The Secretary may, after public hearing in accordance with §6006 of this Title, adopt, amend, modify or repeal rules or regulations to effectuate the policies and purposes of this Chapter."

Section 2. The sum of sixty thousand dollars (\$60,000.00) is hereby appropriated to the Department of Natural Resources and Environmental Control to initiate the program contained in the provisions of this Act.

Section 3. The funds appropriated to implement the provisions of this Act shall be used for that purpose only. This is a supplemental appropriation for the fiscal year 1977 and any funds appropriated but unexpended as of June 30, 1978, shall thereupon revert to the General Fund of the State Treasury.

Section 4. If any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of this Act shall not be affected thereby, and toward that end are declared to be severable.

Approved July 11, 1977.

## CHAPTER 128

FORMERLY SENATE BILL NO. 114  
AS AMENDED BY  
SENATE AMENDMENT NOS. 1 AND 3

AN ACT TO AMEND CHAPTER 6, TITLE 31, DELAWARE CODE, RELATING TO  
THE MISUSE OF FOOD STAMPS.

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 6 of Title 31, Delaware Code, by  
adding thereto a new section to be designated as Section 604 to  
read as follows:

"§604. Penalties

(a) No person shall knowingly obtain, attempt to obtain, or aid, abet or assist any person to obtain by means of a false statement or representation; or by false impersonation, or other fraudulent device any food stamps or coupons under a federal food stamp plan which he or such other person is not entitled to receive or use under the provisions of this Chapter, or of any rule or regulation promulgated pursuant thereto.

(b) No person shall knowingly sell, trade or otherwise dispose of any food commodities, which were obtained by the use of food stamps, food stamps or coupons to another person not entitled to receive or use the same under the provisions of this Chapter, or of any rule or regulation promulgated pursuant thereto

(c) No person shall acquire or transfer food stamps or coupons except in exchange for food or food products for human consumption, which shall not be construed as including alcoholic beverages, tobacco or beer.

(d) Any person, firm, association or corporation who violated this section shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$100 or imprisoned for not less than 10 days nor more than 30 days or both. For each subsequent like offense, he shall be fined not less than \$100 nor more than \$500 or imprisoned not less than 30 days nor more than 6 months or both.

(e) Any store which allows purchase of a prohibited item or purchases of prohibited items under this

Chapter or any rule or regulation promulgated pursuant thereto shall not be allowed to participate in the food stamp program.

(f) The Court of Common Pleas shall have jurisdiction of offenses under this Chapter."

Approved July 11, 1977.



## CHAPTER 129

## FORMERLY SENATE BILL NO. 245

## AN ACT TO AMEND CHAPTER 59, TITLE 18, DELAWARE CODE RELATING TO LIQUIDATION OF DOMESTIC INSURERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §5911, Chapter 59, Title 18, Delaware Code by striking said §5911 in its entirety and substituting in lieu thereof a new §5911 to read as follows:

"§5911. Order of liquidation; insolvent insurer's assets

(a) An order to liquidate the business of a domestic insurer shall direct the Commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as Insurance Commissioner or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims.

(b) The Commissioner may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of such insurer or at any time after such order has been granted.

(c) Within One Hundred Twenty (120) days of a final determination of insolvency of a company, the Commissioner shall apply for a proposed order to disburse assets out of such company's marshalled assets, from time to time as such assets become available to the Delaware Insurance Guaranty Association and to any entity or person performing a similar function in another jurisdiction having substantially the same provisions of law.

1. Such proposed order shall at least include provision for:

1. Reserving amounts for the payment of expenses to administration and the payment of claims of secured creditors (to the extent the value of the security held) and claims falling within the priorities established in §5915 through §5919, §5924 through §5927 and §5929.

ii. Disbursement of the assets marshalled to date and subsequent disbursements of assets as they become available.

iii. Equitable allocation disbursements to the Delaware Insurance Guaranty Association and similar entities entitled thereto.

iv. The securing by the Commissioner as receiver in each of the associations entitled to disbursement pursuant to this Section of an agreement to return to the receiver such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in \$5915 through \$5919, \$5924 through \$5927 and \$5929 in accordance with such priorities. No bond shall be required of any such association.

v. A full report to be made by the association to the receiver accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the association on such assets and any matter as the court may direct.

2. The Commissioner's proposed order shall provide for disbursements to the Delaware Insurance Guaranty Association and any entity or person performing a similar function in another jurisdiction in amounts estimated at least equal to the claim payments made or to be made thereby for which such association could assert a claim against the Commissioner as receiver, and shall further provide that if the assets available for disbursement from time to time do not equal nor exceed the amount of such claim payments made or to be made by the Delaware Insurance Guaranty Association in a similar entity in another jurisdiction, then disbursements shall be in the amount of available assets.

3. Notice of such proposed order shall be given to the Delaware Insurance Guaranty Association and the Commissioners of Insurance of each state and the District of Columbia. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, at least thirty (30) days prior to the submission of such application to the court. Action on the proposed order may be taken by the court provided the above required notice has been given and provided further that the Commissioner's proposed order complies with Subsection 1-1 and 1-iv."

Approved July 11, 1977.

## CHAPTER 130

## FORMERLY SENATE BILL NO. 56

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO SECTION 1, ARTICLE VIII OF THE CONSTITUTION 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.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 128th General Assembly, being Chapter 521, Volume 60, Laws of Delaware, as follows:

"AN ACT PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE VIII OF THE CONSTITUTION 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."

NOW, THEREFORE:

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. The said proposed amendment is agreed to and adopted and shall forthwith become a part of the Constitution of the State of Delaware.

Approved June 29, 1977.

## CHAPTER 131

FORMERLY HOUSE BILL NO. 416  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 AND  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 63 AND CHAPTER 65, TITLE 29, DELAWARE  
CODE PROVIDING FOR A ZERO-BASED BUDGETING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 6334, Chapter 63, Title 29, Delaware Code, by adding new paragraphs (c) and (d) reading as follows:

"(c) The proposed budget plan as prepared by the Budget Director shall be in the format of a zero-base budget. The characteristics of such format shall include:

(1) The designation of appropriate budget units within all agencies of the State. Such budget units shall consist of a limited coherent group of closely related activities and services falling within a single, currently established agency of the State.

(2) The designation of various alternative levels of activity or service within each budget unit. Each service or activity level shall specify: the proposed expenditure necessary to operate at that level, a concise description of the services or functions to be provided, indicators of quantity and quality of performance of these services or functions, and the number, classes, and dollar amounts of employees required. Alternative levels of activity or service may vary the quality, the quantity, or propose an alternative method of providing a given level or service. At minimum, each budget unit shall indicate at least two activity or service levels. Additional activity or service levels may be proposed if deemed appropriate.

(3) A numerical priority ranking of all activity or service levels shall be established. Each agency shall prioritize all of the activity or service levels contained in the budget plan. Each numerical priority ranking shall be accompanied by a written statement of the criteria utilized in the determination and assignment of priorities.

(4) A recommendation by the Governor as to the numerical priority ranking of activity or service levels

for which funds should be appropriated during the ensuing fiscal year, the cumulative cost of which shall not exceed the proposed total funds required as set forth in subsection (b) (7) of this Section.

(d) The Budget Director shall prepare a plan to provide for the conversion of the total proposed expenditures of at least two state agencies for the fiscal year 1979 and for the conversion of the total proposed expenditures of the balance of the state agencies on an orderly schedule for the fiscal years thereafter."

Section 2. Amend Section 6503, Chapter 65, Title 29, Delaware Code, by adding a new paragraph (d) to read as follows:

"(d) In order to provide for the orderly implementation of zero-based budgeting beginning with fiscal year 1979, the Budget Director shall furnish to each budget unit selected in accordance with paragraph (d), Section 6334 of this Title, a complete set of forms to be used by the budget unit to present a zero-based budget. The Budget Director shall furnish instructions on the proper method of completing the forms and shall provide consultation as requested by any budget unit. Forms for the submission of budget estimates for Fiscal Year 1980 and subsequent fiscal years shall be prepared and furnished to all agencies in accordance with this paragraph."

Section 3. This Act shall become effective July 1, 1977.

Approved July 12, 1977.

## CHAPTER 132

## FORMERLY HOUSE BILL NO. 481

AN ACT AMENDING CHAPTER 64, TITLE 7, AND CHAPTER 58, TITLE 29, DELAWARE CODE, RELATING TO THE DELAWARE SOLID WASTE AUTHORITY AUTHORIZING SAID AUTHORITY TO FINANCE SOLID WASTE DISPOSAL AND RESOURCES RECOVERY SYSTEMS WITHIN THE STATE ESTABLISHING SOURCES OF CREDIT FOR SUCH FINANCING PROVIDING FOR THE ISSUANCE OF BONDS AND NOTES FOR SUCH PURPOSE, AUTHORIZING THE APPOINTMENT OF A TRUSTEE FOR BOND HOLDERS, AND PROVIDE FOR SITUATIONS INVOLVING CONFLICTS OF INTEREST.

WHEREAS, the General Assembly has enacted legislation creating the Delaware Solid Waste Authority; and

WHEREAS, under such legislation the said Authority was given comprehensive responsibilities regarding statewide management, storage, collection, transportation, utilization, processing, and disposal of solid waste; and

Whereas, pursuant to such delegation of responsibility the said Authority has undertaken the development of a major facility known as the Delaware Reclamation Project; and

WHEREAS, approximately \$22 million of federal and state funding has been allocated to the subject project; and

WHEREAS, it is most likely that additional funds will be required to implement the project; and

WHEREAS, revenue bonds or collateralized bonds are a feasible means of obtaining possible required funding; and

WHEREAS, in order to effectuate such financing it is necessary to amend existing legislation to grant the Authority more explicit powers regarding control over the flow of solid waste; and

WHEREAS, it is recognized that private industry currently plays an important and integral role in collecting and transporting garbage and refuse in the area which would be serviced by the Delaware Reclamation Project; and

WHEREAS, it is the desire of the General Assembly that a system of private competitive free enterprise continue to be maintained with respect to the collection and transportation of

garbage and refuse within the area served by the Delaware Reclamation Project; and

WHEREAS, it is the desire of the General Assembly that the powers granted to the said Authority regarding collection and transportation of garbage and refuse in the area serviced by the Delaware Reclamation Project be exercised only in situations in which a breakdown or failure of the private competitive free enterprise system threatens the viability of the Delaware Reclamation Project or threatens or endangers public health and/or welfare; and

WHEREAS, in order to accomodate financing of the subject project it is necessary and desirable to make amendments to administrative provisions of the existing legislation;

NOW, THEREFORE:

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. Title 7, Delaware Code, §6402 entitled "Definitions" is amended by deleting subsection (9) in its entirety and by adding in lieu thereof a new subsection (9) to read as follows:

"(9) 'Solid Waste' means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or bi-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923)."

Section 2. Title 7, Delaware Code, §6402 entitled "Definitions" is amended by adding new subsections (14) and (15) which shall read as follows:

"(14) 'Municipality' or 'municipalities' means a County, City, Town or other public body of the State of Delaware.

(15) 'Costs' means the cost or fair market value or value, as determined by the Authority, of construction, real



property, property rights, utility extensions, disposal facilities, access roads, easements, franchises, financing charges, interest, labor, materials, machinery and equipment, engineering and legal services, plans, specifications, surveys, cost estimates, studies, transportation and other expenses necessary or incidental to the design, development, construction, financing, management and operation and maintenance of a waste management project, and such other costs or expenses of the Authority as may be necessary or incidental to the purposes of the Authority, including administrative and operating costs, research and development, and operating capital, including fees, charges, loans, insurance, and the expense of purchasing real and personal property, including waste management projects."

Section 3. Title 7, Delaware Code §6403 (a) is amended by deleting the first sentence of the subsection and adding in lieu thereof a new first sentence which shall read as follows:

"(a) There is hereby established and created a statewide solid waste authority, a body politic and corporate constituting a public instrumentality of the State of Delaware established and created for the performance of an essential public and governmental function, to be known as The Delaware Solid Waste Authority."

Section 4. Title 7, Delaware Code, §6403 (g) is amended by adding at the end of the said subparagraph the following:

"...Upon the termination of the existence of the Authority, all of its rights and properties shall pass to and be vested in the State of Delaware."

Section 5. Title 7, Delaware Code, §6404 (6) is amended by adding at the end of said subparagraph the following:

"The Authority may enter into an administrative agreement with any county, municipality, or other political subdivision under which agreement the licensing program referenced herein may be conducted by the county, municipality, or other political subdivision pursuant to such rules and regulations adopted by the Authority which are applicable to the licensing program."

Section 6. Title 7, Delaware Code, §6406 (a) is amended by adding a new subparagraph (31) which shall read as follows:

"(31) Control through regulation or otherwise, the collection, transportation, storage, and disposal of solid waste, including the diversion of solid waste within specified

geographic areas to facilities owned, operated, or controlled by the Authority; provided, however, that such power shall not extend to the collection, transportation, transfer, and storage of garbage or refuse originating from commercial and industrial establishments."

Section 7. Title 7, Delaware Code, §6406 (a) is amended by adding a new subparagraph (32) which shall read as follows:

"(32) Issue bonds or notes in anticipation of the issuance of bonds, or otherwise, to finance any of the purposes of this Act, lend the proceeds of such obligations to any person to effectuate any of the purposes of this Act, contract with any person in any manner deemed advisable by the Authority to secure the payment of such obligations and to pledge such contracts as security for the payment of such obligations."

Section 8. Title 7, Delaware Code, §6407 (a) (5) is amended by adding at the end of said subparagraph the following:

"...Any municipality is hereby authorized to issue general obligation bonds, to which the full faith and credit of such municipality are pledged, to the Authority in an amount determined by such municipality without regard to any debt or other limit provided in any Charter, Special Act or General Act pertaining to such municipality. Such bonds may be issued and delivered upon negotiation with the Authority and the consideration therefor may be the provision by the Authority of solid waste and disposal resources recovery facilities for the use and benefit of such municipality. Such bonds may be pledged by the Authority as security for bonds issued by the Authority to provide such facilities for the benefit of such municipalities. Any municipality shall also have the power to unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the Authority, including the satisfaction of mandatory sinking fund requirements as provided in any resolution, trust indenture or other documents securing such bonds. Any guarantee of bonds of the Authority made pursuant to this Section shall be evidenced by endorsement thereof on such bonds executed in the name of the municipality and on its behalf by such officer thereof as may be designated in the resolution authorizing such guarantee, and such municipality shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. The obligations imposed by such guarantee shall not be subject to any limitation respecting the

incurrence of debt or the issuance of obligations of such municipality contained in any Charter, Special Act or General Act."

Section 9. Title 7, Delaware Code, §6408 is amended by adding at the end of said section the following:

"In exercising the contracting authorities set forth in this section, the Authority shall not give any preference to public versus private parties."

Section 10. Title 7, Delaware Code, §6410 is amended by deleting the first sentence of said section and by substituting in lieu thereof the following:

"Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds shall be and are hereby made negotiable instruments and securities within the meaning of and for all the purposes of the Uniform Commercial Code."

Section 11, Title 7, Delaware Code, §6411 is amended by adding at the end of said section the following:

"The Authority may enter into agreements with any person, other than a municipality, leasing a project from the Authority or operating or managing the project providing for the making of payments in lieu of taxes to any municipality within which the project is located of an amount which may be equal to the taxes on real and personal property which such person would have been required to pay had it been the owner of such property during the period for which such payment is made or such lesser amount as shall be agreed upon by such person and the Authority."

Section 12. Title 7, Delaware Code, §6413 is amended by adding at the end of said section the following clause:

"...except that bonds, loan agreements or service agreements, all of which may be supported by the full faith and credit of a municipality, may be pledged as security for bonds or other obligations of the Authority."

Section 13. Title 7, Delaware Code, §6414 is amended by adding at the end of said section the following clause:

"...without regard to the provisions of any law, public or private, or Charter, regulating the issuance of debt or other obligations or governing the issuance of bonds."

Section 14. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6418 which shall read as follows:

"§6418. Bonds of the Authority.

(a) The Authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any of its corporate purposes, including incidental expenses in connection therewith, and to secure the payment of the same by a lien or pledge covering all or part of its property, contracts, earnings, or revenues. The Authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, or be subject to redemption, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Refunding bonds may be issued in amounts sufficient to provide:

- (1) the principal amount of the obligations being refunded,
- (2) any applicable redemption premiums thereon,
- (3) unpaid interest on such obligations to the date of delivery of the refunding bonds, and interest to accrue on such obligations being refunded from the date of delivery of the refunding bonds to the first or any subsequently available redemption date or dates selected by the Authority, and
- (4) any expenses, including bond discount, deemed by the Authority to be necessary for the issuance of the refunding bonds.

The proceeds of the sale of any refunding bonds shall be applied as follows, either: (i) to the immediate payment and retirement of the obligations being refunded, or (ii) if not required for the immediate payment of the obligations being refunded, such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded, but provisions may be made for the pledging and disposition of any amount in excess of the amounts required for such purposes, including, without limitation, provision for the pledging of any such excess amounts to the payment of the principal of and interest on any portion of such refunding bonds or series of such refunding bonds issued for the purpose of providing amounts in addition to the principal amount and premium payable with respect to the outstanding obligations to be refunded.

(b) The bonds shall be authorized by resolution of the Authority and shall bear such date or dates, mature at at such time or times not exceeding forty years from their respective dates, bear interest at a rate or rates per annum as may be determined by the Authority, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, by payable in lawful money of the United States of America, at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. Bonds of the Authority shall be sold either at public or private sale at such place and interest rates as may be determined by the Authority.

(c) Any resolution or resolutions authorizing any bonds or any trust indenture securing any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to:

- (1) pledging all or any part of the moneys, earnings income and revenues derived from all or any part of the properties of the Authority to secure the payment of the bonds or of any issue of the bonds subject to such agreements with bondholders as may then exist;
- (2) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;
- (3) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;
- (4) limitations on the right of the Authority to restrict and regulate the use of the properties in connection with which such bonds are issued;
- (5) limitations on the purposes to which and the manner in which the proceeds of sale of any issue of bonds may be applied;
- (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

- (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
- (8) the creation of special funds into which any earnings or revenues of the Authority may be deposited;
- (9) the terms and provisions of any mortgage or trust, deed or indenture securing the bonds or under which bonds may be issued;
- (10) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the Authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section six thousand four hundred nineteen hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;
- (11) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the Authority to the bondholders and providing the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of this State and other provisions of this Chapter.
- (12) limitations on the power of the Authority to sell or otherwise dispose of its properties;
- (13) any other matters, of like or different character which in any way affect the security or protection of the bonds;
- (14) limitations on the amount of monies derived from the properties to be expended for operating, administrative or other expenses of the Authority;
- (15) the protection and enforcement of the rights and remedies of the bondholders;

- (16) the obligations of the Authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all monies and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;
  - (17) the payment of the proceeds of bonds and revenues of the properties to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the Authority may determine;
  - (18) any other matter or course of conduct which by recital in the resolution or resolutions is declared to further secure the payment of the principal of or interest on the bonds.
- (d) It is the intention of the General Assembly that any pledge of earnings, revenues or other monies made by the Authority shall be valid and binding from the time when the pledge is made; that the earning, revenues or other monies 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 that 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 resolution nor any other instrument by which a pledge is created need be recorded.
- (e) Neither the Directors of the Authority nor any person executing the bonds or other obligations shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.
- (f) The Authority shall have power out of any funds available therefor to purchase (as distinguished from the power of redemption hereinabove provided) any bonds issued by it or which may be assumed by such Authority at a price of not more than the principal amount thereof and accrued interest, and all such bonds shall be cancelled.
- (g) In the discretion of the Authority, the bonds may be secured by a trust indenture 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 the State. Such trust indenture may contain such provisions for 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 construction, maintenance, operation, repair and insurance of the properties, and the custody, safeguarding and application of all moneys, and may provide that the properties shall be constructed and paid for under the supervision and approval of consulting engineers. The Authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the properties to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repair of the properties. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them. Notwithstanding any other provisions of this Chapter, any resolution or resolutions authorizing bonds or notes of the Authority shall contain a covenant by the Authority that it will at all times maintain rates, fees, rentals and/or other charges sufficient to pay, and that any contracts entered into by the Authority for the receipt and treatment and/or disposal of solid wastes shall contain rates, fees, rentals or other charges sufficient to pay, the cost of operation and maintenance of the properties, the principal of and interest on any obligations issued pursuant to such resolution or resolutions as the same severally become due and payable, and to maintain any reserves or other funds required by the terms of such resolution or resolutions."

Section 15. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6419 which shall read as follows:

"§6419. Remedies of Bondholders

(a) In the event that the Authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the Authority shall fail or refuse to comply with the provisions of this Chapter, or shall default in any agreement made with the holders of any issue of bonds, the trustee appointed by the Authority or if none has been appointed, the trustee who may be appointed by the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the



Recorder of Deeds of the County in which the project is located and proved or acknowledged in the same manner as a deed to be recorded, shall represent the holders of such bonds for the purposes herein provided.

(b) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name

- (1) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the Authority to collect revenues, rates, rentals, fees and other charges adequate to carry out any agreement as to, or pledge of such revenues, rates, rentals, fees and other charges and to require the Authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;
- (2) bring suit upon such bonds;
- (3) by action or suit in equity, require the Authority to account as if it were the trustee of an express trust for the holders of such bonds;
- (4) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;
- (5) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

(c) Any suit, action or preceeding by the trustee on behalf of bondholders shall be heard or maintained in a court of competent jurisdiction.

(d) Before declaring the principal of all such bonds due and payable the trustee shall first give thirty days' notice in writing to the Authority.

(e) Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the properties and subject to any pledge or agreement with bondholders shall take possession

of all moneys and other property derived from such part or parts of the properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the Authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the Authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

(f) Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights."

Section 16. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6420 which shall read as follows:

"§6420. Contracts

The Authority and any municipality may enter into a contract or contracts providing for or relating to the collection or treatment and disposal of garbage, solid wastes and refuse originating in the municipality and the cost and expense of such collection or treatment and disposal; provided, however, that any such contract or contracts shall not include provisions regarding the collection, transportation, transfer, and storage of garbage or refuse originating from commercial and industrial establishments. Such contract or contracts may provide for the payment to the Authority by such municipality annually or otherwise of such sum or sums of money, computed as said contract or contracts may provide, and the sum or sums so payable may include provisions for all or any part or a share of the amounts necessary (1) to pay or provide for the expenses of operation and maintenance of the garbage and solid wastes disposal system, including without limitation insurance, extensions, betterments and replacements and the principal and interest on any bonds, and (2) to provide for any deficits resulting from failure to receive sums payable to the Authority by such municipality, and any other municipality, or any person, or from any other cause, and (3) to maintain such reserves or sinking funds for any of the foregoing as may be required by the terms of any contract of the Authority or as may be deemed necessary or desirable by the Authority. Any such contract may provide that the sum or sums so payable to the Authority shall be in lieu of all or

any part of the services charges which would otherwise be charged and collected by the Authority with regard to persons or real property within such municipality. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the Authority and determined by it to be necessary for its purposes prior to the placing in operation of the garbage and solid wastes disposal system and may provide for the payment by such municipality to the Authority for application to such expenses or indebtedness therefor such sum or sums of money, not in the aggregate exceeding an amount stated or otherwise limited in said contract or contracts plus interest thereon, as said contract or contracts may provide and as the governing body of said municipality shall, by virtue of its authorization of and entry into said contract or contracts, determine to be necessary for the purposes of the Authority. Any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by such municipality and which may be agreed to by the Authority in conformity with its contracts with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by such municipality prior to authorization or execution thereof. Subject to any such contracts with the holders of bonds, such municipality is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such municipality and, in accordance with any such contract, to waive, modify, suspend or reduce the service charges which would otherwise be charged and collected by the Authority with regard to persons or real property within such municipality. Nothing in this section, however, shall prevent the Authority from collecting additional fees and charges from the owners or occupants of all parcels of real estate served by it within such municipality if for any reason such additional fees or charges shall be necessary in order for the Authority to pay all operating expenses, debt service and other payments required pursuant to contracts with bondholders; and notwithstanding such contracts with such municipalities, the Authority shall at all times have power and be obligated to collect sufficient additional fees and charges whenever necessary to pay all operating costs, debt service and all other payments required by contracts with bondholders. Nothing in this section shall be deemed to imply or direct that any contracts referred to aforesaid must provide for both the collection and disposal of garbage and solid wastes and such Authority may, by the agreement and parallel ordinances and such municipality may, by ordinance, engage in either collection of solid wastes or disposal of solid wastes or both. All such contracts shall be full faith and credit obligations of the municipality and shall not be subject to any law regulating the issuance of

debt or the making of contracts or other related matter."

Section 17. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6421 which shall read as follows:

"6421. Public Bodies to Pay Service Charges.

Each County, City, Town or other public body shall promptly pay to the Authority all service charges and other moneys which the Authority may charge to it, as owner or occupant of any facility and shall provide for the payment thereof in the same manner as other obligations of such County, City, Town or other public body."

Section 18. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6422 which shall read as follows:

"§6422. Powers respecting garbage and solid wastes disposal limited after creation of solid waste authority; use of services.

The Authority by regulation may provide that no municipality shall have power to engage in, grant any license or permit for, or enter into any contract for the collection or treatment and disposal of garbage, refuse and solid wastes; and no such municipality or any person, firm, corporation or association shall engage in any activities within such municipality which would be competitive with the purposes of the Authority as provided in this Act, provided, however, that the prohibitions aforesaid shall not be applicable to that activity in which the Authority shall determine not to engage. The provisions of this section shall not apply to the collection, transportation, transfer, and storage of garbage or refuse originating from commercial and industrial establishments. It is hereby determined and declared that it is necessary for the health and welfare of the inhabitants of the State that the facilities and services of the Authority shall be used by the owners or occupants of all lands, buildings, premises within the State, and the Authority may by regulation require the owners or occupants of all lands, buildings and premises therein to use the services and facilities of the Authority under such rules and regulations as the Authority shall fix and establish. The provisions of this section shall not be construed, however, to affect or impair any contract entered into prior to the adoption of this provision."

Section 19. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6423 which shall read as follows:

"§6423. Liberal Construction; regulations of the Authority.

This act and the regulations promulgated thereunder shall be construed liberally to effectuate the legislative intent and as complete authority for the performance of each and every act and thing herein authorized."

Section 20. Title 7, Delaware Code, Chapter 64, is hereby amended by adding a new §6424 which shall read as follows:

"§6424. Cooperation with the United States of America.

The Authority shall adopt all necessary regulations, rules, procedures and plans to comply with the objectives of the Resource Conservation and Recovery Act of 1976 and the Solid Waste Disposal Act of the United States and may make application to the United States of America for financial assistance to develop and implement the purposes of this Act."

Section 21. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6425 which shall read as follows:

"§6425. Conflict of Interest.

No Director shall be entitled to vote on any matter before the Authority if such Director knowingly has a financial interest in the outcome of such matter. In the event a Director knowingly has a financial interest such Director shall indicate to the Chairman the nature of the interest and the Chairman shall note for the record that the Director did not vote by reason of conflict of interest. In situations in which a Director or Directors do not vote by reason of conflict of interest, the matter pending before the Authority shall be decided on the basis of a majority vote of the remaining Directors present who do not have a conflict of interest. A Director or Directors having a conflict of interest as set forth herein shall be counted for purposes of establishing a quorum provided such Director or Directors are present at the meeting. The fact that a Director or Directors have not voted by reason of conflict of interest shall in no way affect the validity of an act or actions taken regarding the matter before the Authority."

Section 22. Title 7, Delaware Code, Chapter 64 is hereby amended by adding a new §6426 which shall read as follows:

"§6426. Partial invalidity.

If any section, subsection, clause or provisions of this Act shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective it shall be valid and effective and no other section, subsection, clause or provisions of this Act shall on account thereof be deemed invalid or ineffective, and the inapplicability or invalidity of any section, subsection, clause or provisions of this Act in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstances."

Section 23. Title 29, Delaware Code, Chapter 58 is hereby amended by deleting subsection (4) in its entirety and by substituting in lieu thereof a new subsection (4) which shall read as follows:

"(4) 'Employee' means any person who has been elected or appointed to any State Agency or who received compensation for services to the same but does not include members of the General Assembly, Justices of the Supreme Court, the Judges of any Court, the Chancellor, Vice Chancellors, Justices of the Peace and the Directors of the Delaware Solid Waste Authority."

Approved July 12, 1977.

## CHAPTER 133

## FORMERLY SENATE BILL NO. 301

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DIVISION  
OF HIGHWAYS OF THE DEPARTMENT OF TRANSPORTATION FOR THE  
INSTALLATION OF SIGNS AND SIGNALS AT CERTAIN SCHOOL LOCATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of sixteen thousand dollars (\$16,000.00) is hereby appropriated to the Division of Highways of the Department of Transportation for the installation of the following school signals:

(a) At the Carrie Downie School -	
two overhead "20 M.P.H. WHEN FLASHING" signs	\$ 5,000.00
(b) At the New Castle Junior High School -	
two overhead "20 M.P.H. WHEN FLASHING" signs	4,000.00
(c) At the William Penn High School -	
one Crossing Guard activated signal for school exit	<u>7,000.00</u>
TOTAL	\$16,000.00

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 set forth in subsections (a), (b) and (c) of Section 1, and any funds appropriated but unexpended by July 1, 1978, shall thereupon revert to the General Fund of the State Treasury.

Approved July 12, 1977.

## CHAPTER 134

FORMERLY HOUSE BILL NO. 403  
AS AMENDED BY  
HOUSE 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 FOR A TERMINATION OF TENANCY UNDER CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §5509, Chapter 55, Part III, Title 25, Delaware Code by striking subsection (b) in its entirety, and substituting in lieu thereof the following:

"(b) Upon thirty days' written notice, which thirty day period shall begin on the first day of the month following the day of actual notice, the tenancy may be terminated:

- (1) by the tenant whenever a change in location of the tenant's employment by the tenant's present employer requires a change in the location of his residence, or
- (2) by the tenant whenever the serious illness of the tenant or the death or serious illness of a member of his immediate family residing therein with him requires a change in the location of his residence on a permanent basis, or
- (3) by the surviving spouse or personal representative of the estate of the tenant, upon the death of the tenant."

Section 2. Amend §5509, Chapter 55, Part III, Title 25, Delaware Code by adding a new subsection as follows:

"(d) Whenever (1) a rental agreement was executed by or on the behalf of a person who, after the execution of such rental agreement entered the military service of the United States on active duty, covering premises occupied for dwelling, professional, business, agricultural, or similar purposes, and (2) the premises so leased have been occupied for such purposes, or for a combination of such purposes, by such person or by him and his dependents, then such rental agreement may be terminated by notice in writing delivered to the landlord by the lessee at any time following the date of the beginning of his period of military service. Delivery of such notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor and depositing the notice in the United States mails. Termination of any such agreement providing for monthly payment



of rent shall not be effective until thirty days after the first date on which the next rental payment is due and payable subsequent to the date when such notice is delivered or mailed. In the case of all other leases termination shall be effected on the last day of the month following the month in which such notice is delivered or mailed and in such case any unpaid rental for a period preceding termination shall be proratably computed and any rental paid in advance for a period succeeding termination shall be refunded by the lessor."

Approved July 12, 1977.

## CHAPTER 135

## FORMERLY HOUSE BILL NO. 508

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF FELTON", BEING CHAPTER 208 OF VOLUME 24, LAWS OF DELAWARE, BY INCREASING THE AMOUNT THAT CAN BE RAISED EACH YEAR BY TAXES.

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 8 of Chapter 208, Volume 24, Laws of Delaware, as amended by Chapter 138, Volume 33, Laws of Delaware, as amended by Chapter 299, Volume 49, Laws of Delaware, and as amended by Chapter 192, Volume 54, Laws of Delaware, by striking the words, "Seventy-five Hundred Dollars" and by substituting in lieu thereof the words "Twenty-five Thousand Dollars".

Approved July 12, 1977.

CHAPTER 136

FORMERLY HOUSE BILL NO. 411

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO INCOME TAX WITHHOLDING, TO PERMIT INCOME TAX WITHHOLDING FROM LEGAL RESIDENTS OF THE STATE WHO ARE SERVING IN THE ARMED SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 1151, Title 30, Delaware Code, relating to the withholding of tax on wages, by striking the last sentence of subsection (a) of said Section.

Approved July 12, 1977.

## CHAPTER 137

## FORMERLY HOUSE BILL NO. 387

## AN ACT TO REINCORPORATE THE TOWN OF DELMAR.

WHEREAS, it is deemed advisable that The Charter of The Town of Delmar, contained in Chapter 182, Volume 45 Laws of Delaware, as amended, be consolidated into one complete act and in certain respects be amended and revised.

## NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of the members elected to each House thereof concurring therein):

## INCORPORATION

Section 1. The inhabitants of the Town of Delmar, County of Sussex, State of Delaware, within the corporate limits hereinafter defined in this Charter or as hereinafter extended shall be and constitute a body politic and a Municipal Corporation, and shall be known and identified as "The Town of Delmar".

## TERRITORIAL LIMITS

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

BEGINNING at a nail set in the paving of the intersections of Delaware Road No. 54 and Sussex County Road No. 512, said nail having Delaware State Plane Coordinates N166153.80, E452318.44 and situated North 87° 54' 47" West, 1326.19 feet from the centerline of the mainline tract of the Conrail Railroad, being the southwest corner of the Town of Delmar as described on a plot of survey dated July 6, 1899, thence North 05° 36' 51" West, 1308.35 feet to a concrete marker having coordinates N167455.87, E452190.44, thence North 84° 45' 08" East, 1619.01 feet to a concrete marker having coordinates N167603.95, E453802.66, said marker situated on the east property line of the Conrail Railroad, thence with said lands North 04° 47' 56" East, 1754.99 feet to a concrete marker having coordinates N169352.29, E453949.44, thence continuing with said lands, South 85° 12' 04" East, 4.00 feet to a concrete marker having coordinates N169351.96, E453953.43, thence continuing with said lands North 14° 38' 07" East, 105.37 feet to a concrete marker having coordinates N169453.90, E453980.05, thence continuing with said lands North 04° 47' 56" East, 521.27 feet to a concrete marker having coordinates N169973.35, E454023.66, thence continuing with said lands, South 87° 22' 30" East, 45.04 feet to a concrete marker having coordinates N169971.28,

E454068.65, thence continuing with said lands North  $04^{\circ} 47' 56''$  East, 2141.24 feet to a concrete marker having coordinates N17215.02, E454247.78, thence continuing with the same course 12.30 feet to a point having coordinates of N172117.27, E454248.81 said point being in the center of a ditch and a property corner for the lands of G.M.S. Realty Corp. (Delmar Drive-In), thence with the center of a ditch and said lands South  $84^{\circ} 27' 09''$  East, 230.31 feet to a point having coordinates N172095.01, E454478.04, thence continuing with said ditch and lands South  $41^{\circ} 11' 28''$  East, 379.60 feet to a point having coordinates N171809.35, E454728.04, thence continuing with said ditch and lands South  $60^{\circ} 38' 40''$  East, 333.07 feet to a concrete marker having coordinates N171646.07, E455018.34, said marker situated on the westerly right-of-way of Delaware Road No. 13A, thence with said lands and right-of-way along a curve to the left described as follows: Arc distance equals 70.85 feet; radius equals 291.24 feet; tangent equals 35.60 feet; chord equals 70.68 feet; chord bearing South  $15^{\circ} 05' 16''$  West, said curve ending at a concrete marker having coordinates N171577.83, E454999.94 and situated on said right-of-way, thence with said lands and right-of-way South  $08^{\circ} 07' 07''$  West, 598.83 feet to a concrete marker having coordinates N170985.00, E454915.37, said marker situated at a corner of said lands and on said right-of-way, thence continuing with said lands North  $82^{\circ} 39' 00''$  West, 459.16 feet to a concrete marker having coordinates N171043.75, E454459.99, thence South  $04^{\circ} 47' 56''$  West, 1528.71 feet to a concrete marker having coordinates N169520.39, E4543 32.10, thence South  $06^{\circ} 49' 34''$  East, 1056.33 feet to a concrete marker having coordinates N168471.55, E454457.65, said marker situated on the westerly right-of-way of North Second Street, thence crossing said street and with the northerly side of Francis Street North  $82^{\circ} 14' 37''$  East, 383.63 feet to a point having coordinates N168523.32, E454837.77, said point situated in a catchbasin grate, thence with the easterly right-of-way line of Delaware Road 13A South  $00^{\circ} 42' 25''$  West, 426.25 feet to a pipe having coordinates N168097.10 E454832.51, thence South  $89^{\circ} 17' 18''$  East, 200.54 feet to a concrete marker having coordinates N168094.61, E455033.03, said marker situated at the northeasterly corner of lands of Mitilda N. Lord, thence South  $00^{\circ} 49' 03''$  West, 445.47 feet to a concrete marker having coordinates N167649.19, E455026.68, said marker situated on the northerly right-of-way of Rose Street extended, thence with said right-of-way South  $86^{\circ} 54' 15''$  East, 378.70 feet to a concrete marker having coordinates N167628.74, E455404.83, said marker situated on the easterly right-of-way of Fifth Street extended, thence with said right-of-way South  $00^{\circ} 36' 44''$  West, 148.21 feet to a concrete marker having coordinates N167480.53, E455403.24, thence South  $89^{\circ} 15' 33''$  East, 1110.33 feet to a concrete marker having coordinates N167466.18, E456513.48, thence South  $00^{\circ} 43' 53''$  West, 357.10 feet to a concrete marker having coordinates N167109.11, E456508.92, thence North  $85^{\circ} 26' 49''$  East, 1134.48 feet to a concrete marker having

coordinates N167199.17, E457639.82, said marker situated on the easterly right-of-way of Tenth Street extended, thence with said right-of-way South  $00^{\circ} 31' 04''$  West, 1265.59 feet to a railroad spike having coordinates N165933.63, E457628.39, said spike situated in the center of East State Street, thence with the northern boundary line of Delmar, Maryland to the place of beginning the transit tie-line for said boundary being North  $87^{\circ} 37' 33''$  West, 5314.52 feet.

The Council may, at any time hereafter, cause a survey and plot to be made of the Town and the plot when made and approved by The Council, shall be recorded in The Office of The Recorder of Deeds, in and for Sussex County, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record, shall be evidence in all Courts of Law and Equity in this State.

#### ANNEXATION OF TERRITORY

Section 3. In the event that 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:

(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 (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 finding 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 the 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 recommendations 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 proposed 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 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 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 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 the 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 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 received 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 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.

#### ENUMERATION OF POWERS

Section 4. (a) The Town shall have all powers possible for a town to have under the Constitution and laws of this State as fully and completely as though they were specifically enumerated in The Charter. Not by way of limitation upon the power vested in the Town Council of The Town of Delmar to exercise all power 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 for the purposes of clarity, The Town Council is vested by this Charter with the following powers.

to be exercised by The Town Council in the exercise and interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs:

- (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, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, wharf, 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 with 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 of 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, by window, cellar, gate, area, descent, sign, post or any other erection or projections 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 Delmar 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 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 plan 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, highway, 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 transmissions 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 rivulet within the Town, to regulate, maintain, clean and keep the same open, clean and obstructed, 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, enbankments, flood gates, piers, or fills for the perservation 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 interest 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.

(18) To regulate and control the exercise of any license or franchise mentioned in Section 4 of this Charter, or intended to be;

(19) To direct, regulate and control the planning, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highway, 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 the 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 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 Ordinance, 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 device for discharging missiles which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fire works, 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 department 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 to any volunteer fire company or companies incorporated under the law 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 Delmar 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 appliances thereto or thereon attached 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 appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies provided for the collection thereof set forth in Section 30 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 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 Delmar 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 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. 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 Delmar sum or sums not exceeding One Hundred Fifty Thousand Dollars (\$150,000.00) in any one year when, in the opinion of a majority of the Town Council of The Town of Delmar, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of The Town of Delmar, duly authorized by Resolution adopted by the Town Council, and signed by the Mayor, 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 personally 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 as a result of utilizing this section at any one time shall not exceed One Hundred Fifty Thousand Dollars (\$150,000.00); and provided further that such ad valorem taxes may be levied as is necessary to pay the principal of 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 fo 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 to all areas and persons outside the Town within one (1) mile from said limits.

(44) The Town may exercise any of its powers and 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, municipalities, counties, or civil divisions or agencies thereof or the United States or any agency thereof. The Council shall have the power to enter into any cooperative agreement with the Town of Delmar, Maryland, for the common good of the two towns. The Town Council may authorize the establishment of various commission, boards, or agencies representing citizens of both towns, and having authority to carry out such duties as the Town Council may prescribe. The Town Council shall have the power to authorize

such boards, commissions, or agencies to enforce and carry into effect town ordinances, to grant or refuse permits, and to adopt such rules and regulations as may be required to carry out the agency's responsibilities, according to the standards and guidelines set forth by the Council. The Town Council may delegate to such boards, commissions, or agencies any governmental powers to the full extent permitted by State and Federal law.

(45) To use Town funds, or to exert the Town's taxing power, or to lend or pledge the Town's credit for the purpose of aiding or promoting a private enterprise within the Town.

(46) To enact ordinances or resolutions as the Town Council may prescribe for the remission of Town taxes.

(47) To determine what purposes are deemed to be public purposes or deemed to be municipal purposes.

#### GOVERNMENT

Section 5. 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, consisting of a Mayor and four Council Members. The term of the Mayor shall be for a period of two years and the term of each Council Member shall be for the period of four years, each term commencing at the annual meeting of the Town Council following his election and continuing until his successor is duly elected and qualified.

#### QUALIFICATION OF TOWN COUNCILMAN AND MAYOR

Section 6. The qualification for Town Councilman and the Mayor shall be as follows:

(a) A bona fide resident of the United States and of the State of Delaware and a resident of The Town of Delmar for at least one year next preceding the municipal elections; and

(b) Be at least 18 years of age;

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

#### NOMINATIONS AND ELECTIONS

Section 7. (a) The municipal election shall be held biannually on the first Monday in April between the hours of 7:00 a.m. and 7:00 p.m., prevailing time, at such place as designated by Town Council,

the first municipal election to be held pursuant to this Charter to be held on the first Monday in April, A.D., 1978.

(b) The election shall be held under the supervision of an Election Board consisting of three qualified voters of the Town to be appointed by The Town Council at the last regular meeting preceeding the election. The Election Board shall be the judges of the election and shall decide upon the legality of the votes offered.

(c) Every person, resident of The Town of Delmar, who is over the age of eighteen (18) years and who has resided in The Town of Delmar for at least six (6) months next preceeding the day of the election, shall be entitled to vote at the election; provided, however, that The Town Council, may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite for voting at the election.

(d) Upon the close of the election, the votes shall be read and counted publicly, and the persons having the highest number of votes, for each office, shall be declared duly elected, and shall continue in the office during the term for which they are chosen, until their successors are duly elected and qualified.

(e) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to persons elected certificates of election, which book, containing such minutes, shall be preserved by the Town Council and shall be evidence in any court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of the elections shall be preserved in the custody of the Election Board for the period of ten (10) days following the election.

(f) Any vacancy in the Election Board shall be filled by the electors present at the time of the election, by naming from the electors present such person or persons as shall be necessary to fill such vacancy.

(g) In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.

(h) Not less than ten (10) days prior to the election, each candidate shall notify the Town Manager in writing of his candidacy for the office for which he is nominated. All such notifications of candidacy must be filed in the office of the

Town Manager during the regular business hours of the Town. 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 Delmar at least five (5) days prior to the date of the municipal election next ensuring; 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 within the Town of Delmar, such public places to be designated by the Town Council.

(i) The Town Council shall be empowered to make such ordinances, rules and regulations as it deems advisable concerning the conduct and the affairs of the election that is not inconsistent with the provisions of this Charter.

(j) The members of the Town Council of the Town of Delmar who hold office at the time of the passage of this act shall continue to hold office as members of the Town Council of the Town of Delmar, until their respective successors have been duly elected and qualified.

#### ORGANIZATION

Section 8. On the first Monday in May after the municipal election, the Town Council shall meet at 8:00 p.m. prevailing time and the newly elected officers shall assume their duties. Before entering the duties of their office, the newly elected members shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity.

#### MEETING OF COUNCIL

Section 9. The Town Council shall hold regular meetings once a month at such times as may be designated by the Town Council. Special meetings may be called by the Mayor and shall be called by him upon written request of three (3) members of the Town Council and held as prescribed by ordinance or resolution; and all meetings, regular and special, shall be open to the public.

#### QUORUM

Section 10. A majority of the members elected to the Town Council shall constitute a quorum; but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalty as may be prescribed by ordinance.

## RULES AND MINUTES OF COUNCIL

Section 11. Town 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 12. In the case of a vacancy created in the office of Mayor or member of Council, either by death, resignation, loss of residence or otherwise, the Town Council may fill such vacancy and the person so appointed shall serve for the unexpired term or until his successor shall be elected and qualified.

## ADMINISTRATIVE DEPARTMENTS

Section 13. The Town Council may establish departments, offices, or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices, and agencies. All departments, offices, and agencies under the direction and supervision of the Town Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Town Manager.

## MAYOR

Section 14. Mayor shall be the executive of the Town. He shall preside at the meetings of the Town Council; he may make and second motions and shall have a voice and vote in all its proceedings. He shall execute on behalf of the Town of Delmar all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed. He shall countersign all checks, orders or warrants authorized by the Town Council.

## TOWN MANAGER

Section 15. (a) The Town Council of the Town of Delmar may appoint a Town Manager who shall be the Chief Administrative Officer of the Town.

(b) The Town Manager shall be appointed for an indefinite term. The Town Council shall impose such qualifications for the Town Manager as may be deemed necessary and shall fix his compensation.

(b) The Town Manager shall be responsible to the Town Council for the administration of all Town affairs placed in his charge by or under this charter. He shall have the following powers or duties;

(1) He shall appoint and, when he deems it necessary for the good of the Town, suspend or remove all town employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, or personnel rules adopted pursuant to this charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this charter or by law, or by the Town Council.

(3) He shall attend all Town Council meetings and shall have the right to take part in discussion but may not vote.

(4) He shall see that all laws, provisions of this charter and acts of the Town Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(5) He shall prepare and submit the annual budget and capital program to the Town Council.

(6) He shall submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year.

(7) He shall make such other reports as the Town Council may require concerning the operations of Town Departments, offices and agencies subject to his direction and supervision.

(8) He shall keep the Town Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the council concerning the affairs of the Town as he deems desirable.

(9) He shall perform such other duties as are specified in this charter or may be required by the Town Council

(d) The Town Council may remove the Town Manager from office in accordance with the following procedures:

(1) The Town Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which



must state the reasons for removal and may suspend the Town Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Town Manager.

(2) Within five days after a copy of the resolution is delivered to the Town manager, he may file with the Town Council a written request for a public hearing. This hearing shall be held at a Town Council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The Town Manager may file with the Town Council a written reply not later than five days before the hearing.

(3) The Town Council may adopt a final resolution of removal, which may be made effective immediately by affirmative vote a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Town Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(e) The Town Manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Town Council in suspending or removing the Town Manager shall not be subject to review by any court or agency.

(f) If the Town Manager is absent from the city, is unable to perform his duties, or is suspended by the Town Council, or if there is a vacancy in the office of the Town Manager, the Town Council may appoint an Acting Town Manager to serve until the Town Manager returns, until his disability or suspension ceases, or until another Town Manager is appointed and qualified, as the case may be.

#### BOARD OF HEALTH

Section 16. (a) The Board of Health shall consist of four members, one of whom may be a practicing physician in the Town. The Board shall serve for one year; shall have cognizance of all matters pertaining to the life and health of the residents of the Town; shall report to the Council in writing whatever is deemed by the Board to be injurious to the health of the people of the Town, and shall also make such recommendations to the Council as may, in their judgement, be beneficial or in any way contribute to the sanitation or health of the residents of the Town. The Board shall also have all powers and duties enumerated by the laws of the State of Delaware for local Boards of Health.

The Board shall organize by election of a President and Secretary within ten (10) days after the notice of their appointment, and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board.

The Secretary of the Board may be allowed a reasonable annual compensation for his services, which shall be fixed and determined by the 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, but he shall be a resident of the Town.

#### TOWN SOLICITOR

Section 17. (a) At the biannual meeting, the Council shall select a Town Solicitor for the term of two years or until his successor shall have been duly chosen and qualified. The Town Solicitor shall be a member of the Bar of Sussex County. It shall be his duty to give legal advice to the Council and other officers of the Town, and to perform other legal services as may be required of him by the Council.

#### POLICE FORCE

Section 18. (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.

(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 Delmar, 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 Delmar. 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 Delmar.

(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 Alderman or the Assistant Alderman of The Town of Delmar 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 offices 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 of the Justice or 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.

(c) 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 the view of the violation of any ordinance of the Town relating to peace and good order thereof, the police force shall have the right and power to arrest without warrant.

#### ALDERMAN

Section 19. (a) The Town Council may appoint an Alderman and also an Assistant Alderman. Any person appointed as Alderman or Assistant Alderman shall be a resident of The Town of Delmar and shall not be a member of The Town Council of the Town of Delmar. Any person appointed as Alderman or Assistant Alderman shall be appointed for an indefinite term. Either the Alderman or the Assistant Alderman may be removed from office at any time, with or without cause, by the affirmative vote of two-thirds (2/3) of the elected members of the Town Council of the Town of Delmar.

(b) Before entering the duties of his office, the person appointed to serve as Alderman or 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 Delmar and the Ordinance enacted by the Town Council of The Town of Delmar and to carry into effect all orders of the Town Council of The Town of Delmar made pursuant to any law of the State. The Assistant Alderman shall perform the functions of Alderman if the Alderman is not available and at such other times as may be designated by the Town Council. During such a period 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 breeches of the peace and other offenses committed within the limits of the Town of Delmar, so far as to arrest and hold to bail, or fine and imprison offenders for any offense, penalty or forfeiture, prescribed by the Charter of the Town of Delmar, and any Ordinance enacted thereunder; to hear and determine all violations under the provisions of Chapter 41 Title 21 Delaware Code of 1953 as herebefore and hereafter amended by the General Assembly of the State of Delaware which occur within the Town of Delmar with such provisions are herein made a part of the laws of the Town of Delmar, except to the extent that such provisions shall be altered or supplemented by Ordinances passed by the Town Council and shall have power to impose a maximum penalty as authorized by Chapter 41 Title 21 of the Delaware Code of 1953 as the same may be from time to time be amended; to hear and determine the violation of any law of the State of Delaware, occurring within the Town of Delmar, the jurisdiction of which is included in that of the Justice of Peace Courts in the State of Delaware; to have jurisdiction of neglects, admissions, or defaults of any member of the police force or other town officers, agents or employees.

(e) The Alderman and Assistant Alderman shall have civil jurisdiction for the collection of town taxes, recovery of amounts due and payable for the construction of sidewalks, curbs, or pavements, expenses of abatement of nuisances, and all other matters which may arise in the proper government and control of the Town under the provision of this Charter and such other civil jurisdiction as the Town Council may from time to time prescribe.

(f) The Town Council shall determine the costs that shall be levied in matters brought before the Alderman or the Assistant Alderman.

(g) 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 preceeding calendar month and shall pay to the Town all such fines and penalties.

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

(i) Upon the expiration of his term of office or upon his resignation or removal from office, the Alderman or the Assistant Alderman shall forthwith deliver to his successor

all books, papers, documents, and other things belonging or appertaining to his office, and shall pay over to the Town Manager all monies in his hands belonging to the Town. Upon neglect or failure to make such delivery or payments for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars (\$500.00) or imprisonment at the discretion of the Court.

(j) The Town Council shall have the power and authority to enact Ordinances and/or Resolutions for the orderly administration of the office of the Alderman and of the Assistant Alderman not inconsistent with the Charter.

#### ANNUAL AUDIT

Section 20. The Town Council shall appoint an accountant to be the Auditor of the Town of Delmar. It shall be the duty of the Auditor to audit the accounts of the Town and all its officers whose duty involves a collection, custody and payment of monies to the Town. The Auditor shall audit the books of the Alderman and the Assistant Alderman of the Town of Delmar, the records of all fines, penalties, costs imposed or collected by and 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 the newspaper having a general circulation in the Town of Delmar in the issue immediately preceeding 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 or accountants as in his judgment may be necessary in the proper performance of his duties.

#### FISCAL YEAR

Section 21. The Town of Delmar shall operate on an annual budget. This fiscal year of the Town shall begin on the first day of July in any year and shall end on the last day of June in the following year. The fiscal year constitutes the tax year, the budget year, and the accounting year.

#### THE TOWN BUDGET

Section 22. (a) Annually each year not later than sixty (60) days prior to the beginning of the 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 by the Town Manager, prepare a town budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.

(b) 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 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 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 other anticipated income of the Town from any source or sources whatever.

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

#### COLLECTION OF CHARGES DUE THE TOWN

Section 23. (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.

## POWER TO BORROW MONEY AND ISSUE BONDS

Section 24, (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 Delmar 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 special election shall be printed in two (2) issues of a newspaper having a general circulation in the Town of Delmar within thirty (30) days prior to the 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 such special election every person who would be entitled to vote at a biannual election if held on that day shall be entitled to one vote.

(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 Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened from 2:00 p.m. until 7:00 p.m. 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 Elections shall make a certification 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 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 Special Election.

(9) The bonds shall be offered for sale to the best and most responsible bidder thereof 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 Delmar 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 Delmar shown by the last assessment preceding the creation of the said indebtedness.



## CURBING AND PAVING

Section 25. (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 Delmar, 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.

## CONTRACTS

Section 26. 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 a governmental body;

(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.

#### BOARD OF ASSESSMENT

Section 27. (a) The Board of Assessment shall be appointed by the Town Council for an indefinite term. The Board of Assessment shall consist of three (3) members, all of whom shall be bona fide residents of the Town of Delmar and freeholders of the Town.

(b) They shall be sworn or affirmed by the Mayor of the Town of Delmar 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 Delmar. 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 Delmar.

#### ASSESSMENT OF TAXES

Section 28. 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 Delmar. 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 Delmar a list containing the names of all persons assessed and the amount of assessment against each. They shall 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 Delmar.

(d) Immediately upon receiving the annual assessment list from the Board of Assessment, the Town Council of the Town of Delmar shall cause a full and complete copy of the same, containing the amount assessed to each taxable be publicly displayed at the Town office of the Town of Delmar or at some other public place if the Town Council so determines 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 29. (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 for 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 4 of this Charter as amended; and/or

(4) The several license fees to be charged for carrying on or conducting of the several business, professions or occupations more particularly mentioned or intended so to be in Section 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 in their judgment and estimation to realize the amount to be raised from each such source determined by them to be used as aforesaid; PROVIDED, HOWEVER, that sources (4), 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 such taxable thereon from sources (1), (2) and (3) abovementioned. This list shall be known as the Annual Tax List of the Town of Delmar. 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 herein after 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 Delmar under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in the Town of Delmar created hereby.

#### COLLECTION OF ANNUAL TAXES

Section 30. (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 Delmar 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 Delmar. 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 for taxes.

(c) All taxes, when and as collected by the Town Manager, shall be paid to the Town of Delmar, 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 Delmar during the regular business hours of that office.

(e) 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 of 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 Delmar 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 Delmar, institute in any court of competent jurisdiction for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in the case of other judgments recovered thereon.

(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 Delmar 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) At 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 Prothonotary shall record the same in a properly 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 Delmar 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 four (4) public places in the Town of Delmar, and one (1) at 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 proceeding.

(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 a bank either to the credit of the owner or in a manner in which the fund may be identified.

(8) The Town Council may by ordinance prescribe the costs and the amounts thereof to be changed and prescribe the manner in which such costs shall be paid.



(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 and tenements in the same assessment in The Town of Delmar, the total of said taxes may be collected from the sale of any part or portion of said lands and tenements, provided 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 Delmar before the proceedings for the sale of lands shall have been completed, his successor in office shall succeed to all 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 purchases thereat, the person having right under him by descent, 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.

#### ACTIONS OR SUITS

Section 31. No action, suit or proceeding shall be brought or maintained against the Town of Delmar 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 willful or wanton of the said Town of Delmar, or any of its departments, officers, 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 Delmar 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 Delmar by certified mail with return receipt requested and postage prepaid.

## COMPENDIUM

Section 32. 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 Delmar. 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, codes, rules and regulations, or upon the enactment of amendments to same, the Town Council shall enroll the same in the minutes to the Town Council and shall keep codes 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 Delmar 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 33. (a) All powers conferred upon or vested in the Town Council of the Town of Delmar 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 Delmar and/or the Town Council of the Town of Delmar precisely as if each of said powers was expressly set forth in this Charter.

(b) All ordinances adopted by The Mayor and Council of the Town of Delmar 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 Delmar under the provisions of this Charter.

(c) All of the acts and doing of The Mayor and Council of the Town of Delmar or of any official of The Mayor and Council of the Town of Delmar which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of The Mayor and Council of the Town of Delmar or under any provision of any prior Charter of the Town Council of the Town of Delmar, 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 Mayor and Council of the Town of Delmar or the Town of Delmar shall be due the Town of Delmar and all debts from the Town or The Mayor and Council of the Town of Delmar shall remain unimpaired until paid by the Town of Delmar.

(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 Mayor and Council of the Town of Delmar.

(f) The bonds given by or on account of any official of The Mayor and Council of the Town of Delmar 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, 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 July 12, 1977.

## CHAPTER 138

## FORMERLY SENATE BILL NO. 118

AN ACT TO AMEND CHAPTER 37, TITLE 31 OF THE DELAWARE CODE RELATING TO LICENSED CLINICAL SOCIAL WORKERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §3723 (a), Chapter 37, Title 31 of the Delaware Code by striking the date "March 1, 1977" and substituting in lieu thereof the date "September 1, 1977."

Section 2. Amend §3723 (a), Chapter 37, Title 31 of the Delaware Code by striking the phrase "for at least one year in the clinical practice of social work," and substituting in lieu thereof the phrase "for at least one year in the clinical practice of social work, whether or not such clinical practice was obtained in private practice or in a public or private non-profit agency exempt from federal income tax under §501 (c) (3) of the Internal Revenue Code of 1954 whether or not the service was rendered for a fee."

Section 3. Amend §3723 (b), Chapter 37, Title 31 of the Delaware Code by striking the date "March 1, 1977" and substituting in lieu thereof the date "September 1, 1977."

Section 4. Amend §3723 (c), Chapter 37, Title 31 of the Delaware Code by striking the date "March 1, 1977" and substituting in lieu thereof the date "September 1, 1977."

Approved July 12, 1977.

CHAPTER 139

FORMERLY HOUSE BILL NO. 548  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 29, PART III, TITLE 30 OF THE DELAWARE CODE  
RELATING TO EXEMPTION FROM CERTAIN RETAIL AND WHOLESALE  
MERCHANTS' LICENSE REQUIREMENTS AND TAXES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2908, Chapter 29, Part III, Title 30 of  
the Delaware Code by adding thereto a new subsection, designated as  
subsection (f), which new subsection shall read as follows:

"(f) The provisions of this Chapter shall not apply to  
casual sales by any individual artist or craftsperson who  
sells or offers for sale his own handmade, painted, or crafted  
art or craft objects and whose gross income from the sale  
of said objects is less than \$1,000 per year."

Approved July 14, 1977.

## CHAPTER 140

## FORMERLY HOUSE BILL NO. 419

AN ACT TO AMEND CHAPTER 69, TITLE 29, DELAWARE CODE, RELATING TO  
PROCUREMENT OF MATERIEL AND AWARD OF CONTRACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6903, Chapter 69, Title 29, Delaware Code  
by adding thereto a new subsection to be designated as subsection  
(1) to read as follows:

"(1) The Secretary of the Department of Administrative  
Services may enter into negotiations with various manufacturers  
or distributors and award contracts which will enable State  
agencies, local governments, schools and school districts to  
purchase those products at prices approved by the General Services  
Administration of the United States Government or its successor."

Approved July 14, 1977.

## CHAPTER 141

FORMERLY HOUSE BILL NO. 466  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 51, SUBCHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO SPECIAL FUEL.

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 §5131, Chapter 51, Title 30, Delaware Code by adding thereto two (2) new paragraphs to read as follows:

"(8) 'Special Fuel Supplier' means any person in the business of handling special fuel on a wholesale or bulk delivery basis who delivers or sells special fuel to a person not licensed as a Special Fuel Dealer or Special Fuel User or not the holder of a valid Special Fuel Tax Exemption Certificate.

(9) 'Special Fuel Tax Exemption Certificate' means a document issued by the Department of Public Safety to a person certifying that said person has no taxable use of special fuel from his own bulk storage tank or tanks."

Section 2. Amend §5132, Chapter 51, Title 30, Delaware Code by deleting said Section in its entirety and substituting in lieu thereof a new §5132 to read as follows:

"§5132. Tax Imposed.

(a) There is hereby levied and imposed a tax of eleven (11) cents per gallon the sale or delivery of special fuel to any special fuel dealer or special fuel user not the holder of a valid Special Fuel Dealer's or Special Fuel User's license. Said tax, with respect to all special fuel delivered by a Special Fuel Supplier into the bulk storage tank or tanks of said dealer or user, shall attach at the time of such delivery and shall be collected by the Supplier from the dealer or user and shall be paid over to the Department of Public Safety as hereinafter provided; also

(b) There is hereby levied and imposed a tax of eleven (11) cents per gallon on the use (within the meaning of the word 'use' as defined herein) of special fuel when such special fuel is delivered into the supply tanks of motor vehicles in this State by a licensed Special Fuel Dealer or a licensed Special Fuel User. Said tax, with respect to all special fuel

delivered by a licensed Special Fuel Dealer into supply tanks of motor vehicles in this State, shall attach at the time of such delivery and shall be collected by such Dealer from the special fuel user and shall be paid over to the Department of Public Safety as hereinafter provided. Said tax, with respect to special fuel acquired by any licensed Special Fuel User in any manner other than by delivery by a special fuel dealer into the supply tank of a motor vehicle, shall attach at the time of the use (as defined herein) of such fuel and shall be paid over to the Department of Public Safety by said User as herein provided."

Section 3. Amend §5133, Chapter 51, Title 30, Delaware Code by deleting said Section in its entirety and substituting in lieu thereof a new §5133 to read as follows:

"§5133. Exemptions.

(a) The tax imposed by this Chapter shall not apply to special fuel sold to or used by the following persons:

- (1) The United States or any governmental agencies thereof;
- (2) The State and every political subdivision thereof;
- (3) Volunteer fire companies in any of their official vehicles and Veteran or Civic organizations in their ambulances when such ambulances are provided on a voluntary basis;
- (4) A person (as defined herein) whose entire use of special fuel is in vehicles not licensed for operation upon the highway.

(b) The Department of Public Safety may, for purposes of identification of the above persons, require that an exemption certificate issued by the Department of Public Safety be on file with the Department and the Supplier from whom the fuel is purchased. The exemption certificate may be withheld or withdrawn by the Department of Public Safety for just cause."

Section 4. Amend §5134, Chapter 51, Title 30, Delaware Code by striking said Section Title and subsections (a) and (b), in their entirety and substituting in lieu thereof the following:

"§5134. Special Fuel License and Bond.

(a) Required: It shall be unlawful for any person to receive or accept delivery of special fuel into a bulk storage tank or



tanks without paying the tax imposed by §5132 of this Chapter unless such person is a holder of a valid Special Fuel Dealer's license or Special Fuel User's license issued to him by the Department of Public Safety. Said license shall require the Dealer or User to report and pay the tax imposed herein directly to the Department of Public Safety.

Also, it shall be unlawful for any person to act as a Special Fuel Supplier and collect special fuel tax from an unlicensed dealer or user in this State unless such person is the holder of a valid Special Fuel Supplier's license.

A license fee of five dollars (\$5.00) shall be received by the Department of Public Safety for the issuing of each such special fuel license.

(b) Application: Application for a special fuel license shall be made to the Department of Public Safety on forms supplied by the Department. A license shall be required for each separate place of business or location where special fuels are regularly delivered or placed into the fuel supply tank of a motor vehicle by a Special Fuel Dealer or Special Fuel User."

Section 5. Amend §5134 (d), Chapter 51, Title 30, Delaware Code, by deleting the phrase "special fuel dealer's license or special fuel user's license" as it appears in the first sentence and substituting in lieu thereof the phrase "special fuel license".

Section 6. Amend §5134 (e), Chapter 51, Title 30, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (e) to read as follows:

"(e) Issuance: Upon receipt of the application and bond in proper form, the Department of Public Safety shall issue to the applicant a license to act as a Special Fuel Dealer or a Special Fuel User or a Special Fuel Supplier, provided, however, that the Department may refuse to issue a license to any person: (1) who formerly held any type of license, which prior to the time of filing application, has been revoked for cause; or (2) who is a subterfuge for the real party in interest whose license, prior to the time of filing application, has been revoked for cause; or (3) upon other sufficient cause being shown. Before such refusal, the Department shall grant the applicant a hearing and shall grant him at least thirty (30) days' written notice of the time and place thereof."

Section 7. Amend §5134 (f), Chapter 51, Title 30, Delaware Code, by deleting said subsection (f) in its entirety and substituting in lieu thereof a new subsection (f) to read as follows:

"(f) Term of License: Each special fuel license shall expire on the 30th day of June. Every person desiring to continue as a Special Fuel Dealer or as a Special Fuel User or as a Special Fuel Supplier shall annually thereafter on the 1st day of July, procure from the Department such a license, which shall expire on the 30th day of June next following."

Section 8. Amend §5134 (g), Chapter 51, Title 30, Delaware Code, by deleting the phrase "special fuel dealer's license or special fuel user's license" and substituting in lieu thereof the phrase "Special Fuel Dealer's license or Special Fuel User's license or Special Fuel Supplier's license".

Section 9. Amend §5134 (h), Chapter 51, Title 30, Delaware Code, by deleting in two places, the phrase "special fuel dealer or special fuel user" and substituting in lieu thereof the phrase "Special Fuel Dealer or Special Fuel User or Special Fuel Supplier".

Section 10. Amend §5135, Chapter 51, Title 30, Delaware Code, by deleting said Section in its entirety and substituting in lieu thereof a new §5135 to read as follows:

"§5135. Records.

(a) Preparation of Records: For each location where special fuel is delivered or placed into the fuel supply tank of a motor vehicle by a licensed Special Fuel Dealer or a licensed Special Fuel User, said Dealer or User making such delivery shall prepare and maintain such records as the Department of Public Safety may reasonably require with respect to all such deliveries, and with respect to inventories, receipts, purchases, use and sales or other dispositions of special fuel. Also, each licensed Special Fuel Supplier shall prepare and maintain such records as the Department of Public Safety shall reasonably require with respect to all sales and/or deliveries of special fuel to his customers.

(b) Retention of Records: The records required under this Section shall be retained for a minimum of three (3) years and shall be available at all reasonable times for examination by representatives of the Department."

Section 11. Amend §5136, Chapter 51, Title 30, Delaware Code, by deleting said Section in its entirety and substituting in lieu thereof a new §5136 to read as follows:

"§5136. Monthly Reports and Payments.

(a) Reports: For the purpose of determining the amount of his liability for the tax herein imposed, each licensee shall file with the Department of Public Safety on forms prescribed by the Department, a monthly tax report. Such report shall contain a declaration by the person making same, to the effect that the statements contained therein are true and are made under penalties of perjury which declaration shall have the same force and effect as a verification of the report and shall be in lieu of such verification. The report shall show such information as the Department may reasonably require for the proper administration and enforcement of this Chapter. A licensed Special Fuel Dealer or a licensed Special Fuel User shall file a report for each location at which special fuel is delivered or placed by said Dealer or User into a fuel supply tank of a motor vehicle; provided, however, that if said Dealer or User is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the monthly report to the Department covering such location need not include inventory control data covering bulk storage from which wholesale distribution is made.

A licensed Special Fuel Supplier shall file one report regardless of the number of locations at which his special fuel is stored or handled.

(b) Due Date: The special fuel licensee shall file the report on or before the twenty-fifth (25th) day of the next succeeding calendar month following the monthly period to which it relates. When the twenty-fifth (25th) day of the month falls on a weekend or State holiday, the due date of the report shall be the next following business day of the State.

Such report and payment shall be considered to have been duly and timely filed if such report or payment is postmarked by the United States Postal Service on or before the due date; provided, however, that for good cause the Secretary of the Department of Public Safety may grant a licensee a reasonable extension of time.

(c) Tax Computation: The tax imposed by this Chapter shall be computed by each licensed Special Fuel Dealer or licensed Special Fuel User by multiplying the tax rate per gallon provided in this Chapter by the number of gallons of special fuel delivered or placed by him into the supply tank or tanks of a motor vehicle; or, in the case of a Special Fuel Supplier, by the number of gallons of special fuel delivered or sold by him to every person not a licensed Special Fuel Dealer or licensed Special Fuel User.

(d) Payments: The monthly tax report shall be accompanied by remittance covering the tax due hereunder on special fuel as computed in subsection (c) above.

(e) Refusal or Failure to File Report when Due: In case any special fuel licensee refuses or fails to file a report required by this Chapter within the time prescribed by subsection, there is hereby imposed a penalty of five dollars (\$5.00) per business day of this State and the tax due shall bear interest at a rate of one percent (1%) per month or fraction thereof until the same is paid; provided, however, that if any such licensee shall establish by a fair preponderance of evidence that his failure to file a report within the time prescribed was due to reasonable cause and was not with intent to violate the law, the Department may waive all or any part of the penalty provided by this subsection.

(f) Failure to Pay Tax: When a licensee files a report but fails to pay in whole or in part the tax due hereunder, there shall be added to the amount due and unpaid, interest at the rate of one percent (1%) per month or fraction thereof from the date such tax was due to the date of payment in full thereof.

(g) Deficiency: If it be determined by the Department of Public Safety that the tax reported by any licensee is deficient, the Department shall proceed to assess the deficiency on the basis of information available to the Department and there shall be added to this deficiency interest at the rate of one percent (1%) per month or fraction thereof from the date such tax was due to the date of payment in full thereof.

(h) Determination if no Report is Made: If any person liable for a report under the requirements of this Chapter as a Special Fuel Dealer, Special Fuel User or Special Fuel Supplier, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax report when due, the Department of Public Safety shall, on the basis of information available to it, determine the tax liability of that person for the period during which no report was filed, and to the tax as thus determined the Department shall add the penalty and interest provided in subsection (e) of this Section. An assessment made by the Department pursuant to this subsection or to subsection (g) of this Section shall be presumed to be correct and in any instance when the validity of the assessment is questioned, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of evidence that it is erroneous or excessive as the case may be.

(i) **Fraudulent Report:** If any licensee shall file a false or fraudulent report with intent to evade the tax imposed by this Chapter, there shall be added to the amount of deficiency determined by the Department a penalty equal to twenty-five percent (25%) of the deficiency together with interest at one percent (1%) per month, or fraction thereof, on such deficiency from the date such tax was due to the date of payment thereof in addition to all other penalties prescribed by law.

(j) **Limitation:** Except in the case of a fraudulent report or of neglect or refusal to make a report, every deficiency shall be assessed under subsection (g) of this Section within three (3) years after the twenty-fifth (25th) day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within three (3) years after the report is filed, whichever period expires the later."

Section 12. Amend §5137, Chapter 51, Title 30, Delaware Code by deleting the phrase "special fuel dealer or user" in the four (4) places it appears and substituting in lieu thereof the word "licensee" in each place.

Section 13. Amend §5138 (b), Chapter 51, Title 30, Delaware Code by deleting the phrase "Special fuel dealers and special fuel users" and substituting in lieu thereof the phrase "Special Fuel Dealers, Special Fuel Users, and Special Fuel Suppliers".

Section 14. Amend §5138, (c), Chapter 51, Title 30, Delaware Code by deleting subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) **Presumption:** For the purpose of enforcing the provisions of this Chapter, it shall be prima facie presumed that all special fuel received by any person into storage having dispensing equipment designed to fuel motor vehicles is to be transferred or delivered by that person into fuel supply tanks of motor vehicles."

Section 15. Amend §5139 (a) by deleting paragraph (6) in its entirety and substituting in lieu thereof a new paragraph (6) to read as follows:

"(6) Knowingly and with intent to evade or aid in the evasion of the tax imposed herein, to deliver or place fuel into the bulk supply tank or tanks of a person not licensed as a Special Fuel Dealer or Special Fuel User or not a holder of a valid Special Fuel tax exemption certificate without collecting the lawful tax imposed herein.

(7) Fail to keep and maintain the books and records required by this Chapter."

Approved July 14, 1977.

## CHAPTER 142

FORMERLY HOUSE BILL NO. 326  
AS AMENDED BY  
HOUSE AMENDMENT 1 & 2

AN ACT TO AMEND TITLE 21, DELAWARE CODE, RELATING TO MOTOR VEHICLES AND REQUIRING THE REGISTRATION AND CONTROL OF OFF-HIGHWAY VEHICLES.

WHEREAS, the rapid growth in numbers and use of off-highway vehicles and their increasing impact on many aspects of the public interest are matters of concern to the people of the State of Delaware; and

WHEREAS, registration and regulation of the use of such vehicles is an effective method to prevent their detrimental effects upon public safety and the State's natural resources, to provide procedures for establishment of ownership and for recovery of vehicles in case of theft, and to fix responsibility for damage or injury caused by their use;

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 §101, Chapter 1, Title 21, Delaware Code, by adding the following definitions thereto:

" 'Off-Highway Vehicle' or 'OHV' means a motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, a motorcycle or related two-wheel vehicle, an amphibious machine, a ground effect air-cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. 'OHV' does not include a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a construction or logging vehicle used in performance of its common function, or a registered aircraft. However, nothing in this chapter shall be construed to include snowmobiles.

'Decal' means the self-adhesive sticker issued by the Department bearing the registration number assigned to an off-highway vehicle.

'Organized or Special Event' is any competition involving motor vehicles that is conducted under the auspices of a recognized sanctioning body or under the authority of a governmental agency having jurisdiction over the area concerned.

(i) Fraudulent Report: If any licensee shall file a false or fraudulent report with intent to evade the tax imposed by this Chapter, there shall be added to the amount of deficiency determined by the Department a penalty equal to twenty-five percent (25%) of the deficiency together with interest at one percent (1%) per month, or fraction thereof, on such deficiency from the date such tax was due to the date of payment thereof in addition to all other penalties prescribed by law.

(j) Limitation: Except in the case of a fraudulent report or of neglect or refusal to make a report, every deficiency shall be assessed under subsection (g) of this Section within three (3) years after the twenty-fifth (25th) day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within three (3) years after the report is filed, whichever period expires the later."

Section 12. Amend §5137, Chapter 51, Title 30, Delaware Code by deleting the phrase "special fuel dealer or user" in the four (4) places it appears and substituting in lieu thereof the word "licensee" in each place.

Section 13. Amend §5138 (b), Chapter 51, Title 30, Delaware Code by deleting the phrase "Special fuel dealers and special fuel users" and substituting in lieu thereof the phrase "Special Fuel Dealers, Special Fuel Users, and Special Fuel Suppliers".

Section 14. Amend §5138, (c), Chapter 51, Title 30, Delaware Code by deleting subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) Presumption: For the purpose of enforcing the provisions of this Chapter, it shall be prima facie presumed that all special fuel received by any person into storage having dispensing equipment designed to fuel motor vehicles is to be transferred or delivered by that person into fuel supply tanks of motor vehicles."

Section 15. Amend §5139 (a) by deleting paragraph (6) in its entirety and substituting in lieu thereof a new paragraph (6) to read as follows:

"(6) Knowingly and with intent to evade or aid in the evasion of the tax imposed herein, to deliver or place fuel into the bulk supply tank or tanks of a person not licensed as a Special Fuel Dealer or Special Fuel User or not a holder of a valid Special Fuel tax exemption certificate without collecting the lawful tax imposed herein.

(7) Fail to keep and maintain the books and records required by this Chapter."

Approved July 14, 1977.

## CHAPTER 142

FORMERLY HOUSE BILL NO. 326  
AS AMENDED BY  
HOUSE AMENDMENT 1 & 2

AN ACT TO AMEND TITLE 21, DELAWARE CODE, RELATING TO MOTOR VEHICLES AND REQUIRING THE REGISTRATION AND CONTROL OF OFF-HIGHWAY VEHICLES.

WHEREAS, the rapid growth in numbers and use of off-highway vehicles and their increasing impact on many aspects of the public interest are matters of concern to the people of the State of Delaware; and

WHEREAS, registration and regulation of the use of such vehicles is an effective method to prevent their detrimental effects upon public safety and the State's natural resources, to provide procedures for establishment of ownership and for recovery of vehicles in case of theft, and to fix responsibility for damage or injury caused by their use;

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 §101, Chapter 1, Title 21, Delaware Code, by adding the following definitions thereto:

" 'Off-Highway Vehicle' or 'OHV' means a motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, a motorcycle or related two-wheel vehicle, an amphibious machine, a ground effect air-cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. 'OHV' does not include a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a construction or logging vehicle used in performance of its common function, or a registered aircraft. However, nothing in this chapter shall be construed to include snowmobiles.

'Decal' means the self-adhesive sticker issued by the Department bearing the registration number assigned to an off-highway vehicle.

'Organized or Special Event' is any competition involving motor vehicles that is conducted under the auspices of a recognized sanctioning body or under the authority of a governmental agency having jurisdiction over the area concerned.



'Competition Vehicle' is a vehicle that is specifically designated by its manufacturer as being intended solely for use during a special or competition event, and which is exclusively so used.

'OHV Dealer' includes every person engaged in the business of buying, selling or exchanging off-highway vehicles in that portion of this State located north of the Chesapeake and Delaware Canal. Persons offering OHV's for final delivery in that portion of this State located north of the Chesapeake and Delaware Canal through direct-mail order or through a catalog-order facility, regardless of where located, are considered to be 'OHV Dealers', and subject to the provisions of this chapter.

'OHV' Operator' includes every person who is in actual physical control of an off-highway vehicle."

Section 2. Amend §101 (17), Chapter 1, Title 21, Delaware Code, by deleting the period and adding the following:

"or OHV."

Section 3. Amend §101 (20), Chapter 1, Title 21, Delaware Code, by deleting the period and adding the following:

"and OHV."

Section 4. Amend §101, Chapter 1, Title 21, Delaware Code, by adding after the word "motor vehicle" wherever it appears in subsections (22) and (49) the words "or OHV".

Section 5. Amend §101 (48), Chapter 1, Title 21, Delaware Code, by deleting the period and adding the following:

"and excepting OHV's."

Section 6. Amend Part IV, Title 21, Delaware Code, by adding a new chapter to read as follows:

"CHAPTER 68. REGISTRATION AND CONTROL OF OFF-HIGHWAY VEHICLES

§6801. OHV registration

(a) Except as hereinafter provided, no person operate any off-highway vehicle within that portion of the State located north of the Chesapeake and Delaware Canal unless such vehicle has been registered in accordance with the provisions of this Chapter. Such registration shall not permit the vehicle to be operated on any highway except as hereinafter specifically provided. No person shall sell an OHV without furnishing the buyer a bill of sale.

(b) Proof of such registration shall be available for inspection upon demand by any peace, environmental protection, or law enforcement officer, however, the operator shall be allowed 24 hours to produce the registration card before a conviction can be obtained under the provisions, such registration having been legally issued at a time prior to his arrest.

(c) Snowmobiles are excluded from this chapter.

#### \$6802. Application, issuance

Application for registration shall be made to the Department or their authorized agent as provided for in Chapter 21, Title 21, Delaware Code, in such form and in such manner as the Department shall prescribe, and shall state the name and address of every owner and be signed by at least one owner. Upon receipt of the application and the appropriate fee as hereinafter provided, such OHV shall be registered and a registration number decal assigned which shall be affixed to the OHV in such manner hereinafter provided. In the event that an off-highway vehicle sought to be registered or re-registered does not, after inspection and testing, comply with the provisions respecting equipment established by this Chapter or by the regulations of the Department promulgated pursuant to this Chapter, the Department may deny the issuance of a registration certificate.

#### \$6803. Fees for registration

(a) The fee for registration of each off-highway vehicle, other than those registered by a dealer or manufacturer pursuant to clause (2) of this subdivision, shall be \$6.00 for three years. The fee for a duplicate registration certificate shall be \$2.00. The fee for a duplicate registration number decal shall be \$2.00. The fee for a transfer or registration certificate shall be \$2.00. All fees shall be waived for OHV's owned and used by the United States, or other state, or of this State or political subdivision thereof.

(b) OHV's owned by a licensed OHV dealer, as specified in §6809, Chapter 68, Title 21, Delaware Code, and operated for demonstration or testing purposes are exempt from a registration fee.

#### \$6804. Renewal of registration

Every owner of an off-highway vehicle shall renew his registration in such manner as the Department shall prescribe, upon payment of the same registration fees provided in §6803, Chapter 68, Title 21, Delaware Code.

§6805. Registration procedure

(a) Upon receipt of the required fee and an application on forms prescribed by it, the Department shall issue to the applicant a registration certificate stating the registration number, the name and address of the owner, and such other information as the Department deems necessary. The Department shall also issue one registration number decal per OHV. Such number decal shall contain reference to the State, and the registration number, and shall be of such size and displayed in such number as prescribed by the Department. Records of the Department made or kept pursuant to this chapter shall be public records except as otherwise provided.

(b) Upon receipt of the required fee and an application form prescribed by it, the Department shall issue to the applying dealer or manufacturer ten (10) registration number decals with additional decals being available for a fee of \$2.00 per decal.

(c) If a registration certificate or decal is lost or destroyed, the owner may apply for a duplicate on forms provided for by the Department accompanied by a fee of \$2.00. Upon receipt of a proper application and the required fee, the Department shall issue a duplicate registration certificate or number decal to the owner.

§6806. Surrender of registration certificate

(a) The owner of an OHV shall notify the Department within 15 days if the OHV is destroyed or abandoned, stolen, sold, or an interest therein transferred either wholly or in part to another person, or if his address no longer conforms to the address appearing on the registration certificate. The notice shall consist of a surrender of the registration certificate on which the proper information shall be noted, or written notice to the Department that the registration certificate has been stolen.

(b) When surrender of the certificate is because the OHV has been destroyed or abandoned or has been stolen, the Department shall cancel the certificate and enter such fact in its records. If the surrender is because of a change of address of the owner, the new address shall be recorded by the department and a registration certificate bearing such information shall be returned to the owner. The transferee of a vehicle registered under this Chapter,

within 15 days after acquiring it, shall apply to the Department for transfer to him of the registration certificate issued to the OHV, giving his name, address and the number of the vehicle, and pay the Department a fee of \$2.00. Upon receipt of the application and fee, the Department shall transfer the registration certificate issued for the OHV to the new owner. Unless the application is made and the fee paid within 15 days, the vehicle shall be deemed to be without a registration certificate and no person shall operate the OHV until a certificate is issued.

**§6807. Out-of-State OHV registration**

The Department shall issue a one-year registration number decal valid for the present calendar year, to out-of-state OHV's operated by a resident of a state or county where registration is not required.

The fee for this decal shall be \$6.00.

**§6808. Age Requirements**

No application for an original certificate of registration shall be accepted by the Department from any person under 18 years of age unless said certificate is signed by at least one parent or guardian of said person, stating consent to said application.

**§6809. OHV dealer license required.**

OHV dealers, as defined herein, shall be licensed by the Department in accordance with such rules and regulations as may be promulgated by the Secretary. A fee of \$50.00 shall be assessed for such license which shall be valid for three years. OHV dealers are not transferable and may be revoked for violation of such rules and regulations as may be specified for that privilege. OHV dealers shall be required to carry personal liability insurance in an amount at least equal to that required of dealers under no-fault insurance provisions or as otherwise specified by the Department.

**§6810. OHV registration, exceptions and exemptions.**

(a) A vehicle registered under Title 21, Title 23 (boats), or Title 2 (aircraft), Delaware Code, is exempt from the registration provisions of this Chapter.

(b) Registration is not required for an OHV which is operated exclusively in a special event upon a special area

location of limited duration which is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(c) No registration hereunder shall be required for the following described off-highway vehicles:

(1) OHV's covered by a valid registration of another state or country and which have not been within this State for more than 15 consecutive days.

(2) OHV's being operated by a resident of a state or country which does not require off-highway vehicle registration and which have been issued a one-year permit sticker as provided for in §6807, Chapter 68, Title 21, Delaware Code.

§6811. Vehicle Identification Number (VIN)

(a) Beginning not later than January 1, 1978, a manufacturer of an OHV shall stamp or permanently affix to the frame or body members of the OHV an identifying number unique to that vehicle in an easily visible location. The VIN shall be entered on the registration certificate issued by the Department to the OHV owner.

(b) Possession of an OHV with an altered, intentionally defaced or obliterated vehicle identification number (VIN) is a misdemeanor, punishable by imprisonment for not less than 30 days or more than six months, or by a fine of not less than \$50 or more than \$500, or both. The justice of the peace will have jurisdiction.

§6812. Special vehicles

The owner of a specially constructed, or reconstructed OHV may make application, accompanied by the required fees in such form as may be prescribed by the Department for a special vehicle identifying number. He shall furnish such information as will satisfy the Department that he is the owner, whereupon the Department shall assign a special vehicle identification number for the vehicle. The owner shall cause said number to be affixed as directed by the Department. Such special number shall be regarded as the permanent vehicle identification number (VIN) of said vehicle.

§6813. Specific OHV dealer responsibilities for rented or leased OHV's

(a) A dealer shall maintain in safe operating condition an OHV offered for rent or lease by him. The dealer, his agents, or employees shall explain the operation of the OHV being rented

or leased and if the dealer, his agent, or employee, believes that person to whom the OHV is to be rented or leased is not competent to operate the OHV with safety to himself or others, he shall refuse to rent or lease such OHV.

(b) The Department shall require such insurance and compliance with such additional rules and regulations regarding rental or lease of OHV's as it may deem necessary.

**\$6814. Operation of OHV's upon public highways, streets, sidewalks or rights-of-way**

(a) Registered OHV's shall not be operated upon a public highway or street or sidewalk or right-of-way thereof located north of the Chesapeake and Delaware Canal except under the following conditions:

(1) An OHV may be pushed across or along such public way provided such OHV is in neutral or that the power train is otherwise disengaged, and further provided that such shall be in conformance with Title 21, Chapter 41, Delaware

(2) An OHV may be operated on a street or highway located north of the Chesapeake and Delaware Canal for a special event of limited duration, conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction.

**\$6815. Operation of OHV's at excessive rate of speed**

A person shall not operate an OHV at a rate of speed which cannot be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance.

**\$6816. Operation of OHV's while under the influence of intoxicating liquor or controlled substances**

A person shall not operate on OHV while under the influence of intoxicating liquor or controlled substance as defined in §4177, Chapter 41, Title 21, Delaware Code.

**\$6817. Operation of OHV's without lights**

A person shall not operate an OHV during the period after sunset until sunrise without displaying a lighted headlight and lighted tail light.

\$6818. Operation of OHV's without brakes

A person shall not operate an OHV unless such OHV is equipped with a brake or similar device adequate to control the movement of and to stop and to hold such OHV.

\$6819. Operation of OHV's in a malicious manner; civil liability

(a) A person shall not operate an OHV in a manner to maliciously cause excessive damage or disturbances of the land, wildlife or vegetative resources, or endanger persons and property.

(b) The operator of the OHV shall be held liable for any damage to private property, including, but not limited to, damage to trees, shrubs, growing crops; injury to living creatures or damage through OHV operation in a manner so as to maliciously create erosive or other ecological damage to private property. However, if the operator is a minor, the parents or legal guardian of the operator shall be held personally liable for any and all damage and/or injuries, including civil or criminal liability caused by the minor in the operation of the OHV.

(c) The owner of such private property may recover from the person responsible nominal damages of not less than the amount of damage of injury.

\$6820. Operation of OHV's without spark arrestor type mufflers

(a) A person shall not operate an OHV unless such OHV is equipped with a spark arrestor type muffler, in good working order and in constant operation, from which noise emission under 60% of the maximum RPM measured at 50 feet at right angles from the vehicle path on a constant speed pass by measurement does not exceed 88 dba on a sound level meter which meets the requirements of ANSI-514197, using procedure and ancillary equipment therein described. During the test procedure, the ambient sound including wind effects due to sources other than the OHV being measured shall be at least 10 dba lower than the anticipated level of the test OHV. A vehicle subject to the Act, manufactured or assembled after January 1, 1978, and used, sold, or offered for sale in this State shall conform to the noise emission levels of this Act unless preempted by Federal E.P.A. legislation.

(b) Competition vehicles shall be exempted from the provisions of this section only while in competition.

**\$6821. Operation of OHV's on private property**

A person shall not operate on OHV upon any property in either public or private ownership without the express permission of the person in control of the property, or knowingly in violation of any restrictions imposed on such use by the person in control of the property.

**\$6822. Operation of OHV's in violation of traffic controllers or traffic control devices**

A person shall not operate on OHV in violation of instructions of any person authorized to direct, control or regulate traffic, or in violation of any official traffic control device applicable thereto.

**\$6823. Safety requirements; helmets and chin straps**

A person shall not operate a two-wheel or three wheel OHV unless the operator and all passengers are wearing a protective helmet on their heads, with the chin straps properly fastened, meeting American National Standards Institute (ANSI) Z-90.1, 1966-1971 specifications or specifications as may be subsequently revised by American National Standards Institute.

**\$6824. Operation of OHV's by minors, incompetent persons or persons under mental or physical disabilities**

(a) A person less than twelve (12) years of age may operate an OHV only if:

(1) He is under the direct supervision of a person who is at least 18 years of age; or

(2) He is on land owned by or under the control of his parent or legal guardian.

(b) Persons twelve (12) years of age and older may operate on OHV without adult supervision provided such use is in compliance with all other provisions of this Chapter.

(c) A parent or legal guardian shall not permit his child under the age of twelve (12) to operate an OHV except under the direct supervision of an adult.

(d) The owner of an OHV shall not permit:

(1) His vehicle to be operated by a person under the age of twelve (12) except under direct adult supervision.



(2) His vehicle to be operated by a person who is incompetent to operate such vehicle because of mental or physical disability, or because of being under the influence of intoxicating liquor or controlled substance as defined by §4177, Title 21, Delaware Code.

§6825. Identification of persons operating OHV's upon public or private property

Any person operating on OHV upon public or private property shall stop and identify himself upon the request of the person in control of the property, and shall promptly comply with such restriction as may be imposed or remove his OHV from the premises if requested to do so.

§6826. Safety education program

(a) The Department shall implement a comprehensive OHV information and safety education program which shall include the preparation and dissemination of information and safety advice to the public.

(b) In implementing a program which is established pursuant to this section, the Department shall cooperate with private organizations and associations, private and public corporations, the Department of Public Instruction, State and local parks and recreation departments, local governmental units, and local and county law enforcement agencies.

§6827. Accidents

(a) The operator of an OHV involved in an accident resulting in an injury to another person or in a death shall immediately report such accident by the quickest available means of communication, to a State Police Officer or the local law enforcement officer for New Castle County or the municipality wherein the accident occurred.

(b) The operator of an OHV involved in an accident resulting in damage to private property, except that of the operator, shall notify the owner of said property within 48 hours of the occurrence of such accident.

(c) Accidents resulting only in injury to the operator and/or damage to his personal equipment need not be reported.

(d) The operator of an OHV involved in an accident upon either public or private property, resulting in injury to or death of any person shall immediately stop and remain

at the scene of such accident and shall render to any person injured in the accident reasonable assistance in securing medical aid or transportation for the injured person or persons.

(e) The provisions of this section shall not apply to accidents involving competition vehicles damaged while engaging in special or competition events.

**\$6828. Enforcement**

Any peace, police or environmental protection officer, acting in the lawful performance of his duty, shall be empowered to enforce the provisions of this Chapter.

**\$6829. Registration numbers as prima facie evidence**

In a proceeding for a violation of this Chapter involving prohibited operation and conduct, the registration number or numbered decal displayed on an OHV shall constitute prima facie evidence that the owner of the vehicle was the person operating the vehicle at the time of the offense; unless the OHV committing the violation was in fact a stolen vehicle at the time of the violation.

**\$6830. Unlawful for operators of OHV's to disobey command to stop**

It shall be unlawful for any operator of an OHV to willfully disobey a signal to bring such OHV to a stop when such signal is given by hand, voice, emergency lights, or siren a visual or audible signal by a uniformed police, peace, or environmental protection officer acting in the lawful performance of his duty.

**\$6831. Penalty**

An person convicted of violation of any provision of this Chapter shall be fined not less than \$10 nor more than \$300 or have his OHV impounded for a period of 30 days or both. Such penalty shall apply unless otherwise provided for in this Chapter.

**\$6832. Jurisdiction**

Justice of the Peace Courts shall have jurisdiction over violations of this Chapter except that Family Court shall have jurisdiction over violations of this Chapter when such violation is committed by any person under the age of 18 years of age.

§6833. Conflicts with other Statutes

Should any provision of this Chapter conflict with other statutes, the provisions or requirements of this Chapter shall apply.

§6834. Rules and regulations

The Secretary of Public Safety may adopt and enforce such rules and regulations concerning off-highway vehicles and designate such agencies as may be necessary to carry out the provisions of this Chapter, provided such rules and regulations are not contrary to the provisions of this Chapter."

Section 7. It is declared to be legislative intent that OHV trails and/or areas be provided, and such trails and/or areas be provided, and such trails and/or areas, when possible, should be on publicly owned property. Therefore, the Department of Natural Resources and Environmental Control is hereby instructed to immediately begin to study the feasibility and suitability of areas under its administration and shall determine and designate trails and/or areas where OHV operation shall be permitted. Such study shall be completed and a report made to the General Assembly by January 1, 1978. All other State agencies, and political subdivisions of the State of Delaware, those districts, boards, and agencies under the State Department of Public Instruction, are hereby instructed to immediately study their facilities and to provide such trails and/or areas as are consistent with their basic purposes and programs.

Section 8. Income accrued from the collection or registration fees under this Chapter is appropriated to the Department (Division of Motor Vehicles) and shall be placed in a special account to be used for expenses incurred in the administration of the provisions of this Chapter. All OHV registration fees collected hereunder which are unexpended or unencumbered at the end of each fiscal year shall revert to the General Fund of the State of Delaware.

Section 9. It is declared to be the legislative intent, that, if any section, subsection, sentence, clause, or provision of this Chapter is held invalid, the remainder of the Chapter shall not be affected thereby.

Section 10. This Act shall become effective on January 1, 1978. The Department of Motor Vehicles shall begin registration of OHV's on July 1, 1977. By April 1, 1978, all OHV's shall comply with the provisions of this Act.

Approved July 14, 1977.

## CHAPTER 143

FORMERLY HOUSE BILL NO. 207  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 23, TITLE 30 OF THE DELAWARE CODE RELATING TO EXEMPTIONS FOR THE ELDERLY FROM THE COST OF OCCUPATIONAL LICENSES AND FEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2301(g), Chapter 23, Title 30, Delaware Code by striking said subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read as follows:

"(g) Any person 65 years of age or older whose gross receipts are less than \$5,000 per year shall pay one-fourth of the annual occupational license tax specified in subsection (a) of this section."

Approved July 14, 1977.

## CHAPTER 144

FORMERLY HOUSE BILL NO. 555  
AS AMENDED BY  
HOUSE AMENDMENTS NOS. 1, 2, 4 AND 5

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION 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. Funds are hereby appropriated to the following  
grants-in-aid in the amounts listed:

<u>Accounting Code</u>	<u>Item/Description</u>	<u>Amount</u>
(10-07-000)	<u>Governor's Commission on Criminal Justice</u> Program Grants, Local "Buy In" Aid to Local Law Enforcement	\$ 29,480 170,520
(12-05-001)	<u>State Treasurer - Administration</u> Municipal Street Aid	2,000,000
(20-06-001)	<u>Div. of Hist. &amp; Cultural Affairs - Administration</u> Historical Society of Delaware	5,000
(35-01-000)	<u>Dept. of Health &amp; Social Services - Secretary</u> Adolescent Program	150,000
(35-06-003)	<u>Div. of Mental Health - Mental Hygiene Clinics</u> West End Neighborhood House	28,522
(35-06-008)	<u>Bureau of Substance Abuse</u> Crittenton Home - Education Program 1212 Program Forward Step	6,000 5,000 5,000
(35-07-002)	<u>Div. of Social Services - Public Welfare</u> Adult Educable Mentally Retarded	40,000
(35-12-000)	<u>State Service Centers</u> South Wilmington Medical Center Claymont Community Center	30,000 25,000
(35-14-000)	<u>Division of Aging</u> Community Legal Aid	15,000

<u>Accounting Code</u>	<u>Item/Description</u>	<u>Amount</u>
(35-14-000)	Newark Senior Center - Minibus	5,000
Cont'd	St. Anthony's Community Center - Minibus	10,000
	Modern Maturity Center Telephone Reassurance Prog.	10,000
	Bi-County Adult Center	15,000
	Cape Henlopen Social Center	10,000
	East Side Senior Service Bureau	32,000
	Jimmy Jenkins Senior Center	25,000
	Julia Tallman Golden Age Center	30,000
	Laurel Senior Center	21,000
	Modern Maturity Center	25,000
	M.O.T. Senior Center	30,000
	Nanticoke Senior Center	22,000
	Newark Senior Center	37,000
	St. Patrick's Senior Center	22,000
	St. Peter's Adult Center	27,000
	St. Anthony's Community Center	30,000
	Canby Park - Fraim Senior Center	42,000
	Absolom Jones Senior Center	30,000
	St. Hedwig's Senior Center	45,000
	West Center City Senior Activity Center	20,000
	Wilmington Senior Center	66,138
	Brandywine Senior Center	10,000
	Recreational Oppor. for Nursing Home Residence	18,000
	Sussex County Home Services	10,000
	Kent County Office of Aging	30,000
	Delaware King Memorial Foundation, Inc.	15,000
	Zion Lutheran Senior Center	30,000
(40-05-002)	<u>Div. of Fish and Wildlife - Wildlife</u>	
	Delaware S.P.C.A.	94,000
	Kent County Dog Control	15,000
(40-06-004)	<u>Div. of Parks and Recreation - Recreation</u>	
	Recreation Funds Local Government	226,000
(40-07-002)	<u>Div. of Soil and Water Conservation - Drainage</u>	
	Tax Ditches - Sussex County	30,000
	Tax Ditches - Kent County	30,000
	Tax Ditches - New Castle County	30,000
(50-01-001)	<u>Community Affairs &amp; Econ. Develop. - Administration</u>	
	Opportunities Industrialization Center	160,000
(50-08-000)	<u>Div. of Economic Development</u>	
	Delmarva Advisory Council Grant	13,000
	Miss Delaware Pageant	1,000

<u>Accounting Code</u>	<u>Item/Description</u>	<u>Amount</u>
(50-10-000)	<u>Div. of Libraries</u> Public Library Grants	33,384
(65-04-000)	<u>Div. of Production and Promotion</u> Peninsula Horticultural Society Crop Improvement Association	400 400
(95-04-000)	<u>Delaware State Advisory Council on Career Education</u> Educational Resources Association Program	<u>62,000</u>
	TOTAL	<u>\$3,871,844</u>

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Item Description</u>	<u>Amount</u>
Northeast Area Partners, Inc.	15,000
Delaware Guidance Services for Children & Youth, Inc.	25,000
WHYY, Inc.	125,000
Big Brothers Association of Northern Delaware, Inc.	17,500
Geriatric Services of Delaware, Inc.	25,000
Delaware Safety Council, Inc.	30,000
Diamond State Youth, Inc.	44,000
Delaware State Fair, Inc.	25,000
Lower New Castle County Medical Center	50,000
People's Place II	22,000
Delaware Association of Chiefs of Police - Camp Barnes	10,000
TOTAL	<u>\$388,500</u>

Section 3. (a) Funds are hereby appropriated to the following grants-in-aid in the amounts listed and 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:

American Legion, Department of Delaware	\$12,000
Veterans of Foreign Wars, Department of Delaware	12,000
Disabled American Veterans, Department of Delaware	6,000

(b) Funds are hereby appropriated to the following grants-in-aid in the amounts listed for operation expenses:

Veterans of Foreign Wars, Department of Delaware	\$ 2,000
American Legion, Department of Delaware	2,000
Disabled American Veterans, Department of Delaware	2,000
Jewish War Veterans of the U.S., Department of Delaware	2,000
Delaware Veterans of World War I	1,500
Paralyzed Veterans of America, Department of Delaware	2,000

(c) Expenses for Memorial Day programs incurred by local Posts in Sussex, Kent and New Castle Counties may be reimbursed out of operation expenses appropriated in subsection (b) of this Section on vouchers properly submitted to and approved by their representative veterans' organizations.

(d) The sum of \$2,600 is appropriated to the American Legion, Department of Delaware, for the bearing of expenses incident to the holding of Boys' State.

(e) The sum of \$2,600 is appropriated to the American Legion Auxiliary, Department of Delaware, for the bearing of expenses incident to the holding of Girls' State.

(f) 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.

(g) The funds appropriated by this Section 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.

TOTAL                      \$    47,700

Section 4. (a) 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 the 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
Christiana 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



New Castle County Cont'd.

Mill Creek Fire Co.	Marshallton	\$	4,000
Minquadales Fire Co.	Minquadales		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

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

Bethany 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

Sussex County Cont'd.

Seaford Volunteer Fire Dept., Inc.	Seaford	4,000
Selbyville Vol. Fire Co., Inc.	Selbyville	4,000
Slaughter Beach Memorial Fire Co.	Slaughter Beach	<u>4,000</u>
TOTAL		\$ 240,000

(b) 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. 1	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	<u>1,250</u>
TOTAL		\$ 47,500

(c) 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
Farlington Volunteer Fire Co.	Farlington		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.	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
Minquedale Fire Co.	Minquedale		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
Ellendale Volunteer Fire Co.	Ellendale	1,250
Houston Volunteer Fire Co.	Houston	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 \$ 67,500

(d) 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. 1, 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

(e) There is appropriated to the Mayor and Council of Wilmington the following sums to be used for:

- (i) 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
- (ii) The maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguish-

ing highrise fires throughtout the City of  
Wilmington. \$ 6,000

GRAND TOTAL \$ 441,000

Section 5. There is appropriated to the listed organizations the following sums to be used for the operation and maintenance of ambulances in the public service:

Mid-Sussex Rescue Squad, Inc. Millsboro, Delaware	\$ 1,250
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>\$ 6,250</u>

Section 6. The sums of \$170,520 and \$29,480 appropriated in Section 1 of this Act to Governor's Commission on Criminal Justice 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, 1978, but shall continue to be available on a matching basis for the life of each program grant, or three fiscal years, whichever occurs soon. Any unexpended General Funds upon termination of the program grants shall revert to the General Fund.

Section 7. Section 1 of this Act provides for appropriations under the Division of Aging. It is the intent of these appropriations to:

- (a) Provide an amount of \$15,000 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 \$5,000 for the purpose of purchasing a minibus for the Newark Senior Center.
- (c) Provide an amount of \$10,000 for the purpose of purchasing a minibus for the St. Anthony's Community Center.

(d) The sums appropriated to the various senior centers in Section 1 of this Act shall be made available to the Division of Aging in order to meet the State's matching requirement for federal funds appropriated under the Older Americans Act of 1965, as amended. The senior centers shall present to the Division of Aging a proposal for expenditure of these funds. The proposal submitted to the Division of Aging shall be prepared in accordance with the guidelines established for the administration of programs under the Older Americans Act. Each center receiving the appropriation shall provide a statement of expenditures from this appropriation on a quarterly basis to the Division of Aging, Budget Director, and the Controller General for the State of Delaware. The funds appropriated by this Act shall be paid promptly by the State Treasurer to each senior center without regard to compliance with the aforementioned reporting requirements. No center receiving the line item appropriation shall grant salary increases exceeding five percent (5%) per annum.

Section 8. Section 1 of this Act provides for an appropriation under the Wildlife Section of the Department of Natural Resources and Environmental Control to:

Delaware S.P.C.A.

\$94,000

The allocations of Dog Wardens by the Delaware S.P.C.A. 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, and shall not be limited to emergency services.

Section 9. The appropriation in Section 2 of this Act to WHYY, Inc., shall 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 10. The appropriation in Section 2 of this Act to Delaware Safety Council, Inc. shall be used for the operation of the Council in educating the public as to safety.

Section 11. The appropriation in Section 2 of this Act to Delaware State Fair, Inc., shall 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 12. The appropriation in Section 2 of this Act to the Delaware Association of Chiefs of Police shall be used for the purpose of maintaining and operating Camp Barnes for the recreation of deserving youths from throughout the State.

Section 13. The provisions of Section 6508, Title 29, Delaware Code, to the contrary notwithstanding, all persons, firms, or corporations who receive an appropriation under this Act shall file an annual report, within sixty (60) days after the close of the fiscal year, covering the operation for the preceding fiscal year.

Section 14. Subsections (a), (b), and (c) of Section 4 of this Act makes an appropriation to the following volunteer fire companies:

Belvedere Volunteer Fire Co.  
Slaughter Beach Memorial Fire Co.

Until the above listed fire companies submit the necessary financial report as required under Section 6508, Title 29, Delaware Code, the State Treasurer is authorized to withhold payment of supplementary appropriation in said Section 4.

Section 15. This Act is a supplementary appropriation and the monies appropriated shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Except as provided in Section 6 of this Act, any funds remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved July 14, 1977.

FORMERLY HOUSE BILL NO. 99

AN ACT TO AMEND CHAPTER 5, TITLE 4, DELAWARE CODE, RELATING TO  
GROUNDS FOR REFUSAL TO GRANT A LIQUOR LICENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. §543, Chapter 5, Title 4, Delaware Code, is  
amended by adding the following subsection (f):

"(f) The Commission shall refuse to grant a license  
to sell alcoholic liquor to any restaurant or eating place  
located on or a part of the Delaware Turnpike."

Approved July 14, 1977.



CHAPTER 146

FORMERLY SENATE BILL NO. 306  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 525, VOLUME 59, LAWS OF DELAWARE, EXTENDING THE REVERSION DATE FOR MONIES FROM THE CAPITAL INVESTMENT FUND USED TO FINANCE RESTORATION OF THE OLD SUSSEX COUNTY COURTHOUSE.

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 525, Volume 59, Laws of Delaware, by striking from Section 3 thereof the date "June 30, 1977" and inserting in lieu thereof the date "June 30, 1978".

Approved July 14, 1977.

## CHAPTER 147

FORMERLY SENATE BILL NO. 256  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND THE CHARTER OF THE CITY OF DOVER, BEING CHAPTER 158, VOLUME 36 OF THE LAWS OF DELAWARE, BY CHANGING THE DATE OF THE REGULAR MUNICIPAL ELECTION AND THE DATE WHEN THE MAYOR AND COUNCILMEN SHALL ASSUME 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 Section 5, Chapter 158, Volume 36 of the Laws of Delaware by striking the third paragraph thereof in its entirety and substituting in lieu thereof the following:

"The term of the Mayor elected in 1976 shall be for two years.

The term of the Mayor elected and qualified in 1978 shall be a term from the second Monday of February following his election until the second Monday of May, 1980 or until his successor has been duly elected and qualified. The term of every Mayor thereafter shall be for 2 years from the second Monday of May following his election or until his successor has been duly elected and qualified.

The term of the Councilman shall be for two years. The term of a Councilman elected and qualified in 1976 shall be for 2 years from the second Monday of February following his election or until his successor has been duly elected and qualified. The term of a Councilman elected and qualified in 1978 shall be a term from the second Monday of February following his election until the second Monday of May, 1980, or until his successor has been duly elected and qualified.

The term of every Councilman thereafter succeeding the aforementioned Councilmen shall be for 2 years from the second Monday of May following his election or until his successor has been duly elected and qualified.

The term of a Councilman elected and qualified in 1977 shall be for 2 years from the second Monday of February following his election or until his successor has been duly elected and qualified. The term of a Councilman elected and qualified in 1979 shall be a term from the second Monday of February following his election until the second Monday in May, 1981 or until his successor has been duly elected and qualified. The term of every Councilman thereafter succeed-

ing the aforementioned Councilmen shall be for 2 years from the second Monday of May following his election or until his successor has been duly elected and qualified."

Section 2. Amend Section 6, Chapter 158, Volume 36 of the Laws of Delaware by striking said section in its entirety and substituting in lieu thereof a new Section 6 to read as follows:

"Section 6. A municipal election at which members of the Council shall be elected shall be held on the third Monday of January, 1978 and on the third Monday of January, 1979 for Councilmen who shall serve the terms specified in Section 5 of this Charter. Every municipal election after 1979 at which members of the Council shall be elected shall be held on the third Monday of April of each year, which shall be known as the Regular Municipal Elections. All other municipal elections that may be held shall be known as Special municipal Elections.

At the regular municipal election held on the third Monday of January, 1978, there shall be elected 4 members of Council. At the regular election held on the third Monday of January, 1979, there shall be elected 4 members of Council. At the regular municipal election held on the third Monday of April, 1980, there shall be elected 4 members of Council. At the regular municipal election in every year thereafter, there shall be elected 4 members of Council.

At the regular election held on the third Monday of January, 1978, there shall be elected the Mayor. At the regular municipal election held on the third Monday in April, 1980 and every 2 years thereafter, there shall be elected the Mayor."

Section 3. Amend Section 7, Chapter 158, Volume 36 of the Laws of Delaware by striking the first paragraph thereof, in its entirety, and substituting in lieu thereof a new paragraph to read as follows:

"The mode of nomination of candidates for the Council and for the Mayor in 1978 and 1979 shall be by petition signed by not less than ten nor more than twenty-five electors of the City, and filed with the Clerk of Council on or before 4:00 p.m. o'clock of the last Friday of October of the year preceding the next regular municipal election. Should the last Friday of the month of October fall on a legal holiday, the filing shall be 4:00 p.m. o'clock on the next working day thereafter.

The mode of nomination of candidates for the Council and for Mayor after 1979 shall be by petition signed by not less than ten nor more than twenty-five electors of the

City, and filed with the Clerk of Council on or before 4:00 p.m. on the second Friday of February of 1980 and on or before 4:00 p.m. on the second Friday of February of each year thereafter. Should the second Friday of February fall on a legal holiday, the filing date shall be 4:00 p.m. on the next day thereafter which is not a legal holiday."

Section 4. Amend Section 8, Chapter 158, Volume 36 of the Laws of Delaware by striking subsection (a) in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) The regular municipal election shall be held on the third Monday of January in the years of 1978 and 1979 and on the third Monday in April in 1980 and every year thereafter. At such election the polls shall be opened at 11:00 a.m. and closed at 8:00 p.m. The Council shall 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 election; or the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud."

Section 5. Amend Section 9, Chapter 158, Volume 36 of the Laws of Delaware by striking the first paragraph in its entirety and substituting in lieu thereof a new paragraph to read as follows:

"At seven-thirty o'clock on the second Monday in February 1978 and 1979 and at seven-thirty o'clock on the second Monday in May in 1980 and each year thereafter, following a regular municipal election, the Mayor and Council shall meet at the usual place for holding Council meetings and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity."

Approved July 14, 1977.

## CHAPTER 148

## FORMERLY SENATE BILL NO. 276

AN ACT TO AMEND CHAPTER 68, PART VI, TITLE 29 OF THE DELAWARE CODE RELATING TO STATE PURCHASES AND SUPPLIES; AND PERMITTING DELAWARE VOLUNTEER FIRE COMPANIES TO UTILIZE THE SERVICES OF THE STATE DIVISION OF PURCHASING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6801, Chapter 68, Part VI, Title 29 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§6801. Definitions

As used in this Chapter:

(a) 'Department' shall mean the Department of Administrative Services.

(b) 'Duly authorized volunteer fire department' shall mean a volunteer fire department recognized as such by the State Fire Prevention Commission.

(c) 'Local government unit' shall mean any municipality incorporated in this State under the authority of the General Assembly, and any of the three counties."

Section 2. Amend subsection (a), Section 6803, Chapter 68, Title 29 of the Delaware Code by adding the words "duly authorized volunteer fire departments within the State" immediately after the words "organizations of the State," as the same appear in paragraph (3).

Section 3. Amend §6804, Chapter 68, Part VI, Title 29 of the Delaware Code by adding the words "and duly authorized volunteer fire departments within the State" immediately after the words "local government units" as the same appear in subsection (1).

Section 4. Amend §6804, Chapter 68, Part VI, Title 29 of the Delaware Code by striking the words "or local government unit" as the same appear in subsections (2), (3), (4), (5) and (6), and substituting the words ", local government unit or duly authorized volunteer fire departments within the State" in lieu thereof.

Section 5. Amend §6805, Chapter 68, Part VI, Title 29 of the Delaware Code by striking the words "or local government

unit" as the same appear in said section, and substituting the words ", local government unit or duly authorized volunteer fire departments within the State" in lieu thereof.

Section 6. Amend §6806, Chapter 68, Part VI, Title 29 of the Delaware Code by striking the words "or local government unit" as the same appear in said section, and substituting the words ", local government unit or duly authorized volunteer fire departments within the State" in lieu thereof.

Section 7. Amend §6807, Chapter 68, Part VI, Title 29 of the Delaware Code by striking the words "or local government units" as the same appear in the second and third sentences of said section, and substituting the words ", local governmental units or duly authorized volunteer fire departments within the State" in lieu thereof.

Approved July 14, 1977.

CHAPTER 149

FORMERLY SENATE BILL NO. 335

AN ACT TO AMEND CHAPTER 67, TITLE 9, OF THE DELAWARE CODE, RELATING TO THE POWERS OF SUSSEX COUNTY AS TO SANITARY SEWER AND WATER DISTRICTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Section 6702(6), Chapter 67, Title 9, of the Delaware Code, is hereby amended by inserting between the words "extension" and "of", as the same appear in line 4 of said subsection, the following words:

"or operation and maintenance".

Approved July 14, 1977.

## CHAPTER 150

FORMERLY SENATE BILL NO. 317

AN ACT TO AMEND CHAPTER 13, PART I, TITLE 18, DELAWARE CODE, RELATING TO INVESTMENTS OF INSURANCE COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1305(2), Chapter 13, Part I, Title 18 of the Delaware Code by striking said paragraph (2) in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Voting Stock - An insurer may invest in and hold at any time not more than fifty percent (50%) of the outstanding voting stock of any corporation, except as to voting rights of preferred stock during periods of defaults of dividends. This restriction shall not apply to stock of a subsidiary of the insurer acquired under §1313 of this Title, or to controlling stock of an insurer acquired under §1312(b) of this Title. The aggregate value of all stock acquired and held under this section shall not exceed forty percent (40%) of the insurer's assets."

Approved July 14, 1977.



## CHAPTER 151

## FORMERLY SENATE BILL NO. 294

AN ACT TO AMEND CHAPTER 1, TITLE 23, DELAWARE CODE, RELATING TO THE REQUIREMENTS FOR PILOTS' LICENSES AND THE LIMITATION ON NUMBER OF PILOTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §113, Chapter 1, Title 23, Delaware Code by striking same and inserting the following:

"§113. Requirements for licenses; limitation on number of pilots

(a) No license of the first, second, third or fourth class shall be granted to any person unless he has heretofore held or does now hold such license under the laws of this State or shall have served a regular apprenticeship of at least 4 years to a licensed pilot of this State on board a Delaware Bay or River pilot boat, nor shall any license be granted until the person applying shall have arrived at the age of 18 years and given bond with sufficient surety to the Governor, in a sum not exceeding \$500, conditioned for the true and faithful performance of the duties and services required by this chapter, that he will not aid or assist in violating the revenue laws of the United States, and that he will deliver up the license granted to him when required by the Board of Pilot Commissioners pursuant to this Chapter, nor shall any first class license be granted to any person, until the number of first class pilots licensed under the laws of this State shall have been reduced to less than 42, and thereafter such number shall not be exceeded. The whole number of second, third and fourth class licensed pilots shall not exceed 10 at any one time. Whenever and as often as a vacancy shall occur by reason of the number of first class pilots being reduced to less than 42, a first class license shall be granted to the senior second class pilot who is duly qualified under the laws of this State.

(b) No person shall be entitled to a license of the first class until he has served for two years as a pilot in the second class, unless on or before January 1, 1979, he shall have served not less than one year as a pilot of the second class. No person shall be entitled to a license as a pilot of the second class who has not served one year as a pilot of the third class."

Approved July 14, 1977.

"§2392. Assessments for administrative expenses on insurance carriers

(a) For the purpose of securing to the State of Delaware the monies necessary for paying the salaries and necessary expenses of the State in administering and carrying out the provisions of Part II of this Title relating to Workmen's Compensation, insurance carriers shall pay the assessments imposed by this section.

(b) Annually, on or before the first day of March, every insurance carrier insuring employees who are or may be liable under this Chapter to pay for compensation for personal injuries to or death of their employees, shall report, under oath, or, in the case of a corporation, verified by the affidavit of its president and secretary or other chief officers or agents, to the Secretary of Finance, the amount of all compensation payments and awards actually paid by said carrier during the preceding calendar year, excluding payments made under §2395 of this chapter, and reimbursements received under §2396 of this Chapter.

(c) The State Auditor annually as soon as practicable after January first shall ascertain and report to the Secretary of Finance and the Board the total amount of the following expenses:

(i) 100% of the expenses of the Industrial Accident Board;

(ii) 66.6% of all expenses of the Inspection function of the Division of Industrial Affairs;

(iii) 66.6% of all expenses of the Safety function of the Division of Industrial Affairs;

(iv) a portion of the Division of Industrial Affairs' Administration costs which shall be computed by first adding (i), (ii), (iii) of this subsection set forth immediately above; this sum shall then be divided by the amount of all expenses of the Division of Industrial Affairs; the quotient yielded shall be set forth as a percentage rate which shall then be multiplied by the total expenses of the Administrative function of the Division of Industrial Affairs, and the product shall be the portion of the Division's Administration costs.

In determining these expenses, the State Auditor shall include in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of retirement contributions made and workmen's compensation premiums

## CHAPTER 152

## FORMERLY SENATE BILL NO. 316

AN ACT TO AMEND SUBCHAPTER V, CHAPTER 23, PART II, TITLE 19, DELAWARE CODE RELATING TO TAXES AND CHARGES UPON INSURANCE CARRIERS AND SELF INSURERS: SECOND INJURY AND CONTINGENCY FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2391 of Chapter 23, Title 19, Delaware Code, by striking said section in its entirety and substituting a new §2391 to read as follows:

"§2391. Taxes on premiums of insurance carriers and pay-rolls of self-insurers

(a) For the privilege of carrying on the business of workmen's compensation insurance in this State, every insurance carrier and every employer carrying his own risk and thereby insuring himself under the provisions of this chapter shall pay the taxes imposed by this section.

(b) Every insurance carrier, insuring employers who are or may be liable under this chapter to pay for compensation for personal injuries to or death of their employees, shall pay a tax upon all workmen's compensation or employer's liability premiums received, whether in cash or notes, in this State or on account of business done in this State or on account of premiums for compensation payable under this Chapter for such insurance in this State at the rate of 2% of the amount of such premiums, which tax shall be in lieu of all other taxes on such premiums. The tax shall be assessed and collected as provided in subsection (c) of this section. The insurance carrier shall be credited with all cancelled or returned premiums actually refunded during the year on such insurance and premiums on reinsurance received from other insurance carriers, except that mutual insurance companies shall be taxed upon the gross premium charged and collected and shall not be credited with unabsorbed premiums or dividends.

(c)(1) Every insurance carrier subject to the provisions of this section shall on or before the first day of March of each year make a return verified by the affidavit of its president and secretary or other chief officers or agents to the Secretary of Finance stating the amount of all premiums and credits for the preceding calendar year. Each insurance carrier required to make such return shall

pay to the Secretary of Finance a tax of Two Dollars (\$2.00) per hundred on such premiums ascertained as provided in subsection (b) of this section, less return premiums on cancelled policies actually refunded during the year and reinsurance premiums received from other insurance carriers.

(2) If any insurance carrier subject to the provisions of this section shall fail to make the return required by this subsection, the Secretary of Finance shall assess the tax against such insurance carrier at the rate provided in paragraph (1) of this subsection on such amounts of premiums he believes just, and the proceedings thereon shall be the same as if the return had been made.

(3) If any insurance carrier subject to the provisions of this section withdraws from business in this State before the tax falls due, as herein provided, or fails or neglects to pay such tax, the Secretary of Finance shall at once proceed to collect the same. The action may be brought by the Secretary of Finance in his official capacity in any court having jurisdiction, and reasonable attorney's fees may be taxed by the court as costs in such action.

(d) Every employer carrying his own risk, and thereby insuring himself under the provisions of this Chapter, shall annually on or before the 30th day of January report under oath to the Board the total amount of his payroll for the preceding calendar year, classified in accordance with classifications approved by the Board for the purpose of fixing compensation rates. The Board may verify such classifications and such statement of payroll by inspection and audit at the expense of the employer, and such verification shall be made by the rating bureau or association provided for in §2382 of this Title. The charges to self-insurers shall be the same charges which other insurance carriers are required to pay under the provisions of this chapter. The Board shall assess against such payroll a tax computed by taking 4% of the amount of premium payable upon the payroll so ascertained in accordance with the classifications and premium rates approved by the Board for insurance against liability under this Chapter. No employer shall become or continue a self-insurer under the provisions of this Chapter, except upon the payment of the tax for the previous calendar year. The monies so assessed against and paid by insurers who carry their own risks shall be paid to the Secretary of Finance."

Section 2. Amend §2392 of Chapter 23, Title 19, Delaware Code, by striking said section in its entirety and substituting a new §2392 to read as follows:

paid by the State for and on account of personnel, rentals for space occupied in State owned or State leased buildings, and all other direct and indirect costs incurred during the preceding calendar year. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the Board for thirty days after notice to all insurance carriers directly affected thereby before the Board shall make an assessment upon such carriers as herein-after provided. The Board shall appoint a referee who shall hold a hearing to approve the amount of such expenses within fifteen days of giving notice thereof to all insurance carriers at which time any insurance carrier may challenge said amount of expenses. The Board shall keep an accurate record of all hearings held and may, in its discretion, assess against each insurance carrier twenty-five dollars for each adjourned hearing held at the request of any party. Where the decision of the referee is affirmed by the Board upon review, the Board shall assess against each such insurance carrier seeking such review the sum of twenty-five dollars and may assess against any other party the sum of five dollars. The fund so created from these assessments shall be applied towards the total amount of the expenses ascertained as above.

(d) The Board shall then determine for each insurer the proportion/percentage of the expense determined in subsection (c) above that the total compensation or payments made by each insurer bore to the total of such expenses. Using these proportions/percentages, the Board shall then assess each insurer its proportion/percentage of such expenses. The amounts so secured shall be paid to the Secretary of Finance to reimburse the State for appropriations theretofore made by the State for the payment in the first instance of the expenses of administering this chapter.

Approved July 14, 1977.

## CHAPTER 153

## FORMERLY SENATE BILL NO. 315

AN ACT AUTHORIZING THE CAESAR RODNEY SCHOOL DISTRICT TO USE FUNDS FROM THE SCHOOL CONSTRUCTION BOND REVERSION ACCOUNT FOR ENLARGING AND EQUIPPING THE CHARLTON SCHOOL.

WHEREAS, the Charlton School of the Caesar Rodney School District has increased its enrollment including many retarded children who require special help; and

WHEREAS, funds are required to provide for enlarging and equipping the Charlton School; and

WHEREAS, as of June 16, 1977, the balances in the respective school construction bond accounts (\$7515, Title 29, Delaware Code) totaled more than \$800,000; and

WHEREAS, it is estimated that the proposed cost of the Charlton School project will be \$607,000; and

WHEREAS, it is of special importance that funds be made available immediately for the enlarging and equipping of the Charlton School.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated to the Board of Education of the Caesar Rodney School District the sum of \$607,000 from the bond reversion accounts (\$7515, Title 29, Delaware Code).

Section 2. The funds so appropriated to the Caesar Rodney School District shall be used only for the purpose of enlarging and equipping the Charlton School.

Section 3. Funds appropriated by this Act shall be used under the supervision of the State Board of Education.

Section 4. Any funds appropriated by this Act not expended by June 30, 1980, shall revert to the School Construction Bond Reversion Account (\$7515, Title 29, Delaware Code).

Approved July 14, 1977.

## CHAPTER 154

## FORMERLY SENATE BILL NO. 286

AN ACT TO AMEND AN ACT BEING CHAPTER 194, VOLUME 45 OF THE LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF MILTON," TO ESTABLISH THE QUALIFICATIONS FOR MEMBERS OF COUNCIL, TO REMOVE ANY LIMITATION ON THE AMOUNT OF CAPITATION TAXES WHICH MAY BE COLLECTED, TO ESTABLISH A PLACE OF SAFE KEEPING FOR THE BOOKS AND RECORDS, TO ESTABLISH THE QUALIFICATIONS FOR THE ALDERMAN, AND TO PROVIDE A PENALTY AND COLLECTION FEE FOR THE COLLECTION OF DELINQUENT TAXES.

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, Chapter 194, Volume 45 of the Laws of Delaware, as amended, by striking said Section 5, in its entirety and substituting in lieu thereof a new Section 5 to read as follows:

"Section 5. Council

The Council shall be composed of six (6) members. Each member of Council shall be a qualified voter of the Town of Milton, as provided in this Charter. If any member of Council, at any time during his tenure of office, fails to maintain the qualifications of a qualified voter, such failure, ipso facto, shall vacate his office."

Section 2. Amend Section 26 (31), Chapter 194, Volume 45 of the Laws of Delaware, as amended, by striking said Section 26 (31) in its entirety and substituting in lieu thereof a new Section 26 (31) to read as follows:

"Section 26 (31). To levy and collect a personal or per capita tax upon all persons resident within the corporate limits of the Town of Milton."

Section 3. Amend Section 29, Chapter 194, Volume 45 of the Laws of Delaware, as amended, by striking the last sentence of the first paragraph thereof in its entirety and substituting in lieu thereof a new sentence to read as follows:

"He shall keep all such books, journals, records, and all other documents entrusted to his care at the Town Office."

Section 4. Amend Section 33, Chapter 194, Volume 45 of the Laws of Delaware, as amended, by striking the first sentence thereof in its entirety and substituting in lieu thereof a new sentence to read as follows:

"The Alderman appointed at the Annual Organization Meeting shall have such qualifications as shall be prescribed by the Mayor and the Council."

Section 5. Amend Section 46, Chapter 194, Volume 45 of the Laws of Delaware, as amended, by striking the last paragraph thereof in its entirety and substituting in lieu thereof a new last paragraph to read as follows:

"All amounts shown to be due by any Annual Revenue List and the warrant issued unto the Collector thereon shall be due and payable, without demand, upon the delivery of the duplicate list and warrant unto the Collector. In the collection of such amounts, before the first day of August next following the date of its delivery unto the Collector, no interest nor penalty shall be added to the amount assessed by the Town Council. On all amounts paid on or after the first day of August as aforesaid, 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 shall be added until the same shall have been paid. The Council shall have the power to make just allowance for delinquencies in the collection of taxes. All amounts unpaid on or after the first day of August, as aforesaid, shall be considered delinquent. In effecting collection of any delinquent amount, the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount so collected and any interest or penalty imposed thereon."

Approved July 14, 1977.



CHAPTER 155

FORMERLY SENATE BILL NO. 275  
AS AMENDED BY  
HOUSE AMENDMENTS NO. 1 AND 2

AN ACT TO AMEND CHAPTER 43, PART III, TITLE 21 OF THE DELAWARE  
CODE RELATING TO THE EQUIPMENT AND CONSTRUCTION OF VEHICLES;  
AND PROVIDING FOR THE USE OF BLUE LIGHTS ON VEHICLES USED  
BY LAW ENFORCEMENT AGENCIES AND PERSONNEL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §4356, Chapter 43, Part III, Title 21 of  
the Delaware Code by striking said section in its entirety, and  
substituting in lieu thereof the following:

"§4356. Use of flashing blue lights; use of flashing blue  
lights in combination with other colors

(a) Any motor vehicle used by a fire chief, assistant  
fire chief, fire engineer and fire policeman may have placed  
upon such motor vehicle flashing blue lights. Such flashing  
blue lights shall be used by the fire chief, assistant fire  
chief and fire engineer, and fire policeman of any regularly  
established fire company only in the performance of their  
duties.

(b) A police vehicle may have placed upon such vehicle  
flashing blue and red lights or flashing blue, red and white  
lights."

Approved July 14, 1977.

## CHAPTER 156

## FORMERLY SENATE BILL NO. 269

## AN ACT TO REINCORPORATE THE CITY OF MILFORD.

WHEREAS, it is deemed advisable that the Charter of the City of Milford, contained in Chapter 726, Volume 57, Laws of Delaware, entitled "An Act Changing the Name of the Town of Milford to 'the City of Milford' and establishing a Charter therefore" as thereafter amended, be consolidated into one complete act and in certain respects be amended and revised.

NOW, THEREFORE:

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. The following is hereby adopted as the Charter of the City of Milford.

## NAME AND TERRITORIAL LIMITS

The inhabitants of the City of Milford within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the "City of Milford".

The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say:

BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a Northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the Western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the Western boundary of said DuPont Boulevard to the Haven Lake; thence across said lake and following the shores of said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the Southern or Southeastern line of what is known as the William I. Simpson property; thence in a Northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of

the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of the water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid.

The Council may, at any time hereafter, cause a survey and plot to be made of said City, and the said plot, when made and approved by said Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record, shall be evidence in all courts of law and equity in this State.

#### WARDS

The City of Milford shall initially be divided into four wards: The first ward shall consist of all the territory within the City limits and bounded as follows: Beginning at a point in the center of the intersection of Deep Branch and Route 36 leading to Cedar Beach; thence along the center line of said Route 36 and Southeast Front Street in a westerly direction to the point of intersection of said Southeast Front Street and McColley Street; thence southerly by the centerline of McColley Street to the point of its intersection with Southeast Second Street; thence by the centerline of Southeast Second Street, in a westerly direction to the point of its intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the point of its intersection with the main track of the Penn Central Transportation Company; thence by the centerline of said main track of the Pennsylvania Railroad, in a southerly direction to a point where it crosses Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction, through the run of Marshall Mill Pond and continuing to its intersection with Route 36, aforesaid, leading to Cedar Beach.

The second ward shall consist of all the territory within the City Limits bounded as follows: Beginning at the point where the main track of the Penn Central Transportation Company crosses over the Mispillion River; thence following along the run of the waters flowing through Silver Lake and Haven Lake to a point Five Hundred Feet west of the westerly boundary of DuPont Boulevard; thence southerly in a line parallel to and Five Hundred Feet from the westerly boundary of DuPont Boulevard to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of DuPont Boulevard; thence continuing with said line parallel to DuPont Boulevard in a southerly direction to the southern or southeasterly line of what is known as the William I. Simpson property; thence in a northeasterly direction in a direct line to the center of the

bridge over the stream of water known as Deep Branch (which bridge crosses said stream on the County Road leading to the town of Lincoln); thence following the course of Deep Branch to the point where it is crossed by the main track of Penn Central Transportation Company; thence following along the said main track to the Mispillion River.

The third ward shall consist of all the territory within the City Limits bounded as follows: Beginning at a point in the center of the intersection of Deep Branch and Route 36 leading to Cedar Branch; thence along the centerline of said Route 36 and Southeast Front Street in a westerly direction to the point of intersection of said Southeast Front Street and McColley Street; thence southerly by the centerline of McColley Street to the point of its intersection with Southeast Second Street; thence by the centerline of Southeast Second Street in a westerly direction to the point of its intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of DuPont Boulevard; thence in a direct line southeasterly to Bowen Landing on the Bowen (Doresey) farm; thence along the course of Mispillion River to the point where Deep Branch, aforesaid, empties into the said River; thence southerly by the course of waters in Deep Branch to Route 36 leading to Cedar Beach.

The fourth ward shall consist of all the territory within the city limits bounded as follows: Beginning at the point where the centerline of Walnut Street intersects the centerline of the main track of Penn Central Transportation Company; thence following along said main track to the railroad bridge over the Mispillion River; thence following the course of the waters of said River flowing through Silver Lake and Haven Lake to a point Five Hundred Feet west of the westerly boundary of DuPont Boulevard; thence by a line parallel to and Five Hundred Feet west of the western boundary of DuPont Boulevard in a northerly direction to a point where said parallel line would intersect the northerly boundary of the third ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the third ward, if extended, to the point of intersection of the centerlines of North Walnut Street and DuPont Boulevard; thence by the centerline of Walnut Street south to its intersection with the main track of Penn Central Transportation Company, aforesaid.

The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.

## ARTICLE I

## POWERS OF THE CITY

## Section 1.01 Powers of the City

The City shall have all powers possible for a city to have under the Constitution and Laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision the City is specifically empowered as follows:

(A) The City shall have the power to acquire lands, tenements, real property or interests therein, by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(B) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided.

(1) No contract shall be made by Council for any purpose, the contract price of which is in excess of \$5,000.00, without public competitive bidding; and

(2) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City; and

(3) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

(C) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford, a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by

the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.

(D) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by ordinance decree.

#### Section 1.02. Construction

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

#### Section 1.03. Intergovernmental Relation

The City 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 or the United States of America or any agency thereof.

### ARTICLE II

#### CITY COUNCIL AND MAYOR

#### Section 2.01. Composition, eligibility, election

The government of the City and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the Council shall reside in that portion of the City known and described as the first ward, two in that portion known as the second ward, two in that portion known as the third ward and two in that portion known as the fourth ward. In the event a fifth ward is created, two members of Council shall reside in that portion of the City known and described as the fifth ward. Only qualified voters of the City shall be eligible to hold the office of Councilperson and Mayor. The Mayor and Councilpersons shall each serve for a term of two years.

At 7:30 o'clock P.M., on Tuesday following the annual election, the Mayor and Council shall meet at the Council Chamber

and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of The City. At said meeting, the Council shall organize by a majority vote, and elect a Vice-Mayor, who shall be a member of the Council.

Section 2.02. Compensation; expenses

The Council may determine the annual salary of councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the term of councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.03. General powers and duties

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 2.04. Prohibitions

(a) HOLDING OTHER OFFICE. Except where authorized by law, no councilperson shall hold any other City office or employment during the term for which he or she was elected to the Council, and no former councilperson shall hold any compensated appointive City office or employment until one year after the expiration of the term for which he or she was elected to the Council.

(b) APPOINTMENTS AND REMOVALS. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

(c) INTERFERENCE WITH ADMINISTRATION. Except for the purpose of inquiries and investigations under Section 2.08, the Council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 2.05. Vacancies; forfeiture of office; filling of vacancies

(a) VACANCIES. The office of a councilperson or Mayor

shall become vacant upon death, resignation, removal from office in any manner authorized by law or forfeiture of office.

(b) FORFEITURE OF OFFICE. A councilperson or Mayor shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter (3) is convicted of a crime involving moral turpitude.

(c) FILLING OF VACANCIES. If a vacancy occurs in the Council or in the Office of the Mayor, and the remainder of the unexpired term is sixty (60) days or less, the Council may by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than sixty (60) days, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

#### Section 2.06. Judge of qualifications

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by Superior Court.

#### Section 2.07. City Clerk

The Council shall appoint an officer of the city who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned to him or her by this Charter or by the Council.



### Section 2.08. Investigations

The Council may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than \$100.00, or by imprisonment for not more than 10 days, or both.

### Section 2.09. Independent audit

The Council shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the Council may accept it as satisfying the requirements of this section. Council must review and approve each annual audit.

### Section 2.10. Procedure

(a) MEETINGS. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of four or more members and, whenever practicable, upon no less than twelve hours' notice to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person, provided that a general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

(b) RULES AND JOURNAL. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) VOTING. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a

quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in section 2.05, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

Section 2.11. Action requiring an ordinance

The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, the health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget;
- (4) Grant, renew or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Authorize the borrowing of money;
- (7) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.
- (8) Amend or repeal any ordinances previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

### Section 2.12. Ordinances in general

(a) FORM. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains...". Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate all matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) PROCEDURE. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Council member and to the manager. As soon as practicable after adoption of any ordinance, the Clerk shall have it published again together with a notice of its adoption.

(c) EFFECTIVE DATE. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of 10 days after adoption or at any later date specified therein.

(d) "PUBLISH" DEFINED. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the city: (1) the ordinance or a brief summary thereof, and (2) the places where complete copies of it have been filed and the times when they are available for public inspection.

### Section 2.13. Emergency ordinances

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charges by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pur-

suant to subsection 5.09(b) shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

#### Section 2.14. Codes of technical regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements of Section 2.12 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to subsection 2.15(a).

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

#### Section 2.15. Authentication and recording; codification printing

(a) AUTHENTICATION AND RECORDING. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) CODIFICATION. The Council shall provide for the continual preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Milford City Code. Copies of the code may be furnished to city officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) PRINTING OF ORDINANCES AND RESOLUTIONS. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Milford City Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the code.

#### Section 2.16. Executive Office

##### Mayor

The Mayor shall be the Executive of the City. He shall preside at meetings of the Council, but shall have no vote except in case of tie. He shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents necessary to be executed. He shall countersign all orders, checks, or warrants authorized by Council and drawn on the Treasury for the payment of money; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City.

##### Vice-Mayor

During the vacancy in the office of Mayor, or during the absence or disability of the Mayor, the Vice-Mayor shall have and exercise all the powers and duties of the Mayor.

#### Article III

##### CITY MANAGER

#### Section 3.01. Appointment; qualifications; compensation

The Council shall appoint a City Manager for a one-year term and fix his compensation. The Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the City or State at the time of his appointment but may reside outside the City while in office only with the approval of the Council.

## Section 3.02. Removal

The Council shall remove the Manager from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The manager may file with the Council a written reply not later than five days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

## Section 3.03. Acting City Manager

By letter filed with the City Clerk the Manager shall designate, subject to approval of the Council, a qualified City Administrative Officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

## Section 3.04. Powers and duties of the City Manager

The City Manager shall be the chief administrative officer of the City. He shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

(1) He shall appoint and, when he deems it necessary for the good of the service, suspend or remove all City

employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(4) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(5) He shall prepare and submit the annual budget and capital program to the Council.

(6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) He shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(9) He shall perform such other duties as are specified in this Charter or may be required by the Council.

#### Article IV

##### ADMINISTRATIVE DEPARTMENTS

##### Section 4.01. General provisions

(a) CREATION OF DEPARTMENTS. The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function

assigned by this Charter to a particular department, office or agency may be discontinued, or unless this Charter specifically so provides, assigned to any other.

(b) DIRECTION BY MANAGER. All departments, offices, and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of Council, the manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

#### Section 4.02. City Solicitor

At the annual meeting hereinbefore provided, the City Council shall select and appoint a City Solicitor for an indefinite term who shall be removable at the pleasure of the City Council either with or without due cause stated. It shall be his, her, or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm, any member of which can perform the duties of City Solicitor.

### Article V

#### FINANCIAL PROCEDURES

##### Section 5.01. Fiscal Year

The fiscal year of the City shall be set by the City Council.

##### Section 5.02. Submission of budget and budget message

On or before the last day of the twelfth month of each fiscal year, the manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

##### Section 5.03. Budget message

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.



#### Section 5.04. Operating budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the manager deems desirable or the Council may require. In organizing the budget the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

#### Section 5.05. Capital program

(a) SUBMISSION TO COUNCIL. The manager shall prepare and submit to the Council a five-year capital program at least three months prior to the final date for submission of the operating budget.

(b) CONTENTS. The capital program shall include:

(1) A clear general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years

next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

#### Section 5.06. Council action on operating budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

#### Section 5.07. Council action on capital program

ADOPTION. The Council by resolution shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

#### Section 5.08. Public records

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the City.

#### Section 5.09. Amendments after adoption

(a) SUPPLEMENTAL APPROPRIATIONS. If during the fiscal year the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) EMERGENCY APPROPRIATIONS. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions

of section 2.13. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) REDUCTION OF APPROPRIATIONS. If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) TRANSFER OF APPROPRIATIONS. At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the manager, the Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) LIMITATIONS: EFFECTIVE DATE. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this Section may be made effective immediately upon adoption.

#### Section 5.10. Lapse of appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

#### Section 5.11. Administration of budget

(a) WORK PROGRAMS AND ALLOTMENTS. At such time as the manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the

year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to section 5.09.

(b) PAYMENTS AND OBLIGATIONS PROHIBITED. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

## Article VI

### PLANNING

#### Section 6.01. City Planning Commission

There shall be a City Planning Commission consisting of nine (9) members appointed by the Council for terms of three years. Members of the Commission shall hold no other City office. The Commission may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in sections 6.02 and 6.03, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:

- (1) To advise the City Manager on any matter affecting the physical development of the City.
- (2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.
- (3) To review and make recommendations regarding pro-

posed Council action implementing the comprehensive plan.

(4) To advise the City Building Inspector in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.

#### Section 6.02. Comprehensive plan

(a) CONTENT. The Council shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future physical development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.

(b) ADOPTION. Upon receipt from the City Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Commission, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.

(c) EFFECT. The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

#### Section 6.03. Implementation of the comprehensive plan

(a) LAND USE AND DEVELOPMENT REGULATIONS. The Council shall by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.

(b) URBAN RENEWAL. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) The alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.

(c) COUNCIL ACTION. Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Commission, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report

its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

#### Section 6.04. Board of Adjustment

The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions, petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

#### Section 6.05. State law

The action taken by the City shall at all time be consistent with 22 Del. C. Chapter 7 as amended.

### Article VII

#### NOMINATIONS AND ELECTIONS

##### Section 7.01. City elections

(A) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of eight o'clock (8:00) in the morning and eight o'clock (8:00) in the evening, at such places as shall be determined by the Council due notice of which shall be given by an advertisement printed in a newspaper published in the City and posted in three public places in each ward of the City not less than ten days before the day of the annual Election.

(B) The election shall be held under the supervision of an Election Board, consisting of three citizens of the said City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(C) Every person, resident in the City of Milford, who is over the age of eighteen (18) years and who has resided in the City for at least one (1) month next preceding the day of the election, shall be entitled to vote at said election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the Annual Election.

(D) Upon the close of the Election, the votes shall be read, and counted publicly, and the person having the highest number of votes, for each office, shall be declared duly elected, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(E) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the Election Board for a period of at least ten (10) days following said election.

(F) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present such person or persons as shall be necessary to fill such vacancy.

(G) In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.

(H) Not less than ten (10) days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he is nominated, and shall be signed by not less than ten (10) qualified voters resident in the Ward in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than ten (10) days prior to the Annual Election and shall contain the name of the candidate, the office for which he is nominated, and shall be signed by not less than ten (10) qualified voters resident in the City.

The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election or, upon the direction of the Council, shall arrange for the use of voting machines at such election.

The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter.

#### Section 7.02. Council ballots

(a) NAMES ON BALLOTS. The full names of all candidates

nominated for membership in the City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to cause confusion, their residence addresses shall be printed with their names on the ballot.

#### Section 7.03. Watchers and challengers

A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots.

#### Section 7.04. Ballots for ordinances and Charter amendments

An ordinance or charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described [ordinance] [amendment] be adopted?" Immediately below such question shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (x) the voter may cast his vote.

#### Section 7.05. Voting machines

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

#### Section 7.06. Council districts; adjustment of districts

(a) NUMBER OF DISTRICTS. There shall initially be four City Council districts to be known as wards.

(b) DISTRICTING COMMISSION. The City Council shall comprise the districting commission.

(c) REPORT; SPECIFICATIONS. By the first day of January of every tenth year from the adoption of this Charter, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets.



(2) Each district shall contain as nearly as possible the same number of qualified voters, determined from the registration for the last statewide general election, but districts shall not differ in population by more than 10 percent of the population in the smallest district created.

The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk the report shall be treated as an ordinance introduced by a Council member.

(d) PROCEDURE. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that if a summary of the ordinance is published pursuant to subsection 2.12 (d)(1), it must include both the map and the description of the recommended districts.

(e) The Commission may but is not required to establish five wards instead of four, with two councilmen to be elected from each ward.

(f) ENACT ORDINANCE. The Council shall adopt the ordinance at least six months before the next regular City elections.

(g) EFFECT OF ENACTMENT. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all councilpersons elected at that regular City election take office.

## Article VIII

### LAW ENFORCEMENT

#### POLICE

##### 8.01

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise; and the Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of the City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of

Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a State Peace Officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council and shall be removed from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The Chief of Police may file with the Council a written reply not later than five days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) Each Chief of Police shall be appointed for a term of one year at the Annual Meeting held in each year, after the initial Chief of Police is appointed.

(e) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the Police Department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

#### CITY JAIL

#### 8.02

The Council may build and maintain a jail for the City, which shall be used as a place for the detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to hearing and trial or arraignment.

#### CITY ALDERMAN

#### 8.03

(a) At the next regular meeting following the annual organization meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he may be unable to perform the duties of his office, the Council is authorized to appoint an acting alderman with the same powers, jurisdiction and authority.

(c) He shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford; to hold trial; to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

(d) He shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents, and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be find not more than Five Hundred Dollars (\$500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as hereinabove provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

## Article IX

### TAXATION

#### ASSESSORS AND ASSESSMENT OF TAXES

##### 9.01.

Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

##### 9.02.

It shall be the duty of the City Manager each year to prepare a scrap assessment which shall value and assess all

taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment and all male and female residents of said General Assessment and all male and female residents of the City above the age of 18 years and not already assessed, and said assessment shall omit the names of those who have removed from the City or who have died. In the year that a scrap assessment is made, the General Assessment then in force as supplemented or modified by the scrap assessment shall constitute the assessment for the year.

9.03.

The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies thereof as the Council shall direct.

9.04.

The property of the City Assessors shall be assessed by the Council.

9.05.

The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as supplemented by the scrap assessment as made in said year, to be hung up in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour, and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

9.06.

At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to, and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

9.07.

The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

## 9.08.

The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

## 9.09.

The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

## 9.10.

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent of the assessed value of real property with improvements located in the City.

## 9.11.

(a) In the last month of each fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City, and, opposite the name of each, the amount of his real property assessment, and his capitation tax, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the Secretary, commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All such taxes shall be due and payable on the date set by Council. To every tax paid after the said date each year there shall be added and collected one per cent of the tax due, for each month or fraction of a month that the said tax

remains unpaid. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and unpaid after the first day of the fourth month in each fiscal year shall constitute a first lien against all real estates and personal property of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. All capitation or taxes assessed and laid against any resident of the City shall also become a first lien against all real estate and all personal property of the delinquent taxpayer situated within the City. The City Manager, in the name of the City of Milford, may institute suit before any Justice of the Peace within the said City, or before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, 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 Peace or in the Court of Common Pleas or in the Superior Court as the case may be.

(e) However, should the City 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: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated: (1) the name of the taxable; (2) the year for which the tax was levied; (3) the rate of tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at his last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope 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 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 City Manager shall exhibit the return registry receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a property indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_. The City Manager of the City of Milford 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." The endoresement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. 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 date fixed for sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day 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 City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of 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 proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and 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, of the costs, the amount of the purchase money and twenty per cent (20%) interest thereon and the expense of having the deed prepared.



(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of 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 City of Milford, either to the credit of the owner, or in a manner by which the fund may be identified.

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

To the Prothonotary for filing and recording  
Petition. . . . .

For filing and recording return of sale. . . . .

To the City Manager for preparing  
Certificate. . . . .

For making sale of land. . . . .

For preparing and filing return. . . . .

For posting sale bills. . . . .

In addition, the costs of printing hand bills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) 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.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings for the sale of land 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 at such 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 Kent and Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

## ARTICLE X

## ANNEXATION

In the event it becomes feasible and necessary in the future for the City of Milford 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 contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. The Petition presented to the City 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 City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The City of Milford 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. The City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council.

Once the favorable vote for annexation shall have been cast, the City Council of the City of Milford 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 Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a 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 of the City Council.

(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 City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall

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

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 City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The City of Milford 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. A Resolution shall then be passed by the City Council proposed to the property owners and residents of both The City of Milford and the Territory proposed to be annexed that the City proposed to annex certain territory contiguous to its then limits and territory. The Resolution proposing to the property owners and residents of both the City 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 City Council. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City 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 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 City Council setting forth the above information shall be printed in a newspaper having a general circulation in The City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said Resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

Following the Public Hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a Resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in

the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The Resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council. In the event that the Resolution does not receive an affirmative vote by two-thirds (2/3) of all of the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the Resolution fails to receive the required affirmative vote.

Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council, but in no event later than thirty (30) days after said Resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative Resolution has been passed on the subject of the proposed annexation.

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 City of Milford, or, in the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth the said Special Election.

At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. Every citizen 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. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only.

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 City Manager of the City of Milford. 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.

The City Council of the City of Milford 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

The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. 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 polling place shall be open from seven 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 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.

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 City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council.

In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast 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 City Council of the City of Milford 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 Kent or 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 part of the City of Milford 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.

## Article XI

## BORROWING OF MONEY AND ISSUANCE OF BONDS

## Section 11.01.

The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

## Section 11.02.

This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or 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 annual operating expenses of the City in an amount equal to but not in excess of currently outstanding due and unpaid taxes, water rents, license fees, or other charges due the City and available, when paid, for meeting or defraying current annual 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, constructing, 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) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

#### Section 11.03.

The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

- (1) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;
- (2) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;
- (3) The manner in which it is proposed to be secured;
- (4) The manner in which it is proposed that it shall be paid or funded, or both;
- (5) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and
- (6) A Statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

#### Section 11.04.

It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a

Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an election board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City.

At least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "FOR THE PROPOSED BORROWING", and upon the other half of said ballot shall be printed the words, "AGAINST THE PROPOSED BORROWING", and a box shall be provided after each and the voter instructed to place an "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting said ballot, unless voting machines are used.



Immediately upon the closing of the polls the Special Election Board shall count the votes 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 shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

#### Section 11.05.

The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election. The bond or bonds or certificate or certificates of indebtedness shall be offered for sale to the best and most responsible bidder, therefor after advertisement in a newspaper generally circulated within the City.

All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be advertised and sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal of such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it shall also provide a sinking fund therefor.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificates of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefor.

#### Article XII

##### SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the

application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

## Article XIII

### TRANSITIONAL PROVISIONS

#### Section 13.01. Officers and Employees

(a) RIGHTS AND PRIVILEGES PRESERVED. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

(b) CONTINUANCE OF OFFICE OR EMPLOYMENT. Except as specifically provided by this Charter, if at the time this Charter takes full effect a city administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

#### Section 13.02. Departments, Offices and Agencies

(a) TRANSFER OF POWERS. If a city department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) PROPERTY AND RECORDS. All property, records, and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices, or agencies designated by the Council in accordance with this Charter.

#### Section 13.03. Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

#### Section 13.04. State and Municipal Laws

IN GENERAL. All city ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and Laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

#### Section 13.05. Survival of Powers and Validation Sections

(a) All powers conferred upon or vested in the City of Milford 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 City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof of the lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provisions of this Act but shall continue in full force for the benefit of the City of Milford.

## Section 13.06. Schedule

(a) FIRST ELECTION. At the time of its adoption, this Charter shall be in effect to the extent necessary in order that the first election of members of the City Council may be conducted in accordance with the provisions of this Charter. The first election shall be held on the fourth Saturday of April 1978.

At the annual election held in the year 1978, there shall be elected from each Ward one member of Council, by the qualified voters of said Ward, for a term of two years.

At the annual election held in the year 1979, there shall be elected from each Ward, one member of Council by the qualified voters of said Ward, for a term of two years.

At the annual election held in the year 1980, and in each year thereafter, there shall be elected to the Council one member from each of the Wards of the City, by the qualified voters residing severally in the respective Wards, for a term of two years.

At the annual election held in the year 1978, the Mayor shall be elected by the qualified voters of the City for a term of two years, and his successor shall be elected in a similar manner in the even numbered years thereafter, for a term of two years.

All persons duly elected to the Council or the duly elected Mayor shall serve until their successors are duly elected and qualified.

This section shall be so construed and interpreted as to permit the members of the Council serving at the time this Charter becomes effective to complete the full terms to which they were severally elected.

(b) No person shall be eligible for election as Mayor or as a member of Council unless he shall be a resident of the State of Delaware and the City for thirty (30) days preceding the day of election; and, shall be over the age of eighteen (18) years prior to the day of election.

Neither shall the Mayor or any member of Council be eligible to serve in such office unless they shall continue to be residents of the City during their respective terms of office.

(a) TIME OF TAKING FULL EFFECT. This Charter shall be in full effect for all purposes on and after the date and time it is signed into law by the Governor of Delaware.

(b) FIRST COUNCIL MEETING. On the second Tuesday following the Governor's signature the existing Council shall meet for the purpose of adopting ordinances and resolutions necessary to effect the transition of government under this Charter and to maintain effective city government during that transition.

(c) TEMPORARY ORDINANCES. In adopting ordinances in the Council shall follow the procedures prescribed in Article II, except that at its first meeting or any meeting held within sixty (60) days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labelled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the Council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise continued except by adoption in the manner prescribed in Article II for ordinances of the kind concerned.

#### Article XIV

##### ANNUAL MEETING

In the ninth month of the fiscal year there should be held an annual meeting of the City. This shall be a public meeting at which the Chairman of each of the City Commissions shall:

(a) review the progress of his Commission for the current year.

(b) state the goals of the Commission for the coming year.

(c) submit the preliminary budget request for the Commission for the coming fiscal year.

Following the reports, comments from the general public may be heard.

Section 2. This Act shall operate to amend, revise and

consolidate "An Act Changing the Name of 'The Town of Milford' to 'The City of Milford' and Establishing a Charter Therefor", being Chapter 726, Volume 57, Laws of Delaware, and the several amendments and supplements thereto, and to repeal such parts thereof only as may be inconsistent herewith. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anywise invalidate the remaining provisions of this Act.

Section 3. The following shall be the Index of the Charter of the City of Milford.

AN ACT TO REINCORPORATE THE CITY OF MILFORD

Article I - POWERS OF THE CITY

- Section 1.01. Powers of the City
- Section 1.02. Construction
- Section 1.03. Intergovernmental Relation

Article II - CITY COUNCIL AND MAYOR

- Section 2.01. Composition, Eligibility, Election
- Section 2.02. Compensation; Expenses
- Section 2.03. General Powers and Duties
- Section 2.04. Prohibitions
- Section 2.05. Vacancies; Forfeiture of Office;  
Filling of Vacancies
- Section 2.06. Judge of Qualifications
- Section 2.07. City Clerk
- Section 2.08. Investigations
- Section 2.09. Independent Audit
- Section 2.10. Procedure
- Section 2.11. Action Requiring an Ordinance
- Section 2.12. Ordinances in General
- Section 2.13. Emergency Ordinances
- Section 2.14. Codes of Technical Regulations
- Section 2.15. Authentication and Recording;  
Codification Printing
- Section 2.16. Mayor

Article III - CITY MANAGER

- Section 3.01. Appointment; Qualifications;  
Compensation
- Section 3.02. Removal
- Section 3.03. Acting City Manager
- Section 3.04. Powers and Duties of City Manager

Article IV - ADMINISTRATIVE DEPARTMENTS

- Section 4.01. General Provisions
- Section 4.02. City Solicitor

**Article V - FINANCIAL PROCEDURES**

- Section 5.01. Fiscal Year
- Section 5.02. Submission of Budget and Budget Message
- Section 5.03. Budget Message
- Section 5.04. Operating Budget
- Section 5.05. Capital Program
- Section 5.06. Council Action on Operating Budget
- Section 5.07. Council Action on Capital Program
- Section 5.08. Public Records
- Section 5.09. Amendments After Adoption
- Section 5.10. Lapse of Appropriations
- Section 5.11. Administration of Budget

**Article VI - PLANNING**

- Section 6.01. City Planning Commission
- Section 6.02. Comprehensive Plan
- Section 6.03. Implementation of the Comprehensive Plan
- Section 6.04. Board of Adjustment
- Section 6.05. State Law

**Article VII - NOMINATIONS AND ELECTIONS**

- Section 7.01. City Elections
- Section 7.02. Council Ballots
- Section 7.03. Watchers and Challengers
- Section 7.04. Ballots for Ordinances and Charter Amendments
- Section 7.05. Voting Machines
- Section 7.06. Council Districts; Adjustment of Districts

**Article VIII - LAW ENFORCEMENT**

- Section 8.01. Police
- Section 8.02. City Jail
- Section 8.03. City Alderman

**Article IX - TAXATION**

- Section 9.01. Assessors and Assessment of Taxes
- Section 9.02.
- Section 9.03.
- Section 9.04.
- Section 9.05.
- Section 9.06.
- Section 9.07.
- Section 9.08.
- Section 9.09.
- Section 9.10.
- Section 9.11.

Article X - ANNEXATION

Article XI - BORROWING OF MONEY AND ISSUANCE OF BONDS

Section 11.01.

Section 11.02.

Section 11.03.

Section 11.04.

Section 11.05.

Article XII - SEPARABILITY

Article XIII - TRANSITIONAL PROVISIONS

Section 13.01. Officers and Employees

Section 13.02. Departments, Offices and Agencies

Section 13.03. Pending Matters

Section 13.04. State and Municipal Laws

Section 13.05. Survival of Powers and Validations  
Sections

Section 13.06. Schedule

Article XIV - ANNUAL MEETING  
REPEALER

Approved July 14, 1977



CHAPTER 157

FORMERLY SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 230

AN ACT TO PERMIT THE BOARD OF EDUCATION OF THE SMYRNA 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 Smyrna Reorganized  
School District is authorized to transfer to its Current Operating  
Account the sum of \$30,000 from its Debt Service Account.

Approved July 14, 1977.

## CHAPTER 158

FORMERLY SENATE BILL NO. 185  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 39, TITLE 11 OF THE DELAWARE CODE RELATING TO CONCURRENT AND CONSECUTIVE SENTENCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §3901 (d), Chapter 39, Title 11 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following new subsection (d) to read as follows:

"(d) No sentence of confinement of any criminal defendant by any court of this State shall be made to run concurrently with any other sentence of confinement imposed on such criminal defendant."

Approved July 14, 1977.

## CHAPTER 159

## FORMERLY SENATE BILL NO. 151

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"; PROVIDE FUNDS FOR A CENTRAL ADMINISTRATION OFFICE FOR THE DEPARTMENT OF CORRECTIONS; AND FURTHER AUTHORIZING AND APPROVING OF THE TRANSFER OF CERTAIN REAL PROPERTY BY THE SMYRNA SCHOOL DISTRICT TO THE DEPARTMENT OF CORRECTION FOR A CENTRAL ADMINISTRATION OFFICE.

WHEREAS, Senate Bill 80, which became law on February 7, 1977 endorsed the expenditure of certain funds provided by the Capital Improvement Act of 1977 for a central administration office for the Department of Correction; and

WHEREAS, it is necessary to make an appropriation to the Department of Correction for such central administration office; and

WHEREAS, the Board of Education of the Smyrna School District has determined that the Thomas D. Clayton School is a surplus facility and it fails to meet acceptable standards for an educational program; and

WHEREAS, the Board of Education of the Smyrna School District will make a property transfer for the Thomas D. Clayton School and grounds to the Department of Correction; provided, however, that the State appropriates \$25,000 to the Smyrna School District to enable them to erect a storage shed for the District.

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 Chapter 691, Volume 60, Laws of Delaware by striking the figure "500,000" as the same appears within the 1977 Annual Capital Projects Schedule on Page 19 and substituting in lieu thereof the figure "375,000".

Section 2. Amend Chapter 691, Volume 60, Laws of Delaware

by adding a new paragraph on Page 19 of the 1977 Annual Capital Projects Schedule, under the heading "Department of Corrections" to read as follows:

"Purchase and Renovations of a Central  
Administration Office \$125,000"

Section 3. Amend Chapter 691, Volume 60, Laws of Delaware by changing all subtotals and totals to reflect the provisions of this Act.

Section 4. Under the provisions of Chapter 45, Title 7, Delaware Code, the Smyrna School District is hereby authorized and directed to transfer and convey certain lands or parcels of land with the buildings thereon erected and herein described to the Department of Correction for the purpose of a Central Administration Office:

"All that certain lot, piece or parcel of land with the improvement thereon erected situated in the Town of Smyrna, Kent County, State of Delaware; lying on the east side of Monrovia Street and on the east side of U.S. Route #13; being bounded on the west by U.S. Route #13 and Monrovia Street, on the north and east by other lands of the Smyrna School District, and on the south by lands of William C. Darnell; and being more particularly described as follows to wit:

Beginning at the intersection of the east line of U.S. Route #13 and the east line of Monrovia Street; thence running from said point of beginning with the east line of Monrovia Street on the following two courses:

(1) North 2 deg. 42 min. 58 sec. East 58.08 feet; thence  
(2) North 6 deg. 27 min. 12 sec. East 202.11 feet to a chisel mark cut in the curb at a corner for this lot and for other lands of the Smyrna School District; thence running with other lands of the Smyrna School District on the following two courses:

(1) South 84 deg. 16 min. East 235 feet to a railroad spike; thence (2) South 6 deg. 24 min. West 360.21 feet to a pipe set in line of lands of William C. Darnell; thence running with lands of said Darnell North 83 deg. 30 min. West 202.40 feet to a pipe set in the east line of U.S. Route #13; thence running with the east line of said road in a northwesterly direction with an 11509 foot radius curve to the left an arc distance of 101.30 feet to the place of beginning; and containing 1.8925 acres of land, be the same more or less."

Section 5. The Governor and the Board of Education of the Smyrna School District are authorized and empowered to execute and deliver to the Department of Corrections a good and sufficient deed transferring and conveying the above described lands to the Department of Corrections subject to the conditions herein stated.

Approved July 14, 1977.

## CHAPTER 160

## FORMERLY SENATE BILL NO. 52

AN ACT TO AMEND PART VI, TITLE 10 OF THE DELAWARE CODE RELATING TO FEES AND COSTS; AND PROVIDING FOR THE RECOUPMENT OF DEFENSE COSTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part VI, Title 10 of the Delaware Code by adding thereto a new chapter, designated as Chapter 86, which new Chapter shall read as follows:

"CHAPTER 86. RECOUPMENT OF DEFENSE COSTS

\$8601. Recoupment of costs

(a) A court may require a convicted defendant who has utilized court-appointed attorneys or the Public Defender's office to pay the costs of his defense in that court.

(b) Costs shall be limited to expenses specially incurred by the State in defending the convicted person. Such costs shall not include expenses inherent in providing a constitutionally guaranteed jury trial, or expenditures in connection with the maintenance and operation of government agencies if such expenditures must be made by the public irrespective of specific violations of law.

(c) The court shall not require a defendant to pay the costs of his defense unless the defendant is, or will be, able to pay them. In determining the amount and method of payment of such costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(d) A defendant who has been required to pay the costs of his defense and who is not in contumacious default in the payment thereof may at any time petition the court for remission of the payment of such cost, or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or his immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment.

\$8602. Conditions of payment

(a) When the court determines that a defendant must pay the costs of his defense, the court may grant permission

for payment to be made within a specified period of time or in specified installments. If no such permission is granted, the full amount shall be payable forthwith.

(b) When the court determines that a defendant must pay the costs of his defense and the defendant is also placed on probation, or the imposition or execution of a sentence is suspended, the court may make payment of such costs a condition of probation or suspension of sentence.

\$8603. Non-payment of defense costs

(a) When a defendant who is required to pay the costs of his defense defaults in the payment thereof or of any installment, the court on motion of the Attorney General or upon its own motion may require the defendant to show cause why his default should not be treated as contempt of court, and may issue a Rule or Order to Show Cause why such default should not be treated as contempt of court, and may take such further actions as the court determines to produce the defendant before the court.

(b) If there has been no former citation for contempt, the term of imprisonment for contempt for the non-payment of defense costs shall be set forth in the commitment Order, and shall not exceed one day for each twenty-five dollars (\$25.00) of the full amount. In no event shall imprisonment exceed thirty days if the fine was imposed upon conviction of a violation or misdemeanor. In all other cases, the court may impose a term of imprisonment not to exceed one year. A person committed for non-payment shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment Order.

(c) Upon a second or subsequent citation for contempt and unless the defendant shows that his default was not attributable to an intentional refusal to obey the Order of the court or to a failure on his part to make the payment, the court may find that such default constitutes contempt and may order the defendant committed until the payment, or a specified part thereof, is paid.

(d) If it appears to the satisfaction of the court that the default in the payment of defense costs is not contempt, the court may enter an Order allowing the defendant additional time for payment, reducing the amount thereof or of each installment, or revoking such payment or the unpaid portion thereof in whole or in part.

(e) A default in the payment of defense costs or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of such payment shall not discharge a defendant committed for imprisonment for contempt until

the full amount of the fine has actually been collected. The court shall have the power to pursue civil enforcement to obtain the money due on behalf of the State, and to also pursue criminal remedies when civil means are not effective."

Approved July 14, 1977.

## CHAPTER 161

## FORMERLY HOUSE BILL NO. 457

AN ACT TO AMEND CHAPTER 63, TITLE 29, DELAWARE CODE, RELATING TO  
OTHER EMPLOYMENT COSTS (FRINGE BENEFITS).

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 6340, Title 29, Delaware Code, by  
adding a new subsection (e) to read as follows:

"(e) In the event any department or agency overpays  
or has overpaid any fringe benefit costs to the State  
Treasurer in accordance with subsection (d) above, the  
amount of such overpayment shall be refunded by the State  
Treasurer, upon certification of the Secretary of Finance,  
from funds not otherwise appropriated."

Approved July 14, 1977.



CHAPTER 162

FORMERLY HOUSE BILL NO. 348  
AS AMENDED BY  
HOUSE AMENDMENTS NO. 1, 2 AND 3

AN ACT TO AMEND CHAPTER 12, TITLE 30, DELAWARE CODE, TO INCREASE  
THE FINE FOR TAX EVASION.

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. §1231, Chapter 12, Title 30, Delaware Code, is  
amended by striking all of said section and inserting in lieu  
thereof the following:

"Any person who wilfully attempts in any manner to evade  
or defeat any tax imposed by this Chapter, or the payment  
thereof, shall, in addition to other penalties imposed by  
law, be fined not more than \$3,000, or imprisoned not more  
than 6 months, or both."

Section 2. Amend §1232, Chapter 12, Title 30, Delaware Code  
by striking the words "be fined not more than \$500 or imprisoned  
not more than 6 months or both." and substitute in lieu thereof:

"be fined not more than \$3,000, or imprisoned not more than  
6 months, or both."

Section 3. Amend §1233, Chapter 12, Title 30, Delaware Code  
by striking the words "be fined not more than \$500 or imprisoned  
not more than 6 months or both." and substitute in lieu thereof:

"be fined not more than \$3,000, or imprisoned not more than  
6 months, or both."

Section 4. Amend §1234, Chapter 12, Title 30, Delaware Code  
by striking the words "be fined not more than \$500 or imprisoned  
not more than 6 months or both." and substitute in lieu thereof:

"be fined not more than \$3,000, or imprisoned not more than  
6 months, or both."

Approved July 14, 1977.

## CHAPTER 163

FORMERLY HOUSE BILL NO. 497  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 3, TITLE 28, DELAWARE CODE, RELATING TO  
TAX ON ADMISSIONS, AND 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 Chapter 3, Title 28, Delaware Code, by  
striking and deleting Section 330 in its entirety.

Section 2. Amend §365, Chapter 3, Title 28, Delaware Code,  
by striking said section in its entirety and substituting in  
lieu thereof a new §365 to read as follows:

"§365. Tax on pari-mutuel and totalizator pools

(a) Every person engaged in the business of conducting  
a racing meet under this Chapter shall pay as a tax to this  
State the sum of ten thousand dollars (\$10,000) for each  
day of racing conducted during such person's racing meet.  
Said tax shall be paid by certified check on a weekly basis.  
Each such check shall be transmitted by the licensee to the  
Secretary of Finance no later than Wednesday following the  
week for which the tax is due.

(b) Not later than ten (10) working days following the  
end of a racing meet conducted under this Chapter the  
licensee shall certify to the Commission the average daily  
pari-mutuel income received by the licensee during the meet.  
The 'average daily pari-mutuel income' for a racing meet shall  
be computed by dividing the sum of all commissions received  
by the licensee from each and every pari-mutuel and totali-  
zator pool conducted during the meet by the total number of  
racing days conducted during the meet.

In the event that the average daily pari-mutuel income  
is greater than \$145,000 but less than \$160,000 the licensee  
shall pay to the State as an additional tax a sum equal to  
20% of the average daily pari-mutuel income for each day of  
the meet in excess of \$145,000 and less than \$160,000.

In the event that the average daily pari-mutuel income  
is greater than \$160,000 but less than \$175,000, the licensee  
shall pay to the State as an additional tax a sum equal to  
50% of the average daily pari-mutuel income for each day of  
the meet in excess of \$160,000 and less than \$175,000.

In the event that the daily pari-mutuel income is greater than \$175,000 the licensee shall pay to the State as an additional tax a sum equal to 90% of the average daily pari-mutuel income for each day of the meet in excess of \$175,000.

The additional taxes imposed by this subsection (b) shall be paid to the Secretary of Finance by certified check within fifteen (15) working days following the end of each racing meet conducted under this Chapter."

Section 3. Amend §366, Chapter 3, Title 28, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new §366 to read as follows:

"§366. Licensee's commissions on pari-mutuel and totalizator pools

(a) The commission shall authorize as gross commissions on pari-mutuel and totalizator pools to the licensee operating a racing meet under this Chapter 17% of the total contributions to all pari-mutuel and totalizator pools conducted or made at the racing meet and at every race or meeting, plus all of the odd cents of all redistributions to be made on all pari-mutuel and totalizator pool contributions exceeding the sum equal to the next lowest multiple of 10, such odd cents to be calculated on the basis of each dollar wagered. If a minus pool is created, the licensee may break to the lowest multiple of 5.

(b) In addition to the other commissions allowed by this section, every person engaged in the business of conducting a racing meet under this Chapter shall receive as a gross commission 2% of the total contributions to all dual pari-mutuel and totalizator pools conducted on each racing day on any and every race track licensed under this Chapter. Dual pari-mutuel and totalizator pool means a separate wagering pool in which an interest is represented by a single wager on two entries, and shall include, but not be limited to, daily doubles, exactas, quinellas, and perfectas.

(c) In addition to the other commissions allowed by this section, every person engaged in the business of conducting a racing meet under this Chapter shall receive as a gross commission 8% of the total contributions to all special pari-mutuel and totalizator pools conducted on each racing day on any and every race track licensed under this Chapter. Special pari-mutuel and totalizator pools means a separate wagering pool in which an interest is represented by a single wager on more than two entires, and shall include, but not be limited to, tri-perfectas, trifectas, twin doubles, and big exactas.

(d) From the gross commissions allowed by this section, the licensee may retain as its net commissions only those sums which remain after payment of the taxes imposed by §365 of this Chapter."

Approved July 15, 1977.

## CHAPTER 164

## FORMERLY SENATE BILL NO. 124

AN ACT TO AMEND CHAPTER 79, SUBCHAPTER I, TITLE 29, DELAWARE CODE RELATING TO THE ESTABLISHMENT OF A DELAWARE EMERGENCY MEDICAL SERVICE ADVISORY COUNCIL.

WHEREAS, Public Law 89-564, entitled the "National Highway Safety Act of 1966", provides Federal Grants for the planning, administration and implementation of highway safety; and

WHEREAS, Section 11 of Public Law 89-564, entitled "Emergency Medical Service", provides that planning shall be made for emergency medical service to highway accident victims; and

WHEREAS, it has been determined that the State is deficient in the administration of the standards promulgated in Section 11 of Public Law 89-564, because of the independent and fragmented operation of the emergency medical service in the State by the various public and private agencies involved; and

WHEREAS, there is a need for the statutory designation of an Advisory Council to be responsible for establishing liaison, coordination, cooperation and reporting among the public and private agencies in this State which provide emergency medical service so that all work together as a unified whole and comply with applicable federal standards.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 79, Subchapter I, of Title 29, Delaware Code, by adding thereto a new §7917 to read as follows:

"§7917. Delaware Emergency Medical Service Advisory Council

(a) There is established the Delaware Emergency Medical Service Advisory Council.

(b) The Delaware Emergency Medical Service Advisory Council shall serve in an advisory capacity to the Division of Public Health of the Department of Health and Social Services. In addition, the Council shall be responsible for the establishment of a comprehensive program to most effectively utilize the Emergency Medical Service organizations of this State. The Council shall study, research, plan, evaluate, recommend and advise the Division of Public Health, as well as offer guidance to, cooperate with and assist public agencies and private institutions and organizations

on methods for the coordination and effective utilization of their Emergency Medical Service programs.

The Council may request and shall receive from any department, division, commission or agency of the State of Delaware such reasonable assistance and data as will enable it to properly carry out its functions hereunder.

(c) The Council shall consist of members appointed by the Governor from among agencies and organizations who have commitments to and are concerned with improvements in emergency medical services, including, but not limited to:

a. The Division of Public Health of the Department of Health and Social Services

b. The Division of Planning, Research and Evaluation of the Department of Health and Social Services

c. The Medical Society of Delaware

d. The Association of Delaware Hospitals

e. The Federal-State Highway Safety Coordinator

f. The Division of Central Data Processing of the Department of Administrative Services

g. The Division of Emergency Planning and Operations of the Department of Public Safety

h. The Office of Intergovernmental Services of the Department of Public Safety

i. The Division of State Police of the Department of Public Safety

j. The Division of Transportation of the Department of Highways and Transportation

k. The Delaware State Fire School

l. The State Fire Prevention Commission

m. The Ambulance Advisory Committee to the State Fire Prevention Commission

n. The Ambulance Standards Committee of the Delaware Volunteer Firemen's Association

o. Delaware Chapter of the American Red Cross

p. Delaware Heart Association

q. Wilmington Medical Center

r. Delaware Safety Council

(d) The Chairman of the Council shall be designated from among the members by the Governor and shall serve during the pleasure of the Governor. The Chairman of the Council shall make a report to the Governor and members of the General Assembly on or before September 15th of each year on the activities of the Council.

(e) The Division of Public Health is authorized and empowered to apply for, accept and disburse grants, gifts and contributions from the federal government, individuals, foundations, corporations, and other organizations, agencies or institutions on behalf of the Council for the purpose of furthering the objectives of the Council's programs."

Approved July 16, 1977.

CHAPTER 165

FORMERLY SENATE BILL NO. 122  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 17, TITLE 2, DELAWARE CODE RELATING TO  
SPECIALIZED TRANSPORTATION AUTHORITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §1701 (1) of Chapter 17, Title 2, Delaware Code by striking said subsection (1) in its entirety and inserting in lieu thereof a new subsection (1) to read as follows:

"(1) 'Specialized transportation' means those transportation services that are provided to disabled persons deemed eligible for reasons of physical or mental infirmity, or age."

Section 2. Amend §1702 (a), Chapter 17, Title 2, Delaware Code by striking the period "." immediately following the word "authority" and inserting the following:

", one of whom shall be a handicapped person who is confined to a wheelchair."

Section 3. Amend §1706 (1)(c), Chapter 17, Title 2, Delaware Code by striking said subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) Contract with any county, municipality, authority, public agency, private company or individual whereby the authority will receive a fee to provide specialized transportation services;"

Section 4. Amend §1706 (2)(b), Chapter 17, Title 2, Delaware Code by striking said subsection (b) in its entirety and inserting a new subsection (b) to read as follows:

"(b) Make every effort to provide at least cost specialized transportation services to those agencies, firms and individuals contracting for such services by making use of public transportation, taxicabs, private contractors and/or authority owned vehicles."

Section 5. Amend §1706 (2)(c), Chapter 17, Title 2, Delaware Code by striking said subsection (c) in its entirety.

Approved July 18, 1977.

## CHAPTER 166

FORMERLY SENATE BILL NO. 249  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 12, TITLE 17, DELAWARE CODE, PROVIDING FOR CHANGES TO BRING DELAWARE LAW INTO CONFORMANCE WITH FEDERAL GUIDELINES RELATIVE TO REGULATION OF JUNKYARDS.

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 §1202(b)(3), Chapter 12, Title 17, Delaware Code by striking paragraph 3 in its entirety and substituting in lieu thereof a new paragraph 3 to read as follows:

"(3) 'Junkyard' means an establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, auto-wrecking yards, salvage yards, scrap yards, autorecycling yards, used auto parts yards and temporary storage of automobile bodies and parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises. The definition includes garbage dumps and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration."

Section 2. Amend §1202(b), Chapter 12, Title 17, Delaware Code by adding thereto the following new definitions:

"(9) 'Nonconforming Junkyard' is one which was lawfully established, but which does not comply with the provisions of the Laws of the State of Delaware or Department regulations passed at a later date or which later fails to comply with such law or regulations due to changed conditions.

(10) 'Illegal Junkyard' means any junkyard which was established, operated and/or maintained in violation of Delaware Law.

(11) 'Zoned Industrial Areas' means those areas which are zoned for industry or manufacturing pursuant to a State, County or local zoning authority.

(12) 'Unzoned Industrial Areas' means those areas not zoned by any State, County or local authority, but used



primarily for industrial purposes as determined by the Department. The following activities shall not be considered industrial:

(1) Outdoor Advertising Structures.

(13) 'Main Traveled Way' means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas."

Section 3. Amend §1203, Chapter 12, Title 17, Delaware Code by deleting existing subsection (c) in its entirety and relettering present Subsection (d) to (c).

Section 4. Amend subsection (c) of §1203, Chapter 12, Title 17, Delaware Code by adding "except for the requirement of §1204 of this Chapter" immediately after the second "limits" contained therein.

Section 5. Amend §1204(b), Chapter 12, Title 17, Delaware Code by deleting the words "permits" and "permit" as they appear and in their place insert "licenses" and "license" respectively.

Section 6. Amend §1205, Chapter 12, Title 17, Delaware Code by deleting excepting subsections (a) and (b) in their entirety and replacing with the following:

"(a) No license shall be granted for the establishment, maintenance or operation of a junkyard any portion of which is within a controlled area except the following:

(1) Junkyards which are lawfully in existence on the effective date of this Chapter;

(2) Junkyards which are screened by natural objects, plantings, fences or other means found appropriate by the Department so as not to be visible from the main traveled way of the highway of the interstate or primary systems;

(3) Junkyards located within areas which are zoned for industrial use under the laws of this State;

(4) Junkyards located within unzoned industrial areas which the Department shall find are used for industrial activities.

(b) No such license shall be granted for a junkyard which is permitted in a controlled area under this Chapter

solely because of the provisions of paragraphs (3) and (4) of this subsection unless such junkyard is fenced in the manner provided in paragraph (3) of subsection (c) hereof.

(c) No license shall be granted for a junkyard which is not located within the limits of an incorporated municipality and which is within 1,000 feet of the nearest edge of the right-of-way of a public highway of this State other than a highway of the interstate or primary systems except the following:

(1) Junkyards lawfully in existence on the effective date of this Chapter;

(2) Junkyards which are screened by natural objects, plantings, fences, or other means found appropriate by the Department so as not to be visible from the main traveled way of public highway;

(3) Junkyards which have a fence parallel to the public highway for the full length of the yard along the highway and a further fence extending back from the parallel fence the full length of the junkyard or for a distance of 1,000 feet, whichever distance shall be shorter, which fence or fences shall be at least 7 feet in height and shall to the extent of such height render the junkyard not visible from the view of persons traveling on the main traveled way of the public highway.

Section 7. Amend §1206, Chapter 12, Title 17, Delaware Code by deleting the words "on or before July 1, 1970" as they appear in this section.

Section 8. Amend §1207 (2), Chapter 12, Title 17, Delaware Code by inserting the words "and maintained" immediately after the word "established" as it appears in this subsection.

Approved July 18, 1977.

## CHAPTER 167

FORMERLY SENATE BILL NO. 120  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO COMMERCE AND TRADE; AND PROVIDING FOR THE ESTABLISHMENT OF FOREIGN TRADE ZONES.

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. Amend Part IV, Title 6 of the Delaware Code by adding thereto a new chapter, designated as Chapter 75, which new Chapter shall read as follows:

"CHAPTER 75. FOREIGN TRADE ZONES

\$7501. Definitions

As used in this Chapter, unless the context requires otherwise, the following words and phrases shall mean:

(a) 'Public corporation' shall mean this State, a political subdivision thereof, a corporate instrumentality of this State and one or more other States, or a bi-State compact.

(b) 'Private corporation' shall mean a general and business or a general not-for-profit corporation organized under the laws of this State.

\$7502. Federal grants

All public and private corporations shall have the power to apply to the proper authorities of the United States government for a grant, and when such a grant is issued, to establish and operate foreign trade zones under the provisions of the Foreign Trade Zones Act of 1934 as amended, on the effective date of this Chapter."

Approved July 20, 1977.

## CHAPTER 168

FORMERLY SENATE BILL NO. 192  
AS AMENDED BY  
SENATE AMENDMENT NO. 1 AND  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER X, CHAPTER 41, PART III, TITLE 21 OF  
THE DELAWARE CODE RELATING TO PARKING REGULATIONS.

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. §4180, Chapter 41, Part III, Title 21, of the  
Delaware Code, is hereby amended by redesignating the present  
subsection "(e)" as a new subsection "(f)"

Section 2. §4180, Chapter 41, Part III, Title 21 of the  
Delaware Code is hereby amended by adding thereto a new subsection (e) to read as follows:

"(e) No person shall park a vehicle in any area owned  
by, leased by, or under the control of a retail store and  
immediately adjacent to such supermarket or grocery store,  
when such area has been designated by the management of the  
supermarket or grocery store as a loading zone and such  
area is conspicuously marked as such."

Approved July 20, 1977.

CHAPTER 169

FORMERLY SENATE BILL NO. 357

AN ACT TO AMEND CHAPTER 48, TITLE 29, DELAWARE CODE, RELATING TO  
MONIES RECEIVED FROM THE SALE OF LOTTERY TICKETS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 4803, Title 29, Delaware Code, by  
substituting "\$600.00" where the amount of \$100.00 appears.

Approved July 20, 1977.

## CHAPTER 170

## FORMERLY SENATE BILL NO. 363

AN ACT TO AMEND CHAPTER 116 OF VOLUME 61, LAWS OF DELAWARE ENTITLED: "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1978 AND TO AMEND CERTAIN PERTINENT STATUTORY PROVISIONS" RELATING TO A PART-TIME SECRETARY TO THE GOVERNOR'S WIFE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 1 of Chapter 116 of Volume 61, Laws of Delaware being House Bill No. 300 as amended by striking lines 1 through 13 of Page 15 in their entirety and inserting in lieu thereof the following:

"(20-00-000) DEPARTMENT OF STATE Year Ending June 30, 1978

(20-01-000) Office of the Secretary of State

Salary of Secretary of State	\$ 19,900
Salary of Assistant to the Secretary of State	17,391
Salaries and Wages of Employees (4)	55,590
F.I.C.A. - Employer's Share	4,902
Pensions	10,773
Health Insurance	2,133
Part-time Secretary for Governor's Wife	7,000
Travel	552
Contractual Services	20,709
Supplies and Materials	1,580
Capital Outlay	<u>1,124</u>

TOTAL -- Office of the Secretary of State \$141,654"

Section 2. Amend Chapter 116, Volume 61, Laws of Delaware by adjusting all totals and subtotals to reflect the change authorized in Section 1 above.

Section 3. Amend Chapter 116, Volume 61, Laws of Delaware, being House Bill No. 300 as amended by striking line 5 of Page 16 in its entirety and substituting in lieu thereof the following:

"Salaries - casual and seasonal \$5,000"

Section 4. Amend Chapter 116, Volume 61, Laws of Delaware by adjusting all totals and subtotals to reflect the changes authorized in Section 3 above.

Approved July 20, 1977.

## CHAPTER 171

## FORMERLY SENATE BILL NO. 238

AN ACT TO AMEND THE CHARTER OF THE TOWN OF DAGSBORO, AS AMENDED, BY REDESIGNATING THE MEETING PLACE OF THE TOWN COUNCIL, INCREASING THE AMOUNT THE TOWN COUNCIL IS AUTHORIZED TO RAISE ANNUALLY BY TAXATION, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (two-thirds of all members elected to each branch thereof concurring therein):

Section 1. Section 13, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the words "The First National Bank of Dagsboro" where the same now appear, and inserting the words "The Dagsboro Town Hall".

Section 2. Subsection (g) of Section 14, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the words and figures "in the penal sum of Two Thousand Dollars (\$2,000.00)" where the same now appear and inserting the words "in an amount equal to the annual revenue computed to be collected from all sources and deposited in his custody,".

Section 3. Subsection (h) of Section 14, Chapter 161, Volume 14, Laws of Delaware, is amended by striking the words and figures "in the sum of Two Thousand Dollars (\$2,000.00)" where the same now appear and inserting the words "in an amount equal to the annual revenue computed to be collected by him,".

Section 4. Subsection (i) of Section 14, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the words "The Auditors shall be residents and taxables of the Town and it shall be their duty to audit the accounts of the Town and all of its officers whose duty involves the collection, custody and payment of monies of the Town", and inserting the words "The Council shall by notice published in a newspaper of general circulation in Sussex County invite duly accredited certified public accountants to audit the accounts of the Town and all of its officers whose duty involves the collection, custody and payment of the monies of the Town, and shall select from those certified public accountants responding to such notice the individual or firm deemed by the Council to be best qualified to perform the auditing service, the fee therefore to be set by the Council".

Section 5. Subsection (i) of Section 14, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the word "January" and inserting the word "June".

Section 6. Subsection (k) of Section 14, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the word

"wise" and inserting the words "necessary to maintain order;".

Section 7. Section 15, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the words and figure "twenty-one years (21)" wherever they appear, and inserting the words and figure "eighteen (18) years".

Section 8. Paragraph 6 of Section 15, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the word "March", and inserting the word "September".

Section 9. Paragraph 13 of Section 15, Chapter 161, Volume 43, Laws of Delaware, as amended by Chapter 254, Volume 52, Laws of Delaware, is amended by striking the words and figures "Ten Thousand Dollars (\$10,000.00)" where the same now appears and inserting the words and figures "Twenty-Five Thousand Dollars (\$25,000.00)".

Section 10. Section 16, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the word "April" and inserting the word "September", by striking the word "May" and inserting the word "October", by striking the word "June" and inserting the word "November", by striking the word "July" and inserting in lieu thereof the word "December", by striking the word "September" and inserting the word "February", and by striking the word "December" where the same now appears and inserting the word "April".

Section 11. Section 20, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the word "February" and inserting the word "July", and by striking the words "thirty-first day of January" and inserting the words "thirtieth day of June".

Section 12. Section 23, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the words "Alderman" and "Alderman of the Town" wherever they appear and inserting the words "The Secretary of the Council".

Section 13. Section 25, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the word "Alderman" wherever it appears and inserting the words "The Secretary of the Council".

Section 14. Section 38, Chapter 161, Volume 43, Laws of Delaware, is amended by striking the words and figures "One Thousand Dollars (\$1,000.00)" and inserting the words and figures "Five Thousand Dollars (\$5,000.00)".

Section 15. The first sentence of the fourth paragraph of Section 42, Chapter 161, Volume 43, Laws of Delaware, is amended by inserting the words "and any amendment thereto" so that the said sentence shall read "Such special election shall be called for the purpose of voting for the acceptance or the rejection of



this Chapter and of any amendment thereto as adopted and approved by the General Assembly of the State of Delaware".

Approved July 20, 1977.

## CHAPTER 172

## FORMERLY HOUSE BILL NO. 263

AN ACT PROPOSING AN AMENDMENT TO SECTION 9, ARTICLE III OF THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO THE APPOINTING POWER OF THE GOVERNOR.

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 9, Article III of the Constitution of the State of Delaware by adding to the second paragraph of said section, at the end thereto, a new sentence to read as follows:

"A person appointed to fill a vacancy in an elective office shall be of the same political party affiliation as the person last elected to such office."

Approved July 6, 1977.

## CHAPTER 173

## FORMERLY HOUSE BILL NO. 480

AN ACT TO AMEND CHAPTER 691, VOLUME 60, LAWS OF DELAWARE, KNOWN AS THE "ANNUAL CAPITAL IMPROVEMENTS ACT OF 1977" AND CHAPTERS 718 AND 719, VOLUME 60, LAWS OF DELAWARE, WHICH AUTHORIZED THE TRANSFER OF FUNDS FROM THE SCHOOL BOND REVERSION ACT TO THE DEPARTMENT OF CORRECTION, FOR THE PURPOSE OF AUTHORIZING THE DEPARTMENT OF CORRECTION TO USE CERTAIN FUNDS FOR SPECIFIED PRISON CONSTRUCTION AND RENOVATION PROJECTS.

WHEREAS, the Capital Improvement Act of 1977 provided funds in the amount of \$500,000 to the Department of Correction for the purpose of planning, engineering and feasibility study for the placement of a Women's Correctional Institution; and

WHEREAS, this study has been completed and there remains a surplus of \$48,600 in the appropriation; and

WHEREAS, Chapter 718, Volume 60, Laws of Delaware, known as Senate Bill 866, authorized the transfer of the sum of \$200,000 from the School Bond Reversion Account to the Department of Correction for the purpose of enlarging and renovating the Gatehouse at the Delaware Correctional Center; and

WHEREAS, there remains \$165,000 in this appropriation, which amount will not be needed due to the project cancellation for which the monies were transferred; and

WHEREAS, Chapter 719, Volume 60, Laws of Delaware, known as Senate Bill 867, authorized the transfer of the sum of \$400,000 from the School Bond Reversion Account to the Department of Correction for the erection of six (6) guard towers equipped with lights and other protective devices at the Delaware Correctional Center; and

WHEREAS, there remains \$54,000 in this appropriation, which amount will not be needed due to the project cancellation for which the monies were transferred; and

WHEREAS, these funds can be better utilized to complete certain construction projects and to undertake other security methods at the Delaware Correctional Center and Women's Correctional Institution.

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. Funds appropriated by Chapter 691, Volume 60, Laws of Delaware, and designated in the 1977 Annual Capital Projects Schedule to be used for planning, engineering, and feasibility study for the placement of a Women's Correctional Institution shall be used for the following purpose, not to exceed the amounts set forth:

Women's Correctional Institution  
Renovation of facilities \$48,600

Section 2. Funds appropriated by Chapter 718, Volume 60, Laws of Delaware, to the Department of Correction for the purpose of enlarging and renovating the Gatehouse at the Delaware Correctional Center shall be used for the following project at the Delaware Correctional Center, not to exceed the amount set forth:

Delaware Correctional Center  
One prefabricated building - prison industries \$165,000

Section 3. Funds appropriated by Chapter 719, Volume 60, Laws of Delaware, to the Department of Correction for the erection of six guard towers equipped with lights and/or the installation of protective or electronic devices at the Delaware Correctional Center shall be used for the following project at the Delaware Correctional Center, not to exceed the amount set forth:

Delaware Correctional Center  
One prefabricated building - prison industries \$54,000

Approved July 20, 1977.

CHAPTER 174

FORMERLY HOUSE BILL NO. 43  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 AND 2

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."

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 11, Chapter 271, Volume 60, Laws of Delaware, by adding to said Section the following sentences:

"Any part of the sum appropriated to the Department of State pursuant to Section 8(h) for renovation to the roof of the Lindens Historical Site which remains unexpended and unencumbered after completion of repairs to said roof shall be utilized for further capital improvements and repairs to the Lindens Historical Site."

Approved July 20, 1977.

## CHAPTER 175

## FORMERLY HOUSE BILL NO. 582

AN ACT TO AMEND CHAPTER 46 OF TITLE 25 OF THE DELAWARE CODE RELATING TO LIENS FOR RAZING OR DEMOLITION OF STRUCTURES BY PUBLIC EXPENDITURES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 46, Title 25, Delaware Code by striking §4601 and §4602 in their entirety and substituting in lieu thereof the following:

"§4601. Obligation of owners; lien; transfer of lien upon executed sale; lien docket

(a) Except in those cases where a building or structure is demolished under emergency conditions, no lien or personal judgment, as provided in subsections (b) and (c) herein, may be obtained for the recovery of demolition costs by any municipality or other political subdivision unless notice to the record owner or owners of such building or structure and to any record lien holders thereof has been given prior to such demolition. For purposes of this subsection, the mailing of a certified letter, return receipt requested, at least five days prior to demolition, to the last known address of the record owner, owners or lien holders and notifying same of the address of the property to be demolished, the condition of the property, and the legal right of the municipality or political subdivision to obtain a judgment against the owner and a lien against the property after demolition, shall be deemed sufficient notice. In those cases where a building or structure is demolished under emergency conditions, a municipality or political subdivision may subsequently secure a personal judgment or obtain a lien against the property without first having complied with the foregoing notice provisions.

(b) In the event any 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 any duly adopted building code, shall have expended public funds for the purpose of razing or demolishing any abandoned or vacant building deemed to be unsafe or any other unsafe building or structure within its jurisdiction, after such notice is provided for in subsection (a), the sums so expended, with legal interest thereon from the date of expenditure, shall be reimbursed to such municipality or political subdivision, on

demand, by the person or persons who were the owner or owners of such building or structure at the time such work of razing or demolition commenced, and if not so reimbursed, said sums, with interest accrued thereon, may be collected from such owner or owners in an action at law commenced by such municipality or political subdivision within six (6) years after the date of the final expenditure of funds for such razing or demolition.

(c) In those instances where a municipality or other political subdivision of this State shall expend public funds for the purpose of razing or demolishing any abandoned building deemed to be unsafe or any other unsafe building or structure within its jurisdiction, after such notice as is provided for in subsection (a), such municipality or political subdivision may enter a lien for the amount so expended, with interest accrued thereon, on the lands and premises on which such work of razing or demolition was performed, in the Office of the Prothonotary for the County in which such lands and premises are situated in the docket provided for in subsection (d) following and such liens shall continue until paid and discharged.

(d) The Prothonotary of each County shall, under the direction and supervision of the county government, prepare a docket to be known as the 'Lien Docket for Public Expenditures for Razing and Demolition' in which shall be recorded all liens provided for by subsection (b) above. Such liens shall be certified in writing to the Prothonotary by the municipality or other governmental subdivisions of this State entitled to the same, which certification shall list the owner of the lands and premises as such owner appears on the tax assessment records of such municipality or other political subdivision on the date of lien certification, the principal amount of the lien, and the applicable interest rate, and shall identify the lands and premises by brief description and by the parcel number thereof as said parcel number appears on the real estate tax records of such municipality or other governmental subdivision. Such information and the date of filing shall be entered by the Prothonotary in the lien docket, which docket shall contain in the back thereof an index according to the name of the owner of the property against which such lien is entered. When any such lien is satisfied by payment, the Prothonotary, acting under the supervision of the municipality or other political subdivision holding such lien, shall enter thereon the date of final payment and the words 'satisfied in full'. The Prothonotary, for the use of the county government, shall receive a fee of \$1.00 for each satisfaction.

\$4602. Priority of lien; transfer of lien upon executed sale

Any lien filed pursuant to this Chapter shall have

over any other lien upon or interest in the lands and premises upon which the razed or demolished building or structure was situated, even though such other lien was entered of record or such interest vested prior to the date of filing of the lien arising under this Chapter, excepting any lien for taxes. In the case of sale under execution process of any premises upon which any lien for such public expenditures exists, the lien shall be transferred to the fund arising from the sale in the hands of the officer making the sale, and the premises so sold shall be discharged therefrom."

Approved July 20, 1977.



## CHAPTER 176

## FORMERLY HOUSE BILL NO. 547

AN ACT TO AMEND CHAPTER 174, VOLUME 23, LAWS OF DELAWARE ENTITLED  
"AN ACT TO RE-INCORPORATE THE TOWN OF TOWNSEND" AND RELATING  
TO THE POWER TO ADOPT AND ENFORCE TOWN ORDINANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE (two-thirds of all members elected to each House concurr-  
ing therein):

Section 1. Chapter 174, Volume 23, Laws of Delaware is  
amended by adding thereto the following new sections:

"Section 11. The Town shall have all the powers poss-  
ible for a town to have under the Constitution and Laws of  
Delaware as fully and completely as though they were speci-  
fically enumerated in this section. The Town Commissioners  
are hereby vested with the authority to enact ordinances  
and adopt resolutions relating to any subject within the  
powers or functions of a town, or relating to the government  
of a town, its peace and order, its sanitation, beauty,  
health, safety, convenience and comfort of its population,  
and the protection and preservation of property, and to fix,  
impose, and enforce payment of fines and penalties for the  
violation of such ordinances or resolutions, and no provi-  
sion of this Chapter as to ordinances or resolutions on  
any particular subject shall be held to be restrictive  
whether specifically enumerated or not.

The Town 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 Commissioners at a  
reasonable time or times, to compile the ordinances, codes,  
orders and rules of the Town Commissioners. The Town  
Commissioners 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, codes, rules and regulations, or upon the  
enactment of amendments to the same, the Clerk of the Town  
Commissioners shall enroll the same in the journal of the  
Town Commissioners and shall keep copies of the same in a  
book to be provided for that purpose so that the same may  
be readily examined.

Section 12. (a) The Justice of the Peace sitting (whether regularly, specially or otherwise) in the Justice of the Peace Court located nearest to the Town or the Town Alderman, if one be established, or both shall have jurisdiction and cognizance of all offenses under the provisions of this Chapter or under the authorized ordinances of the Town committed within the limits of the Town and may release on bail or fine or imprison offenders; provided that he shall impose no fine or penalty in excess of that fixed by an ordinance and shall not commit to prison for a longer term than 30 days. Any Delaware correctional institution may be used for imprisonment.

(b) No ordinance of the Town shall provide for a fine in excess of \$200 or imprisonment of more than 30 days.

(c) Any person convicted before the Justice of the Peace or Alderman for the violation of any Town ordinance may appeal from such conviction to the Superior Court in and for New Castle County upon giving bond to the State with or without surety, such as the Justice of the Peace or Alderman shall determine, binding the person taking the appeal before the Court. Notice of such an appeal shall be given to such Justice of the Peace or Alderman within five days from the time of conviction, counting the day of conviction as one, and the bond with surety, if any shall be filed within five days. No bond upon appeal from a conviction for violation of a Town ordinance shall exceed the sum of \$200. Such appeal shall be prosecuted and the proceedings shall be had as in an appeal from a conviction before a Justice of the Peace in the case of a violation of State laws relating to the operation of motor vehicles.

Section 13. The Town Commissioners may appoint a police force consisting of such person or persons as the Town Commissioners may deem wise and advisable. The Town Commissioners shall from time to time 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 Commissioners and may be removed by the Town Commissioners at any time. They 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; and they shall have such other duties as the Town Commissioners 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 Town 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.

Approved July 20, 1977.

## CHAPTER 177

## FORMERLY HOUSE BILL NO. 500

AN ACT TO AMEND AN ACT BEING CHAPTER 277, VOLUME 49, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF LAUREL", TO CHANGE THE FISCAL YEAR, TO PROVIDE FOR ASSESSMENT, LEVY AND COLLECTION OF TAXES, TO PROVIDE A DATE WHEN TAXES BECOME DELINQUENT, TO PROVIDE A DATE WHEN TAXES BECOME A LIEN ON REAL ESTATE, TO PROVIDE FOR CHANGING THE RATES FOR UTILITY SERVICES DURING THE FISCAL YEAR, AND TO PROVIDE A DATE WHEN THE TOWN CLERK SHALL SETTLE HIS ACCOUNTS.

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 32, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking the first paragraph of said Section 32 and substituting a new first paragraph to read as follows:

"The fiscal year of the Town shall be from October 1 of one year to September 30 of the following year."

Section 2. Section 32, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking the words "the first regular meeting in May" and substituting the words "the first regular meeting in July".

Section 3. Section 36, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking the words "first Monday in April" as they appear in the first paragraph of said Section 36 and substituting the words "First day of July".

Section 4. Section 36, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by adding at the end of the first paragraph of said Section 36 the following:

"The Board of Assessment may adopt as the annual assessment for real estate situate in the Town of Laurel the assessment for real estate and improvements located thereon as compiled by the Department of Finance of Sussex County."

Section 5. Section 37, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking the word "May" as it appears in the first paragraph of said Section 37 and substituting the word "August".

Section 6. Section 37, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by adding at the end of the first paragraph of said Section 37 the following:

"For the period from July 1, 1977, until September 30, 1977, the Town Council shall use the same assessment and tax rate and shall prorate the amount of taxes due for the period from July 1, 1977, until September 30, 1977; provided however, that the Town Council of Laurel shall employ the procedures set forth in this Section in levying taxes to be paid for the period beginning October 1, 1977, and ending September 30, 1978, and for each fiscal year thereafter."

Section 7. Section 37, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by adding at the end of said Section 37 a new paragraph to read as follows:

"The fees or rates permitted to be imposed pursuant to Subsections (d) and (e) hereof may be determined, fixed, assessed, decreased, increased, and/or otherwise altered or changed upon other than a fiscal year basis and at any other regular or special meeting of the Town Council of Laurel."

Section 8. Section 38, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking the word "July" as it appears in the first paragraph of said Section 38 and substituting the word "October".

Section 9. Section 38, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the second paragraph of said Section 38 and substituting a new second paragraph to read as follows:

"No discount shall be allowed on payments made after the first day of October. After the last day of November, taxes due the Town and unpaid shall be deemed delinquent. On all taxes paid on or after the first day of December next following the assessment, a penalty of one percent (1%) per month shall be added from the first day of October until the same shall be paid."

Section 10. Section 38, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking the word "July" as the same appears in the third paragraph of said Section 38 and substituting the word "October".

Section 11. Section 38, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking the word "October" as it appears in the sixth paragraph of said Section 38 and substituting the word "December".

Section 12. Section 40, Chapter 277, Volume 40, Laws of Delaware, as amended, be and the same is hereby further amended by striking the word "May" as it appears in said Section 40 and substituting the word "August".

Section 13. Section 41, Chapter 277, Volume 49, Laws of Delaware, as amended, be and the same is hereby further amended by striking the word "May" as it appears in said Section 41 and substituting the word "October".

Approved July 20, 1977.

## CHAPTER 178

## FORMERLY HOUSE BILL NO. 498

AN ACT TO AMEND CHAPTER 9 AND CHAPTER 11, TITLE 13 OF THE DELAWARE CODE RELATING TO ADOPTION AND TERMINATION OF PARENTAL RIGHTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §908, Chapter 9, Title 13, Delaware Code by striking subparagraph (2) a. thereof in its entirety and substituting in lieu thereof a new subparagraph (2) a. to read as follows:

"a. By both parents of a child conceived or born out of wedlock; provided however that the consent of the alleged natural father need not contain an admission that he is the father. In the event that the named natural father disclaims paternity, an affidavit signed by him to that effect shall be attached to the petition in lieu of a consent from the natural father. It is further provided that in the event a petition containing statements described in §906 (7) b. (ii), (iii) or (iv) of this title is filed, after a hearing in which it is established on the record that the mother and the father of the child are not then living together as husband and wife openly and that they have not done so nor married since the birth of the child, the Court may, following consideration of the social report, dispense with the requirement of the father's consent in compliance with §929 of this Title."

Section 2. Amend §1101, Chapter 11, Title 13, Delaware Code by redesignating subsection (3) as subsection (4) and all subsequent subsections accordingly and by inserting a new subsection (3) to read as follows:

"(3) 'Child' means any male or female who has not attained his or her eighteenth birthday."

Section 3. Amend §1106, Chapter 9, Title 13, Delaware Code by striking subparagraph (2) a. thereof in its entirety and substituting in lieu thereof a new subparagraph (2) a. to read as follows:

"a. Both parents of a child born out of wedlock; provided, however, that the consent of the alleged natural father need not contain an admission that he is the father. In the event that the named natural father disclaims paternity, an affidavit signed by him to that effect shall be attached to the petition in lieu of a consent from the

natural father. It is further provided that in the event of a petition containing statements described in §1105(a)(5) (ii), (iii) or (iv) of this title, after a hearing in which it is established on the record that the mother and father of the child are not living together as husband and wife openly and that they have not done so nor married since the birth of the child, the Court may, following consideration of the social report, dispense with the requirement of the father's consent in compliance with §1113 of this title."

Approved July 20, 1977.

## CHAPTER 179

FORMERLY HOUSE BILL NO. 468  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, SUBCHAPTER V, TITLE 11 OF THE  
DELAWARE CODE RELATING TO SEXUAL EXPLOITATION OF CHILDREN  
AND DEALING IN MATERIAL DEPICTING CHILDREN ENGAGING IN  
SEXUAL ACTIVITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §1103, Chapter 5, Subchapter V, Title 11  
of the Delaware Code by striking the catch line of said section  
in its entirety and by substituting in lieu thereof a new catch  
line to read as follows:

"1103. Definitions relating to children."

Section 2. Amend §1103, Chapter 5, Subsection V, Title 11  
of the Delaware Code by adding thereto new subsections (d) and  
(e) to read as follows:

"(d) 'Child' shall mean any individual eighteen years  
of age or less.

(e) 'Prohibited sexual act' shall include:

- (1) sexual intercourse;
- (2) anal intercourse;
- (3) masturbation;
- (4) bestiality;
- (5) sadism;
- (6) masochism;
- (7) fellatio;
- (8) cunnilingus;
- (9) nudity, if such nudity is to be depicted for  
the purpose of the sexual stimulation or the sexual  
gratification of any individual who may view such  
depiction."

Section 3. Amend Chapter 5, Subchapter V, Title 11 of the  
Delaware Code by adding thereto a new section to be designated  
as §1108 and to read as follows:

"§1108. Sexual exploitation of a child; class B felony."

A person is guilty of sexual exploitation of a  
child when:



(1) He photographs or films a child engaging in a prohibited sexual act or in the simulation of such an act; or

(2) He finances or produces any motion picture which depicts a child engaging in a prohibited sexual act or in the simulation of such an act or;

(3) He publishes a book, magazine, pamphlet or photograph which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

Sexual exploitation of a child is a class B felony."

Section 4. Amend Chapter 5, Subchapter V, Title 11 of the Delaware Code by adding thereto a new section to be designated as §1109 and to read as follows:

"1109. Unlawfully dealing in material depicting a child engaging in a prohibited sexual act; class C felony.

A person is guilty of dealing in material depicting a child engaging in a prohibited sexual act when:

(1) He knowingly transports, ships or mails within this State any magazine, photograph or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act; or

(2) He knowingly receives for the purpose of selling or sells any magazine, photograph or film which depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or

(3) He knowingly distributes or disseminates by means of shows or viewings, any motion picture which shows a child engaging in a prohibited sexual act or the simulation of such an act. The possession or showing of such motion pictures shall create a rebuttable presumption of ownership thereof for the purposes of distribution or dissemination.

Unlawfully dealing in material depicting a child engaging in a prohibited sexual act is a class C felony."

Section 5. Amend Chapter 5, Subchapter V, Title 11 of the Delaware Code by adding thereto a new section to be designated as §1110 and to read as follows:

"§1110. Same; subsequent convictions.

Any person convicted under the provisions of §1109 who is convicted of a second or subsequent violation of that section shall, upon such second or subsequent conviction, be guilty of a class B felony. Any person convicted under the provisions of §1108 who is convicted of a second or subsequent violation of that section shall, upon such second or subsequent conviction, be sentenced to life imprisonment."

Approved July 20, 1977.

## CHAPTER 180

## FORMERLY HOUSE BILL NO. 413

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF SLAUGHTER BEACH", BEING CHAPTER 167, VOLUME 37, LAWS OF DELAWARE, AS AMENDED, BY EXTENDING THE CORPORATE LIMITS OF THE TOWN OF SLAUGHTER BEACH.

WHEREAS, it appears that, at a special election called and held under the auspices of the Commissioners of the Town of Slaughter Beach on May 30, 1977, pursuant to due notice, the question of the annexation and inclusion of the lands or territory hereinafter described into the corporate limits of the Town of Slaughter Beach was submitted to the qualified voters and real estate owners within said territory, and that a majority of said voters and real estate owners did approve the proposed annexation.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (two-thirds of all members elected to each branch concurring therein):

Section 1. Chapter 167, Volume 37, Laws of Delaware, as amended, is further amended by adding and inserting therein after Section 2 thereof a new section to be designated and known as Section 2B, to read as follows:

"Section 2B. The boundaries of the Town of Slaughter Beach are extended to include the lands or territory known as the Marvel Land, bounded and described as follows to wit:

ALL that certain tract, piece and parcel of land, lying and being in Cedar Creek Hundred, Sussex County and State of Delaware, fronting on the southwesterly side of the 60 foot right-of-way of County Route 204, adjoining other lands of grantees and other lands of grantors, and more particularly described as follows, to wit:

BEGINNING at a concrete monument set on the Southwesterly right-of-way line of County Route 204, at the northwesterly corner of other lands of grantees; thence proceeding with said other lands of grantees South 14 degrees 35 minutes 24 seconds West 978.27 feet to an iron pipe set at the northeasterly corner of lands of the heirs of Frank Davis Watson; thence running with said lands of the Watson heirs North 75 degrees 35 minutes 36 seconds West 421.40 feet to an

an iron pipe in line of other lands of grantors; thence following said line of other lands of grantors North 14 degrees 35 minutes 24 seconds East 1078.91 feet to an iron pipe set on aforementioned southwesterly right-of-way line of County Route 204; thence running with said right-of-way line South 62 degrees 18 minutes 16 seconds East 390.37 feet; thence finally continuing with said right-of-way line and deflecting right along a 718.95 foot radius curve, the chord of which bears South 60 degrees 26 minutes 22 seconds East 42.62 feet, an arc distance of 42.62 feet to the place of BEGINNING. Containing 9.956 acres of lands, more or less.

The Commissioners of the Town of Slaughter Beach shall cause a plot of said addition to the Town of Slaughter Beach to be recorded in the Recorder's Office in and for Sussex County at Georgetown, and said extension of the boundaries of said Town shall become effective in law at the time the said plot is recorded.

Section 2. This Act shall take effect notwithstanding anything to the contrary contained in Section 101, Title 22, Delaware Code.

Approved July 20, 1977.

CHAPTER 181

FORMERLY HOUSE BILL NO. 349

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE TO INCREASE  
THE PENALTY FOR FAILURE TO PAY INCOME TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. §1195, Chapter 11, Title 30, Delaware Code, is amended by striking "5%" in Subsection (a) and substituting in lieu thereof "25%".

Section 2. §1195, Chapter 11, Title 30, Delaware Code, is amended by striking "50%" in Subsection (b) and substituting in lieu thereof "100%".

Section 3. §1195, Chapter 11, Title 30, Delaware Code, is amended by striking "1%" in Subsection (c) and substituting in lieu thereof "3%".

Section 4. §1195, Chapter 11, Title 30, Delaware Code, is amended by striking the figure "\$1,000" in subsection (f) and substituting in lieu thereof the figure "\$3,000".

Section 5. This Act becomes effective with the signature of the Governor.

Approved July 20, 1977.

## CHAPTER 182

## FORMERLY HOUSE BILL NO. 296

AN ACT TO AMEND CHAPTER 69, SUBCHAPTER I, TITLE 29, DELAWARE CODE, RELATING TO PUBLIC WORK CONTRACTS AND PROCUREMENTS BY EXEMPTING THE COUNTY LIBRARY DEPARTMENTS FROM THE REQUIREMENTS THEREOF.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6918 of Chapter 69, Subchapter I, Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new §6918 to read as follows:

"§6918. Purchase of Library Books by School Libraries, the Division of Libraries of the Department of Community Affairs and Economic Development, and the County Library Departments.

This Chapter shall not apply to any purchase of library books by school librarians or by the Division of Libraries of the Department of Community Affairs and Economic Development or by the New Castle County, Kent County, or Sussex County Department of Libraries."

Approved July 20, 1977.

CHAPTER 183

FORMERLY HOUSE BILL NO. 593

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE OPERATIONS ACCOUNT OF THE STATE LOTTERY OFFICE OF THE DEPARTMENT OF FINANCE FOR PAYMENT OF THE PRIOR YEAR OBLIGATIONS.

WHEREAS, the direct costs of running the football lottery in the Fall of 1976 exceeded the amount put into the State Lottery Office's operations account by more than \$371,500; and

WHEREAS, the State Lottery Office has outstanding and anticipated operations obligations of approximately \$371,500.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of \$371,500 to be paid to the State Lottery Office for purpose of reimbursing the Operations Account for the excess expenses incurred by the Football Lottery games during the prior fiscal year.

Section 2. This is a supplementary appropriation and the funds hereby appropriated shall be paid by the State Treasurer out of the General Fund from funds not otherwise appropriated.

Section 3. The funds hereby appropriated shall be used only for the purposes specified and any funds hereby appropriated that remain unexpended on June 30, 1978 shall revert to the General Fund of the State of Delaware.

Approved August 12, 1977.

## CHAPTER 184

## FORMERLY HOUSE BILL NO. 594

AN ACT TO AMEND CHAPTER 29, TITLE 30 OF THE DELAWARE CODE RELATING TO RETAILER LICENSE TAXES ON AGGREGATE GROSS RECEIPTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2905 (b), Chapter 29, Title 30 of the Delaware Code by striking the words and numbers "of 55/100 of 1 percent" as the same appear in the first sentence of said subsection (b) and substituting in lieu thereof the following:

"of 75/100 of 1 percent"

Section 2. This Act shall be effective as of July 6, 1977.

Approved August 12, 1977.



## CHAPTER 185

## FORMERLY HOUSE BILL NO. 595

AN ACT TO AMEND CHAPTER 116, VOLUME 61, LAWS OF DELAWARE, THE 1978  
BUDGET APPROPRIATION ACT, ORIGINALLY DESIGNATED HOUSE BILL NO.  
300 AMENDED BY HOUSE AMENDMENT NO. 27 AND SENATE AMENDMENT  
NO. 1.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 116, Volume 61, Laws of Delaware, by striking certain figures in their entirety as they appear, and substituting certain figures in lieu thereof with reference to the lines and pages on which the same appear in House Bill No. 300, amended by House Amendment No. 27 and Senate Amendment No. 1, as hereinafter prescribed:

Page	Line	Item/Description	From	To	Increase (Decrease)
<u>35-05-001 - Office of Director, Div. of Public Health</u>					
25	46	Sal. of Director	\$ 30,821	\$ 43,000	\$12,179
25	48	Pensions	\$ 3,575	\$ 4,988	1,413
<u>35-05-002 - Community Health</u>					
26	4	Sal. for Health Screening	\$ 688,020(48.8)	\$ 688,020(51.8)	\$ -0-
26	8	Sal. & Wages - Employees	\$2,060,078(164.6)	\$2,060,078(177.6)	\$ -0-
<u>35-05-003 - Emily P. Bissell Hospital</u>					
27	3	Sal. & Wages - Employees	\$2,218,070(279.8)	\$2,205,891(279.8)	(\$12,179)
27	7	Pensions	\$ 264,870	\$ 263,457	( 1,413)
<u>35-06-001 - Office of Director, Div. of Mental Health</u>					
28	38	Sal. of Director	\$ 30,821	\$ 43,000	\$12,179
27	41	Pensions	\$ 11,445	\$ 12,858	\$ 1,413
<u>35-06-004 - Governor Bacon Health Center</u>					
30	2	Sal. & Wages - Employees	\$2,664,128(272.85)	\$2,651,949(272.85)	\$12,179)
30	6	Pensions	\$ 317,920	\$ 316,507	(\$ 1,413)

<u>Page</u>	<u>Line</u>	<u>Item/Description</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
<u>35-06-005 - Community Mental Health Center</u>					
30	30	Sal. & Wages - Employees	\$ 606,206 (47.5)	\$606,206 (55.5)	\$ -0-
TOTAL					\$ -0-

Section 2. Further amend Chapter 116, Volume 61, Laws of Delaware, by striking certain positions as they appear, and substituting certain figures in lieu thereof, with reference to the lines and pages on which same appear in House Bill No. 300, as amended by House Amendment No. 27 and Senate Amendment No. 1, as hereinafter prescribed:

<u>Page</u>	<u>Line</u>	<u>Title of Position</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
145	20	Clerk Steno III	2	0	(2)
145	21	Neighborwood Worker I	1	0	(1)
145	22	Env. Health Inspector I	1	0	(1)
145	24	Dental Health Director	1	0	(1)
145	25	Nurse I	3	1	(2)
145	27	Public Health Physician III	1	0	(1)
145	28	Public Health Nurse Superv.	2	0	(2)
145	29	Public Health Nurse Director	1	0	(1)
145	30	Sanitarian I	3	2	(1)
145	31	Health Program Rep. Trainee	1	0	(1)
145	32	Sanitarian II	2	0	(2)
145	34	Microbiologist I	1	0	(1)

Section 3. Further amend Chapter 116, Volume 61, Laws of Delaware, by adding certain positions to Section 89, Sub-Section A, as such section appears in House Bill No. 300, as amended by House Amendment No. 27 and Senate Amendment No. 1, with specific reference to the lines and pages as hereinafter prescribed:

<u>Page</u>	<u>Line</u>	<u>Title of Position</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
<u>35-06-005 - Community Mental Health Center</u>					
140	New	Mental Health Assistant	0	4	4
140	New	Psychiatric Social Worker	0	4	4

Section 4. Amend Chapter 116, Volume 61, Laws of Delaware, by recomputing all totals and sub-totals as changed by this Act.

Approved August 12, 1977.

## CHAPTER 186

FORMERLY HOUSE BILL NO. 596  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 AND  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 33, TITLE 19, DELAWARE CODE, RELATING TO  
UNEMPLOYMENT COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking subparagraph (7) (A) in its entirety and substituting in lieu thereof a new subparagraph (7) (A) to read as follows:

"(7) 'Employer' means:

(A) (i) Any employing unit which after December 31, 1971,

(I) In any calendar quarter in either the current or preceeding calendar year paid for service in employment wages of \$1,500 or more, or

(II) For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or preceding calendar year, had in employment at least one (1) individual (irrespective of whether the same individual was in employment in each such day);

(ii) Any employing unit for which agricultural labor as defined in Section 3302 (10) (A) (vii) is performed after December 31, 1977;

(iii) Any employing unit for which domestic service as defined in Section 3302 (10) (B) is performed after December 31, 1977;

(iv) (I) In determining whether or not an employing unit for which service other than domestic service is also performed as an employer under subparagraphs (i) and (ii) of this paragraph (A) the wages earned or the employment of an employee performing domestic service after December 31, 1977, shall not be taken into account;

(II) In determining whether or not an employing unit for which service other than agricultural labor is also performed is an employer under subparagraphs (i) and (iii) of this paragraph (A), the wages earned or the employment of an employee performing service in agricultural labor after December 31, 1977, shall not be taken into account. If an employing unit

is determined an employer of agricultural labor, such employing unit shall be determined an employer for the purposes of subparagraph (i) of this paragraph (A);"

Section 2. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking subparagraph (7) (B) in its entirety and substituting in lieu thereof a new subparagraph (9) (B) to read as follows:

"(B) Any employing unit for which service in employment as defined in Section 3302 (9) (B) is performed."

Section 3. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by adding a new sentence following the first sentence of subparagraph (8) (A) to read as follows:

"Employing unit also means any governmental entity which has in its employ individuals performing services."

Section 4. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking the period at the end of subparagraph (8) (B) and adding the following clause:

", except as provided in Section 3302 (10) (A) (vii)."

Section 5. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking from subparagraph (9) (A) the dates "January 1, 1972" and "December 31, 1971", and substituting in lieu thereof the dates "January 1, 1978" and "December 31, 1977", respectively.

Section 6. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by adding the words "and before January 1, 1978" before the words "by an individual in the employ of this State" as it appears in subparagraphs (9) (B) (i) and (ii).

Section 7. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by adding thereto a new subparagraph (9) (B) (iii) to read as follows:

"(iii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other States or political subdivisions, provided that such service is excluded from 'employment' as defined in the Federal Unemployment Tax Act by §3306 (c) (7) of that Act and is not excluded from 'employment' under §3302 (9) (D) (iii) of this Title."

Section 8. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking subparagraph (9) (D) (iii) in its entirety and substituting in lieu thereof a new subparagraph (9) (D) (iii) to read as follows:

"(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, after December 31, 1977, in the employ of a governmental entity referred to in §3302 (9) (B) (iii) if such service is performed by an individual in the exercise of duties:

- (1) As an elected official;
- (II) As a member of a legislative body, or a member of the judiciary, of a State or political subdivision;
- (III) As a member of the State National Guard or Air National Guard;
- (IV) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;
- (V) In a position which, under or pursuant to the laws of this State, is designated as:

(1) a major nontenured policymaking or advisory position, or

(2) a policymaking or advisory position the performance of duties of which ordinarily does not require more than eight hours per week; or "

Section 9. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking in its entirety subparagraph (9) (D) (vi) and substituting in lieu thereof a new subparagraph (9) (D) (vi) to read as follows:

"(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution."

Section 10. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking in its entirety the first paragraph of subparagraph (9) (E) and substituting in lieu thereof a new paragraph to read as follows:

"The term 'employment' shall include the service of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada, and in the case of the Virgin Islands after December 31, 1971, and prior to January 1 of the year following the year in which the U. S. Secretary of Labor approves the unemployment

compensation law of the Virgin Islands under §3304 (a) of the Internal Revenue Code of 1954), in the employ of an American employer (other than service which is deemed 'employment' under the provisions of paragraphs (H) or (I) of this subsection or the parallel provisions of another State's law), if:"

Section 11. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking the period (.) following the first sentence in subparagraph (10) (A) and substituting in lieu thereof the following clause:

" , except as provided in subparagraph (vii) of this paragraph."

Section 12. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by inserting a period (.) after the word "business" in subparagraph (10) (A) (v) and striking the remainder of this subparagraph in its entirety.

Section 13. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by adding to subparagraph (10) (A) a new subparagraph (vii) to read as follows:

"(vii) The term 'employment' shall include service performed after December 31, 1977, by an individual in agricultural labor when:

(1) such service is performed for a person who:

(1) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in division (II) of this subparagraph, or

(2) for some portion of a day in each of 20 different calendar weeks, whether or not such days were consecutive, in either the current or the preceding calendar year, employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in division (II) of this subparagraph) 10 or more individuals, regardless of whether they were employed at the same moment of time.

(II) such service is not performed in agricultural labor if performed prior to January 1, 1980, by an individual who is an alien admitted to the United States to perform service

Section 8. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking subparagraph (9) (D) (iii) in its entirety and substituting in lieu thereof a new subparagraph (9) (D) (iii) to read as follows:

"(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, after December 31, 1977, in the employ of a governmental entity referred to in §3302 (9) (B) (iii) if such service is performed by an individual in the exercise of duties:

- (1) As an elected official;
- (II) As a member of a legislative body, or a member of the judiciary, of a State or political subdivision;
- (III) As a member of the State National Guard or Air National Guard;
- (IV) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;
- (V) In a position which, under or pursuant to the laws of this State, is designated as:

(1) a major nontenured policymaking or advisory position, or

(2) a policymaking or advisory position the performance of duties of which ordinarily does not require more than eight hours per week; or "

Section 9. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking in its entirety subparagraph (9) (D) (vi) and substituting in lieu thereof a new subparagraph (9) (D) (vi) to read as follows:

"(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution."

Section 10. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking in its entirety the first paragraph of subparagraph (9) (E) and substituting in lieu thereof a new paragraph to read as follows:

"The term 'employment' shall include the service of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada, and in the case of the Virgin Islands after December 31, 1971, and prior to January 1 of the year following the year in which the U. S. Secretary of Labor approves the unemployment

compensation law of the Virgin Islands under §3304 (a) of the Internal Revenue Code of 1954), in the employ of an American employer (other than service which is deemed 'employment' under the provisions of paragraphs (H) or (I) of this subsection or the parallel provisions of another State's law), if:"

Section 11. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking the period (.) following the first sentence in subparagraph (10) (A) and substituting in lieu thereof the following clause:

", except as provided in subparagraph (vii) of this paragraph."

Section 12. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by inserting a period (.) after the word "business" in subparagraph (10) (A) (v) and striking the remainder of this subparagraph in its entirety.

Section 13. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by adding to subparagraph (10) (A) a new subparagraph (vii) to read as follows:

"(vii) The term 'employment' shall include service performed after December 31, 1977, by an individual in agricultural labor when:

(1) such service is performed for a person who:

(1) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in division (II) of this subparagraph, or

(2) for some portion of a day in each of 20 different calendar weeks, whether or not such days were consecutive, in either the current or the preceding calendar year, employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in division (II) of this subparagraph) 10 or more individuals, regardless of whether they were employed at the same moment of time.

(II) such service is not performed in agricultural labor if performed prior to January 1, 1980, by an individual who is an alien admitted to the United States to perform service



in agricultural labor pursuant to sections 214 (c) and 101 (a) (15) (11) of the Immigration and Nationality Act.

(III) for purposes of this paragraph (A), any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader;

(1) if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(2) if such individual is not an employee of such other person within the meaning of §3302 (9) (A).

(IV) for the purpose of this subparagraph in the case of an individual who is furnished by a crew leader to perform services in agricultural labor for any other person and who is not treated as an employee of such crew leader under subparagraph (III):

(1) such other person and not the crew leader shall be treated as the employer of such individual; and

(2) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf of such other person) for the service in agricultural labor performed for such other person.

(V) for the purposes of this subparagraph, the term 'crew leader' means an individual who:

(1) furnishes individuals to perform services in agricultural labor for any other person,

(2) pays (either on his own behalf or on behalf of such other person) the individuals so furnished by him for the service in agricultural labor performed by them, and

(3) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person."

Section 14. Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking subparagraph (10) (B) in its entirety and substituting in lieu thereof the following:

"(B) Domestic service in a private home performed prior to January 1, 1978. After December 31, 1977, the term 'employment' shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of \$1,000 or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter."

Section 14 (a). Amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking the period following the word "year" at the end of subparagraph (ii) of Subsection (18) (A), and inserting in lieu thereof a semicolon and the word "or" (; or), and inserting between subparagraph (ii) and the paragraph beginning "The remuneration paid to an individual by an employer", a new subparagraph (iii) to read as follows:

"(iii) After December 31, 1977, the part of the remuneration which, after remuneration equal to \$6,000 is paid to such individual by such employer during such calendar year."

Section 14. (b). Further amend Section 3302, Chapter 33, Title 19, Delaware Code, by striking the final period at the end of subsection (18) (A), and inserting the following:

"or \$6,000 referred to in subparagraph (iii)."

Section 15. Amend Section 3313, Chapter 33, Title 19, Delaware Code, by adding a new subsection (g) to read as follows:

"(g) With respect to weeks of unemployment beginning on or after January 1, 1978, wages for employment shall include wages paid for previously uncovered services. For purposes of this subsection, the term 'previously uncovered services' means services:

- (1) which were not employment as defined in §3302 (10) and were not services covered pursuant to §3302 (9) at any time during the one-year period ending December 31, 1975; and

(2) which:

- (i) are agricultural labor as defined in §3302 (10) (A) (vii) or domestic service as defined in §3302 (10) (B) or

(ii) are services performed by an employee of this State or a political subdivision thereof, as provided in §3302 (9) (B) (iii), or by an employee of a non-profit educational institution which is not an institution of higher education as provided in §3302 (9) (D) (iii); except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services."

Section 16. Amend Section 3314, Chapter 33, Title 19, Delaware Code, by redesignating subparagraph (6) as subparagraph (6) (A) and adding a new subparagraph (6) (B) to read as follows:

"(B) Benefits based on service in employment defined in §3302 (9) (B) (iii) and (C) of this Title shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this Act; except that, with respect to service performed after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform service in any such capacity for any educational institution in the second of such academic years or terms. Subsection 3314 (6) (A) shall apply with respect to such services prior to January 1, 1978."

Section 17. Further amend Section 3314, Chapter 33, Title 19, Delaware Code, by adding a new subparagraph (6) (C) to read as follows:

"(C) With respect to services performed after December 31, 1977, in any other capacity for an educational institution (other than an institution of higher education as defined in §3302 (14)), benefits shall not be paid on the basis of such services to an individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance what such individual will perform such services in the second of such academic years or terms."

Section 18. Amend Section 3315, Chapter 33, Title 19, Delaware Code, by placing a period after the word "work" in the first sentence of subparagraph (8), and deleting the clause "because of pregnancy".

Section 19. Further amend Section 3315, Chapter 33, Title 19, Delaware Code, by adding a new subparagraph (9) to read as follows:

"(9) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the latter of such seasons (or similar periods)."

Section 20. Further amend Section 3315, Chapter 33, Title 19, Delaware Code, by adding a new subparagraph (10) to read as follows:

"(10) (A) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States as a result of the application of the provisions of Section 203 (a) (7) or Section 212 (d) (5) of the Immigration and Nationality Act.

(B) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(C) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence."

Section 21. Amend Section 3326, Chapter 33, Title 19, Delaware Code, by striking subparagraph (a) (2) in its entirety and inserting in lieu thereof the following:

"(2) There is a national 'on' indicator for a week, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equalled or exceeded 4.5 percent. The rate of insured unemployment after December 31, 1976, for purposes of this subsection, shall be determined by the United States Secretary of Labor by reference to the average monthly covered unemployment for the first four of the most recent six calendar quarters ending before the close of such period."

Section 22. Further amend Section 3326, Chapter 33, Title 19, Delaware Code, by striking subparagraph (a) (3) in its entirety and inserting in lieu thereof the following:

"(3) There is a national 'off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 percent. The rate of insured unemployment after December 31, 1976 for the purposes of this subsection shall be determined by the United States Secretary of Labor by reference to the average monthly employment for the first four of the most recent six calendar quarters ending before the close of such period."

Section 23. Further amend Section 3326, Chapter 33, Title 19, Delaware Code, by striking subparagraph (a) (4) in its entirety and inserting in lieu thereof the following:

"(4) There is a State 'on' indicator for a week after March 31, 1977 if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks:

(A) equalled or exceeded 120 percent of the average of such rates for the corresponding thirteen week period ending in each of the preceding two calendar years, and

(B) equalled or exceeded four percent (4%)."

Section 24. Further amend Section 3326, Chapter 33, Title 19, Delaware Code, by striking subparagraph (a) (5) in its entirety and inserting in lieu thereof the following:

"(5) There is a State 'off' indicator for a week after March 31, 1977, if, for the period consisting of such week and the immediately preceding twelve weeks either subparagraph (A) or (B) or paragraph (4) was not satisfied."

Section 25. Amend Section 3345, Chapter 33, Title 19, Delaware Code, by striking the period (.) after the word "year" in subsection (b) and inserting in lieu thereof a semi-colon and by striking the last sentence of said subsection in its entirety and inserting in lieu thereof the following:

"and (iii) subsequent to December 31, 1977, wages shall not include that part of remuneration which, after remuneration equal to \$6,000 has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year unless that part of the remuneration is subject to a tax under a Federal law imposing a tax against which credit may be taken for assessments required to be paid into a state unemployment fund. For purposes of this subsection, the term 'employment' shall include service constituting employment under any unemployment compensation law of another state."

Section 26. Further amend Section 3345, Chapter 33, Title 19, Delaware Code, by adding to subsection (c) of said section a new subparagraph (3) (G) to read as follows:

"(G) Any employer which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in this paragraph shall not be liable to make such payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in §3313 (g) to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to Section 121 of PL 94-566."

Section 27. Further amend Section 3345, Chapter 33, Title 19, Delaware Code, by redesignating subparagraph (c) (5) of said subsection as subparagraph (c) (5) (A) and by redesignating subparagraphs (A) and (B) of said subparagraph (c) (5) (A) as subparagraphs (i) and (ii).

Section 28. Further amend Section 3345, Chapter 33, Title 19, Delaware Code, by adding to subsection (c) a new subparagraph (7) (A) to read as follows:

"(7) (A) Notwithstanding any other provisions of the Unemployment Compensation Law for the payment of assessments, any governmental entity or instrumentality, may as an alternate to financing benefits in payment in lieu of assessments, elect to pay assessments beginning with the date on which subjectivity begins by filing written notice of its election with the Department no later than 120 days after such subjectivity begins; provided that such election shall be effective for a least two full calendar years; or it may elect to pay assessments for a period of not less than two calendar years beginning January 1 of any year if written notice of such election is filed with the Department not later than February 1 of such year; provided further that such governmental entity or instrumentality shall remain liable for payments in lieu of assessments with respect to all benefits paid based on base period wages earned in the employ of such entity or instrumentality in the period during which it financed its benefits in lieu of assessments as provided in subparagraph (1) of this subsection."

Section 29. Further amend Section 3345, Chapter 33, Title 19, Delaware Code, by adding to subsection (c) a new subparagraph (7) (B) to read as follows:

"(7) (B) Any governmental entity or instrumentality may terminate its election to pay assessments as of January 1, of any year by filing written notice with the Department not later than February 1 of any year with respect to which termination is to become effective. It may not revert to an assessment method of financing for a least two full calendar years after such termination."

Section 30. Further amend Section 3345, Chapter 33, Title 19, Delaware Code, by adding to subsection (c) a new subparagraph (7) (C) to read as follows:

"(7) (C) Any governmental entity, or instrumentality electing the option for assessment financing will report and pay assessments in accordance with §3345 (a), §3348 and §3350 of this Chapter, except that notwithstanding the provision of the above sections, the assessment rate shall be one percent (1%) for the entire calendar year 1978 and the assessment rate for any subsequent calendar years shall be the rate established for such governmental entity or instrumentality under §3345 (c) (7) (D) of this section."

Section 31. Further amend Section 3345, Chapter 33, Title 19, Delaware Code, by adding to subsection (c) a new subparagraph (7) (D) to read as follows:

"(7) (D) On or before September 1 of each year beginning with September 1, 1979, the Department shall review the composite benefit cost experience of all governmental entities and instrumentalities and, on the basis of that experience, establish the assessment rate for the next following calendar year which can be expected to yield sufficient revenue to equal or exceed the projected benefit costs for that calendar year."

Section 32. If any provision of the Act of Congress known as Public Law 94-566, which mandates coverage of governmental entities as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is held unconstitutional or null and void by the United States Supreme Court, said coverage provided in this Chapter shall terminate if not elected, thereafter, coverage of governmental entities shall become elective pursuant to Section 3343 of this Chapter.

Section 33. Amend Section 3313, Chapter 33, Title 19, Delaware Code, by striking the figure "1978" as the same appears in subparagraph (b) (2) d. and substituting in lieu thereof the figure "1981".

Approved August 12, 1977.

## CHAPTER 187

## FORMERLY HOUSE BILL NO. 597

AN ACT TO AMEND VOLUME 61, CHAPTER 144, LAWS OF DELAWARE, BEING AN APPROPRIATION FOR CERTAIN GRANTS-IN-AID.

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 Section 1, Chapter 144, Volume 61, Laws of Delaware, by striking the words "Zion Lutheran Senior Center" and by substituting in lieu thereof the words "Saint Thomas Senior Center".

Section 2. Amend Section 1 of Chapter 144, Volume 61, Laws of Delaware, by striking the following in their entirety:

"(40-07-002) Division of Soil and Water Conservation - Drainage

Tax Ditches - Sussex County	\$30,000
Tax Ditches - Kent County	30,000
Tax Ditches - New Castle County	30,000

and substituting in lieu thereof the following:

"(40-07-002) Division of Soil and Water Conservation - Drainage

Tax Ditches - Sussex County *	\$30,000
Tax Ditches - Kent County *	30,000
Tax Ditches - New Castle County *	30,000

\* Pursuant to Section 3921, Title 7, Delaware Code."

Approved August 12, 1977.



## CHAPTER 188

## FORMERLY SENATE BILL NO. 371

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT  
OF PUBLIC SAFETY, DIVISION OF STATE POLICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of two hundred seven thousand seven hundred forty-two dollars (\$207,742) is hereby appropriated to the Department of Public Safety, Division of State Police, to meet certain normal operating deficiencies for the fiscal year ending June 30, 1977. Such sums shall be appropriated as follows:

(45-06-000) Division of State Police

Salaries -- Overtime - Uniformed Division	\$ 98,060
Salaries - Overtime - Other Employees	240
F.I.C.A. - Employer's Share	14
Pensions	28
Contractual Services	65,000
Supplies and Materials	44,400

Section 2. The amounts appropriated herein shall be considered a supplementary appropriation and shall be paid by the State Treasurer out of monies of the General Fund not otherwise appropriated. Any monies remaining unexpended on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved August 12, 1977.

## CHAPTER 189

FORMERLY SENATE BILL NO. 379  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE TO AUTHORIZE THE PERFORMANCE OF THE SPANISH GAME OF JAI-ALAI AND WAGERING THEREON AND PROVIDING A SUPPLEMENTARY APPROPRIATION TO THE DELAWARE JAI-ALAI COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 48, of Title 29 of the Delaware Code by adding the words "Subchapter 1" as a heading preceding §4801 and substituting the word "subchapter" for the word "Chapter" wherever the same shall appear therein.

Section 2. Amend Chapter 48 of Title 29 of the Delaware Code by adding a new Subchapter II to read as follows:

"SUBCHAPTER II.

§4820. Statement of Purpose.

It is the purpose of this Subchapter to permit wagering or betting upon exhibitions of the Spanish game of jai-alai, which exhibitions are to be conducted only by those licensed under this Subchapter and in accordance with the provisions hereof. This gambling activity is deemed by the General Assembly to be a lottery and permissible under the provisions of the Constitution of this State. It is the opinion of the General Assembly that permitting such gambling activity is in the best interest of the citizens of this State. It will raise funds for the State and the City of Wilmington, provide a recreational activity, create numerous job opportunities and will provide the State and political subdivisions thereof with other economic benefits. It is also the purpose of this Subchapter to exercise State control over all aspects of the operation of a jai-alai meeting in this State including but not limited to control over the conduct of the game of jai-alai, control over the conduct of the wagering or betting thereon and control over the conduct of any concessionaires providing food, beverages, parking or other goods and services on the premises where any such meeting is conducted.

§4821. Definitions.

As Used in this Subchapter.

- (1) "Commission" means the Delaware Jai-Alai Commission.
- (2) "Commissioner" means a member of the Delaware Jai-Alai Commission.

(3) "Director" means the person appointed by the Commission to supervise and regulate the Spanish game of jai-alai.

(4) "Fronton" means a building or enclosure in which the Spanish game of jai-alai is played for public exhibition.

(5) "Jai-Alai" means the Spanish ball game in which 2 or 4 players use a long curved wicker basket strapped to the wrist to catch and hurl a ball against the front wall of a 3-wall court in a manner intended to prevent the opponent from returning the ball before it has bounced more than once.

(6) "Licensee" means a person, firm partnership, joint venture, association or a corporation licensed under this Subchapter to conduct a jai-alai meeting with pari-mutuel betting or licensed to operate any concession providing food, beverages, parking or other goods and services on the premises where a jai-alai meeting is conducted.

(7) "Performances" means any program of jai-alai games for which separate admission is charged.

\$4822. Delaware Jai-Alai Commission, Composition; Appointment, Qualifications; Term Compensation, Vacancy.

(a) The Delaware Jai-Alai Commission shall consist of 3 members to be appointed by the Governor. One member shall be appointed for a term of 2 years, one member for a term of 4 years and one member for a term of six years, each term commencing no later than 60 days following the effective date of this Act. Upon the expiration of each initial term, the Commissioners shall be appointed for a term of six years.

(b) No more than two Commissioners shall be of the same political party. Two Commissioners shall be residents of New Castle County and one a resident of Kent or Sussex County.

(c) The Governor shall designate one Commissioner to be chairman.

(d) The salary of each Commissioner shall be \$1.00 per year. Commissioners shall be entitled to be paid their reasonable expenses for attending meetings of the Commission.

(e) Vacancies in the Commission shall be filled by the Governor for the unexpired term.

(f) No Commissioner shall hold political office in the government of this State or any political subdivision thereof either by election or appointment while serving as a Commissioner.

\$4823. Conflict of Interest.

No Commissioner or employee of the Commission or member of his immediate family shall directly or indirectly, individually or as a member of a firm, partnership, joint venture, association, or as a shareholder of a corporation, have any interest or employment whatsoever in the operation of a jai-alai meeting or in the ownership or leasing of any property, premises or concession used in connection with any jai-alai meeting, or be associated with a licensee in any respect whatsoever. A member of the immediate family is defined as a spouse, parent, child, child's spouse or issue of a child.

\$4824. Appointment of Director; Qualifications, Term Compensation, Duties.

(a) The Director shall be appointed by the Commission for a term of 5 years.

(b) The Director:

(1) Shall be a person qualified by administrative experience in the Spanish sport of jai-alai;

(2) Shall be a person of honesty and integrity and shall be able to pass a thorough background investigation prior to appointment;

(3) Shall not hold political office in the government of this State or any political subdivision thereof either by election or appointment while serving as Director nor for a period of two years prior to such appointment;

(4) Shall be a citizen of the United States, at least 30 years of age and become a resident of this State within 90 days of appointment; and

(5) Shall serve on a full-time basis and shall not be engaged in any other trade, occupation, business or profession.

(d) The Director shall receive such salary to be determined by the Commission not to exceed \$33,000 per year.

(e) As a condition of employment, the Director shall agree in writing that for a period of two years following the termination of his employment as Director:

(1) He will not accept a similar position or serve in a similar capacity in any State contiguous to Delaware; and

(2) He will not acquire or accept any interest in or become associated with any fronton or jai-alai operation in any State contiguous to Delaware.

(f) The Director shall, subject to the rules and regulations of the Commission, administer and coordinate the administrative functions of the Commission. The Commission may delegate to the Director such authority as it deems proper and appropriate for the efficient administration of the provisions of this Chapter.

\$4825. Office and Employees.

The Commission shall establish and maintain an office within this State and may appoint such officers, clerks, stenographers, inspectors and such other employees as it deems necessary, all of whom shall be fingerprinted before being employed. The Commission may employ Commission judges who shall be exempt from classified service. All persons employed pursuant to this Section, with the exception of judges, shall be residents of the State of Delaware at the time of and during the full term of their employment.

\$4826. Bonding of Employees

The Commission may, if it determines that it is necessary, require any of its employees to give bond in such amount as said Commission may determine. Every such bond when duly executed and approved shall be filed in the office of the Secretary of State. The cost of any such bond so given as aforesaid shall be part of the necessary expenses of the Commission.

\$4827. Powers and Duties of Delaware Jai-Alai Commission, Generally.

In addition to specific powers hereinafter granted, the Commission shall have power to enforce the provisions of this Subchapter, and shall make all necessary regulations for that purpose and for carrying out, enforcing and preventing the violation of any of the provisions of this Subchapter, for the inspection of licensed premises, for insuring proper, safe and orderly conduct of jai-alai meetings and for protecting the public against fraud or overcharge. It shall have power generally to do whatever is reasonably necessary for the carrying out of the intent of this Subchapter; and is empowered to call upon other administrative departments of the State government and of municipal governments, State and municipal police departments and prosecuting officers and the Attorney General for such information and assistance as it deems necessary to the performance of its duties.

§4828. Power to Administer Oaths and Take Testimony.

(a) The Commission in conducting any inquiry, investigation or hearing under the provisions of this Subchapter shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the Commission, the Commission or such agent having authority by law to issue such process may subpoena witnesses and require the production of records, papers and documents pertinent to such inquiry. Any member of the Commission, or any examiner or employee designated by it, may administer oaths to all witnesses who may be called before the Commission, any member thereof, or any examiner, as the case may be. Subpoenas issued by the Commission shall be signed by a member thereof or an examiner designated by it and attested by the secretary, and may be served by any sheriff, deputy sheriff, constable, or any employee of the Commission and return thereof made to the Commission.

(b) If a person subpoenaed to attend before the Commission, any member or examiner thereof, fails to obey the command of such subpoena without reasonable cause, or if a person in attendance before the Commission, any member or examiner thereof, refuses without lawful cause to be examined or to answer a legal or pertinent question, or to produce a book or paper when ordered to do so by the Commission, any member or examiner thereof, the Commission or any member thereof may apply to the Superior Court in and for the county where such hearing or investigation is being held or any Judge thereon in vacation, who shall have the power of the Court for such purpose, for an order returnable in not less than 2 nor more than 10 days, directing such person to show cause before the Court, or any Judge thereof in vacation, why he should not comply with the subpoena or order of the Commission. Upon the return of such order the Court or Judge, before whom the matter comes on for hearing, shall examine under oath the persons whose testimony may be relevant, and such person shall be given an opportunity to be heard, and if the Court or Judge determines that the person refused without legal excuse to obey the command of such subpoena or to be examined, or to answer a legal or pertinent question, or to produce a book or paper which he was ordered to produce, the Court or Judge may order such person to comply forthwith with the subpoena or order of the Commission, and any failure to obey such order of the Court or Judge may be punished by the Court or Judge as a contempt of the Superior Court.

(c) No person shall be excused from testifying or producing any book document or paper in any investigation or inquiry by or upon hearing before the Commission, or any member or examiner thereof, upon the ground that the testimony, evidence, book, document or paper required of such person may tend to

incriminate such person or subject such person to penalty, or forfeiture, but such evidence or the production of such records or papers so produced shall not be used in any criminal proceeding against him. No person so testifying shall be exempt from prosecution or punishment for any perjury committed by such person in his testimony. Nothing contained in this Section is intended to give, or shall be construed in any manner to give any corporation immunity of any kind.

**§4829. Regulations, Generally.**

Without limiting the Commissioner's power to adopt such other regulations as it sees fit pursuant to §4857, the Commission shall adopt regulations:

- (a) Prescribing the method and form of application for any license required by this Act. The regulations relating to the grant of a license to conduct a jai-alai meeting shall be adopted within 60 days of the formation of the Commission.
- (b) Prescribing the information to be furnished by any applicant or licensee concerning such person's antecedents, habits, character, associates, criminal record, business activities and financial affairs, past or present.
- (c) Requiring fingerprinting of an applicant or licensee or employee of a licensee or other methods of identification.
- (d) Prescribing the manner and procedure of all hearings conducted by the board or commission or any hearing examiner of the board or commission, including special rules of evidence applicable thereto and notices thereof.
- (e) Requiring any applicant to pay all or any part of the fees and costs of investigation of such applicant as may be determined by the Board.
- (f) Prescribing the manner and method of collection and payment of fees and issuance of licenses.
- (g) Requiring any applicant or licensee to waive any privilege with respect to any testimony at any hearing or meeting of the Board or Commission, except any privilege afforded by the constitutions of the United States or this State.

**§4830. Oath and Bond, Failure to Furnish.**

Before entering upon the discharge of the duties of his office, each Commissioner shall take an oath that he will well and faithfully execute all and singular the duties appertaining to this office according to the laws of this State

and the rules and regulations adopted by the Commissioner in accordance therewith. Each Commissioner shall give bond to the State with personal or corporate surety or sureties approved by the Governor in the penal sum of \$25,000 with the condition that he will well and faithfully execute and perform all and singular the duties appertaining to his office according to the laws of this State and the rules and regulations adopted in accordance therewith. Every bond, when duly executed and approved, shall be filed in the office of the Secretary of State and may be used as evidence in any Court of this State.

The Governor at all times, when, in his opinion, the surety or sureties of any Commissioner shall become or are likely to become invalid or insufficient shall demand and require the Commissioner forthwith to renew his bond to this State with surety or sureties to be approved by the Governor, in the penalty and according to the form prescribed in this Section. Any Commissioner who fails to take oath and give bond with surety or sureties as required by this Section, within 30 days of his appointment, or fails to renew his bond with surety or sureties within 30 days after the same has been demanded and required by the Governor shall be guilty of neglect of duty and shall be removable as provided in §4831 of this Subchapter.

**§4831. Removal of Commissioners from Office.**

The Governor shall remove any or all of the Commissioners for inefficiency, neglect of duty or misconduct in office, first giving to him a copy of the charges filed against him or them and an opportunity of being publicly heard in person or by counsel in his or their defense upon not less than 10 days written notice. If any of the Commissioners are removed from office, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the Commissioner and his findings thereof together with a complete record of the proceedings.

**§4832. Records.**

The Commission shall keep a record of all proceedings and preserve all books, blueprints, documents and papers belonging to the office of the Commission or entrusted to its care.

**§4833. Expenses; Deposit of Receipts.**

The expenses of the Commission shall be paid out of the appropriation made to the Commission by the General Assembly and not from other receipts and money received by the Commission. All receipts and money received by the Commission shall be reported and paid over to the Secretary of the Department of Finance.



\$4834. Annual Report.

The Commission shall make an annual fiscal year report to the Governor and the General Assembly on or before the 1st day of September in each year. The report shall include a statement of receipts and disbursements by the Commission and any additional information and recommendations which the Commission deems appropriate.

\$4835. License to Conduct Jai-Alai Meeting and Allied Concession.

(a) No person, firm, partnership, association or corporation shall hold or conduct any meeting within this State for the exhibition of the game of jai-alai with wagering thereon, for any stake, purse or reward, or operate any concession at such meeting, including but not limited to, food and beverage services, parking facilities, or other goods and services, without being licensed by the Commission. Any such licensee authorized to conduct a meeting with wagering thereon or to operate such a concession shall indemnify and save harmless the State of Delaware against any and all actions, claims, and demands of whatever kind or nature which the State may sustain or incur by reason or in consequence of issuing such license.

(b) Any license to conduct a jai-alai meeting with wagering thereon for any stake, purse or reward shall be limited solely to conducting such meeting within the corporate boundaries of The City of Wilmington.

\$4836. Application Requirements.

(a) Any person, firm, partnership, joint venture, association or corporation desiring to conduct a jai-alai meeting with wagering thereon within this State shall apply to the Commission for a license within 30 days after the adoption of provisions by the Commission of regulations pursuant to §4829 (a) on forms provided by the Commission.

(b) Such application shall specify:

(1) The dates for the operation of the jai-alai meeting to be applied for pursuant to §4869 if the license is issued;

(2) The blueprints and specifications of the fronton where the meeting is to be conducted; provided, however, that it shall not be necessary for the applicant to submit blueprints and specifications with the application if the jai-alai meeting for which a license is requested is to be conducted at a fronton for which the Commission granted a license for the preceding year.

(c) Any person, firm, partnership, joint venture, or corporation desiring to own or operate a concession, including but not limited to food and beverage services, parking facilities, or other goods and services at a jai-alai meeting with wagering thereon shall apply for a license to the Commission on forms provided by the Commission.

(d) Any applicant for a license must produce information, documentation and assurances concerning the following qualification criteria:

(1) Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the Commission or the division;

(2) Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity and reputation of all financial backers, investors, mortgagees, bond holders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the construction, financing and operation of a fronton and the conducting of a meeting for the exhibition of the game of jai-alai with wagering thereon. The reputation and integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever information, documentation or assurance which may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the fronton and the operation of the fronton;

(3) Each applicant shall produce such information, documentation and assurances of good character as may be required to establish by clear and convincing evidence the applicant's good reputation for honesty and integrity. Such information shall include, without limitation, information pertaining to family, habits, character, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the ten-year period immediately preceding the filing of the application. Each applicant shall notify the Commission of any civil judgements obtained against any such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other State,

jurisdiction, province or country. In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and his gaming operation; provided, however, that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming enforcement or control agency.

(4) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and expertise as to jai-alai operation. The applicant shall produce the names of all proposed key jai-alai employees as they become known and a description of their respective or proposed responsibilities, and a full description of security systems and management controls proposed for the fronton and related facilities.

\$4837. Application, Individuals, Partnerships, Firms or Associations.

As to applications filed by individuals, partnerships, firms or associations, the application shall specify as to each individual, partner, member of firm or associate:

- (1) His name and address;
- (2) All addresses at which he has resided for ten years previous to the application;
- (3) His profession or occupation;
- (4) The name and address of all businesses in which he has an interest;
- (5) His criminal record, if any;
- (6) A financial statement listing all assets, liabilities and sources of income;
- (7) His fingerprints.

**\$4838. Licensing of Corporation.**

In addition to the requirements of this Subchapter, a corporation applying for or holding a license from the Commission shall comply with the additional requirements hereinafter stated in Sections 4839 through 4862.

**\$4839. "Director" Defined.**

"Director" means any director of a corporation or any person performing similar functions with respect to any organization.

**\$4840. "Equity Security" Defined.**

"Equity security" means:

- (1) Any voting stock of a corporation, or similar security;
- (2) Any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security;
- (3) Any such warrant or right; or
- (4) Any security having a direct or indirect participation in the profits of the issuer.

**\$4841. "Holding Company" Defined.**

(a) "Holding company" means any corporation, firm, partnership, trust or other form of business organization not a natural person which, directly or indirectly:

- (1) Owns;
- (2) Has the power or right to control; or
- (3) Holds with power to vote, all or any part of the outstanding voting securities of a corporation which holds or applies for a State jai-alai or concession license.

(b) For the purposes of this Section, in addition to any other reasonable meaning of the words used, a holding company "indirectly" has, holds or owns any power, right or security mentioned in subsection (a) if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the corporate licensee or applicant.

\$4842. "Intermediary Company" Defined.

"Intermediary company" means any corporation, firm, partnership, trust or other form of business organization other than a natural person which:

(1) Is a holding company with respect to a corporation which holds or applies for a state gaming license; and

(2) Is a subsidiary with respect to any holding company.

\$4843. "Publicly Traded Corporation" Defined.

"Publicly traded corporation" means any corporation or other legal entity except a natural person which:

(1) Has one or more classes of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, as amended; or

(2) Is an issuer subject to section 15 (d) of the Securities Exchange Act of 1934, as amended.

\$4844. "Subsidiary" Defined.

"Subsidiary" means:

(a) Any corporation all or any part of whose outstanding equity securities are:

(1) Owned;

(2) Subject to a power or right of control; or

(3) Held with power to vote, by a holding company or intermediary company; or

(b) Any firm, partnership, trust or other form of business organization not a natural person, all or any interest in which is:

(1) Owned;

(2) Subject to a power or right of control; or

(3) Held with power to vote, by a holding company or intermediary company.

\$4845. State Policy Concerning Issuance of Gaming Licenses to Corporation; Waiver of Requirements.

(a) The policy of the State of Delaware with respect to the issuance of State gaming licenses to corporations is:

(1) To broaden the opportunity for investment in gaming through the pooling of capital in corporate form;

(2) To maintain effective control over the conduct of gaming by corporate licensees;

(3) To restrain any speculative promotion of the stock or other securities of gaming enterprises.

(b) The Commission may waive, either selectively or by general regulation, one or more of the requirements of \$4846 to \$4862, inclusive, if it makes a written finding that such waiver is consistent with the State policy set forth in this Subchapter.

\$4846. Qualification of Corporation for Receipt of State Gaming License.

In order to be eligible to receive a jai-alai or concession license, a corporation shall:

(1) Be incorporated:

(a) In the State of Delaware, although such corporation may be a wholly or partly owned subsidiary of a corporation which is chartered in another State of the United States; or

(b) In another State of the United States, if all persons having any direct or indirect interest of any nature in such corporation are licensed as required by \$4849 and any applicable regulations of the Commission.

(2) Maintain an office of the corporation on the licensed premises.

(3) Comply with all of the requirements of the laws of the State of Delaware pertaining to corporations; and

(4) Maintain a ledger in the principal office of the corporation in Delaware, which shall:

(a) At all times reflect the ownership of every class of security issued by the corporation; and

(b) Be available for inspection by the Commission and its authorized agents, at all reasonable times without notice.

\$4847. Disposition of Securities by Corporate Licensee Ineffective Without Advance Commission Approval; Restrictions on Security Ownership; Contents of Certificates.

(1) The sale, assignment, transfer, pledge or other disposition of any security issued by a corporation which holds a State license is ineffective unless approved in advance by the Commission.

(2) If at any time the Commission finds that an individual owner of any such security is unsuitable to continue as a jai-alai or concession licensee in this State, such owner shall immediately offer such security to the issuing corporation for purchase. The corporation shall purchase the security so offered, for cash at fair market value, within 10 days after the date of the offer.

(3) Beginning upon the date when the Commission serves notice of a determination of unsuitability pursuant to subsection 2 upon the corporation, it is unlawful for the unsuitable owner:

(a) To receive any dividend or interest upon any such security;

(b) To exercise, directly or through any trustee or nominee, any voting right conferred by such security; or

(c) To receive any remuneration in any form from the corporation, for services rendered or otherwise.

(4) Every security issued by a corporation which holds a jai-alai or concession license shall bear a statement, on both sides of the certificate evidencing such security, of the restrictions imposed by this section.

\$4848. Registration of Corporation with Commission; Required Information.

The corporation which applies for a State jai-alai or concession license shall register as a corporation with the Commission and shall provide the following information to the Commission:

(1) The organization, financial structure and nature of the business to be operated, including the names, personal history and fingerprints of all officers, directors and key employees, and the names, addresses and number of shares held by all stockholders;

(2) The rights and privileges acquired by the holders of different classes of authorized securities, including debentures;

(3) The terms on which securities are to be offered;

(4) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security device;

(5) The extent of the equity security holding in the corporation of all officers, directors and underwriters, and their remuneration as compensation for services, in the form of salary, wages, fees or otherwise;

(6) Remuneration to persons other than directors and officers exceeding \$30,000 per annum;

(7) Bonus and profit-sharing arrangements;

(8) Management and service contracts;

(9) Options existing, or to be created;

(10) Balance sheets for at least the 3 preceding fiscal years, or, if the corporation has not been incorporated for a period of 3 years, balance sheets from the time of its incorporation. All balance sheets shall be certified by independent public accountants certified or registered in the State of Delaware;

(11) Profit and loss statements for at least the 3 preceding fiscal years, or, if the corporation has not been incorporated for a period of 3 years profit and loss statements from the time of its incorporation. All profit and loss statements shall be certified by independent public accountants certified or registered in the State of Delaware;

(12) Any further financial data which the Commission may deem necessary or appropriate for the protection of the State of Delaware, or the sport of jai-alai, or both.

\$4849. Individual Licensing of Corporate Officers, Directors, Other Persons.

All officers and directors of the corporation which holds or applies for a State jai-alai or concession license must be licensed individually according to the provisions of this Subchapter, and if, in the judgment of the Commission, the public interest will be served by requiring any or all of the corporation's individual stockholders, lenders, holders of evidence of indebtedness,



underwriters, key executives, agents or employees to be licensed, the corporation shall require such persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires such licensing.

**\$4850. Limitation on Certain Corporate Powers After Licensing; Commission Approval.**

(1) After licensing pursuant to §4849, but before the corporation may issue or transfer any security to any person, it shall file a report of its proposed action with the Commission, which report shall request the approval of the Commission. The Commission shall have 90 days within which to approve or deny the request. If the Commission denies the request, the corporation shall not issue or transfer any such security.

(2) After licensing pursuant to §4849, the corporation shall file a report of each change of the corporate officers and the members of its board of directors with the Board and Commission. The Commission shall have 90 days within which to approve or disapprove such change. During such 90-day period and thereafter if the Commission does not disapprove the change, such officer or member of the Board of Directors shall be entitled to exercise all powers of the office to which he was so elected or appointed.

**\$4851. Reports, Statements to be Furnished by Corporate Licensee.**

(1) After licensing pursuant to §4849, the corporation shall:

(a) Report to the Commission in writing any change in corporate personnel who have been designated by the Commission as key executives;

(b) Furnish the Commission an annual profit and loss statement and an annual balance sheet.

(2) The Commission may require that any such corporation furnish it with a copy of its federal income tax return within 30 days after such return is filed with the Federal Government.

**\$4852. Termination of Employment of Unsuitable Key Executives; Licensing of Successors.**

(1) If the Commission finds any key executive of a corporation which holds a state gaming license unsuitable to hold a gaming license in the State of Delaware, the corporation shall, within 30 days of notification by registered or certified United States mail to the corporation of such finding, terminate the appointment or employment of any such unsuitable person;

(2) If the corporation names a person to replace the person found unsuitable, it shall promptly notify the Commission of such action and shall cause such person to apply for a jai-alai or concession license in the event his predecessor had such a license.

\$4853. Applicability of \$4854 to \$4857 to Holding, Intermediary Company; Exempted Publicly Traded Corporation.

\$4854 to \$4857, inclusive apply to every holding company or intermediary company except a publicly traded corporation which has been exempted from the operation of all or some of the provisions of such sections pursuant to \$4858.

\$4854. Duties of Holding, Intermediary Company When Corporation Applying for, Holding License is or Becomes Subsidiary; Investigations; Unsuitable Persons; Securities.

(1) If the corporation applying for or holding a license is or becomes a subsidiary, each holding company and each intermediary company with respect thereto must:

(a) Qualify to do business in the State of Delaware;

(b) If it is a corporation, register with the Commission and furnish the Commission:

(1) A complete list of all stockholders when it first registers, and annually thereafter, within 30 days after the annual meeting of the stockholders of the corporation, showing the number of shares held by each;

(2) The names of all corporate officers within 30 days of their appointment;

(3) The names of all members of the board of Directors within 30 days of their election.

(c) If it is a firm, partnership, trust or other form of business organization, it must register with the Commission and furnish it such analogous information as the Commission may prescribe.

(2) The Commission may in its discretion make such investigations concerning the officers, directors, underwriters, security holders, partners, principals, trustees or direct or beneficial owners of any interest in any holding company or intermediary company as it deems necessary, either at the time of initial registration or at any time thereafter.

(3) If at any time the Commission finds that any person owning, controlling or holding with power to vote all or any part of any class of security of, or any interest in, any holding company or intermediary company is unsuitable to be connected with a licensed enterprise, it shall so notify such unsuitable person, the holding company or intermediary company, or both. Such unsuitable person shall immediately offer such security to the issuing corporation, or such interest to the firm, partnership, trust or other business organization, for purchase. The corporation shall purchase the security so offered, or the firm, partnership, trust or other business organization shall purchase the interest so offered, for cash at fair market value within 10 days after the date of the offer.

(4) Beginning upon the date when the Commission serves notice of a determination of unsuitability pursuant to subsection 3, it is unlawful for the unsuitable person:

(a) To receive any dividend or interest upon any such securities, or any dividend, payment or distribution of any kind from any holding company or intermediary company;

(b) To exercise, directly or indirectly or through any proxy, trustee or nominee, any voting right conferred by such securities or interest; or

(c) To receive any remuneration in any form from the corporate gaming licensee, or from any holding company or intermediary company with respect thereto, for services rendered or otherwise.

(5) Every security issued by a holding company or intermediary company which directly or indirectly:

(a) Owns;

(b) Has the power or right to control; or

(c) Holds with power to vote, all or any part of the outstanding equity securities of a corporate jai-alai or concession licensee shall bear a statement, on both sides of the certificate evidencing such security, of the restrictions imposed by this section.

(6) A holding company or intermediary company subject to subsection 1 shall not make any public offering of any of its securities unless such public offering has been approved by the Commission.

(7) The Commission may, at any time and from time to time, by general regulation or selectively impose on any holding company or intermediary company any requirement not inconsistent with law which it may deem necessary in the public interest. Without limiting the generality of the preceding sentence, any such requirement may deal with the same subject matter as, but be more stringent than the requirements imposed by §4839 to §4857, inclusive.

§4855. Suitability, Licensing of Certain Officers, Employees of Holding, Intermediary Company; Suspension of Suitability, License by Commission.

(1) Each officer, employee, director, partner, principal, trustee or direct or beneficial owner of any interest in any holding company or intermediary company, who the Commission determines is, or is to become, engaged in the administration or supervision of, or any other involvement with, the licensed activities of a corporate licensee, must be found suitable therefor and may be required to be licensed by the Commission, prior to such engagement.

(2) If any officer, employee, director, partner, principal, trustee or direct or beneficial owner required to be found suitable pursuant to subsection 1 fails to apply for a jai-alai or concession license within 30 days after being requested so to do by the Commission, or is not found suitable by the Commission, or his suitability or license is rescinded after such finding by the Commission, the holding company or intermediary company, or both, shall immediately remove such officer, employee, director, partner, principal, trustee or owner from any position wherein he is engaged in the administration or supervision of, or any other involvement with, the licensed activities of a corporate licensee. If the Commission suspends the suitability or license of any such officer, employee, director, partner, principal trustee or owner, the holding company or intermediary company, or both, shall, immediately and for the duration of such suspension, suspend such person from performing any duties wherein he is engaged in administration or supervision of the jai-alai or concession activities of the corporate licensee and from any other involvement therewith.

§4856. Information to be Furnished Commission when Corporation Applying for, Holding License is or Becomes Subsidiary

If the corporation applying for or holding a license is or becomes a subsidiary, each holding company and intermediary company shall furnish the Commission the following information:

(1) The organization, financial structure and nature of the business it operates;

(2) The terms, position, rights and privileges of the different classes of securities outstanding;

(3) The terms on which its securities are to be, and during the preceding 3 years have been, offered to the public or otherwise;

(4) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security device pertaining to the corporate jai-alai or concession licensee;

(5) The extent of the security holding or other interest in the holding company or intermediary company of all officers, employees, directors, underwriters, partners, principals, trustees or any direct or beneficial owner, and any remuneration as compensation for their services, in the form of salary, wages, fees or by contract, pertaining to the corporate jai-alai or concession licensee;

(6) Remuneration to others than directors and officers exceeding \$40,000 per annum;

(7) Bonus and profit-sharing arrangements;

(8) Management and service contracts;

(9) Options existing or to be created in respect of their securities or other interests;

(10) Balance sheets, certified by independent certified public accountants, for not more than the 3 preceding fiscal years, if the holding company or intermediary company has not been in existence more than 3 years, balance sheets from the time of its establishment;

(11) Profit and loss statements, certified by independent certified public accountants, for not more than the 3 preceding fiscal years, or, if the holding company or intermediary company has not been in existence more than 3 years, profit and loss statements from the time of its establishment.

(12) Any further financial statements which the Commission may deem necessary or appropriate for the protection of the State of Delaware;

(13) An annual profit and loss statement and an annual balance sheet, and a copy of its annual federal income tax return, within 30 days after such return is filed with the Federal Government.

**\$4857 Disciplinary Action by Commission for Noncompliance by Corporate Licensee, Holding, Intermediary Company.**

If any corporate licensee, or if any holding company or intermediary company with respect thereto, does not comply with the laws of the State of Delaware and the regulations of the Commission, the Commission may, in its discretion, do any one, all or a combination of the following:

(1) Revoke, limit, condition or suspend the jai-alai or concession license of the corporate licensee; or

(2) Fine the persons involved, or the corporate licensee, or such holding company or intermediary company, in accordance with the laws of the State of Delaware and the regulations of the Commission.

**\$4858. Exemption of Publicly Traded Corporations from Compliance with Certain Provisions; Compliance with \$4859 to \$4862.**

Unless the Commission deems it necessary and appropriate for the protection of the State, licensed gambling, or both, the Commission shall exempt publicly traded corporations from compliance with:

(1) the provisions of subsection (4) of \$4847;

(2) all of the provisions of \$4854, \$4855, and \$4856.

Such corporations shall comply instead with the provisions of \$4859 through \$4862.

**\$4859. Duties of a Publicly Traded Corporation When Corporation Applying for, Holding State Jai-Alai or Concession License is or Becomes Owned in Whole or in Part or Controlled by such Publicly Traded Corporation; Investigations.**

(1) If a corporation applying for or holding a State Jai-Alai or concession license is or becomes owned in whole or in part or controlled by a publicly traded corporation, such publicly traded corporation must:

(a) Maintain a ledger in the principal office of its subsidiary which is licensed to conduct jai-alai or concessions in the State of Delaware, and which shall:

(1) Reflect the ownership of record of each outstanding share of any class of equity security issued by the publicly traded corporation. The ledger may initially consist of a copy of its latest list of equity security holders and thereafter be maintained by adding a copy of such material as it regularly receives from the transfer agent for its equity securities of any class which are outstanding.

(2) Be available for inspection by the Commission and its authorized agents at all reasonable times without notice;

(b) Register with the Commission and provide the following information:

(1) The organization, financial structure and nature of the business of the publicly traded corporation, including the names of all officers, directors and any employees actively and directly engaged in the administration and supervision of the activities of the corporate jai-alai or concession licensee, and the names, addresses and number of shares held of record by holders of its equity securities;

(2) The rights and privileges accorded the holders of different classes of its authorized equity securities;

(3) The terms on which its equity securities are to be, and during the preceding 3 years have been offered by the corporation to the public or otherwise initially issued by it;

(4) The terms and conditions of all its outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security device, directly relating to the jai-alai or concession activities of the corporate licensee;

(5) The extent of the equity security holdings of record in the publicly traded corporation of all officers, directors, underwriters and persons owning of record equity securities of any class of the publicly traded corporation, and any payment received by any such person from the publicly traded corporation for each of its 3 preceding fiscal years for any reason whatsoever;

(6) Remuneration exceeding \$40,000 per annum to persons other than directors and officers who are actively and directly engaged in administration or supervision of the jai-alai or concession activities of the corporate jai-alai or concession licensee;

(7) Bonus and profit-sharing arrangements of the publicly traded corporation directly or indirectly relating to the jai-alai or concession activities of the corporate jai-alai or concession licensee;

(8) Management and service contracts of the publicly traded corporation directly or indirectly relating to the jai-alai or concession activities of the corporate jai-alai or concession licensee;

(9) Options existing or from time to time created in respect of its equity securities;

(10) Balance sheets, certified by independent public accountants, for at least the 3 preceding fiscal years, or if the publicly traded corporation has not been incorporated for a period of 3 years, balance sheets from the time of its incorporation. These balance sheets may be those filed by it with or furnished by it to the Securities and Exchange Commission;

(11) Profit and loss statements, certified by independent certified public accountants, for at least 3 preceding fiscal years, or, if the publicly traded corporation has not been incorporated for a period of 3 years, profit and loss statements from the time of its incorporation. These profit and loss statements may be those filed by it with or furnished by it to the Securities and Exchange Commission;

(12) Any further information within the knowledge or control of the publicly traded corporation which either Commission may deem necessary or appropriate for the protection of the State of Delaware, or licensed gambling, or both. The Commission may in its discretion make such investigation of the publicly traded corporation or any of its officers, directors, security holders or other persons associated therewith as it deems necessary.

(2) If the publicly traded corporation is a foreign corporation, it must also qualify to do business in the State of Delaware.

(3) The Commission may, at any time and from time to time, by general regulation or selectively impose on any publicly traded corporation any requirement not inconsistent with law which it may deem necessary in the public interest. Without limiting the generality of the preceding sentence, any such requirement may deal with the same subject matter as, but be more stringent than, the requirements imposed by §4839 to §4862, inclusive.

§4860. Suitability, Licensing of Officers, Employees of Publicly Traded Corporation; Rescission of Suitability, License by Commission.

(1) Each officer and employee of a publicly traded corporation, who the Commission determines is, or is to become, actively and directly engaged in the administration or supervision



of the gaming activities of the corporate jai-alai or concession licensee must be found suitable therefor and may be required to be licensed by the Commission.

(2) If any such officer or employee of a publicly traded corporation required to be found suitable individually pursuant to subsection 1 fails to apply for such jai-alai or concession license within 30 days after being requested to do so by the Commission, or is not found suitable by the Commission, or his suitability or license is rescinded after such finding by the Commission, the publicly traded corporation shall immediately remove such officer or employee from any office or position wherein he is actively and directly engaged in the administration or supervision of the jai-alai or concession activities of the corporate licensee. If the Commission suspends the suitability of any officer or employee, the publicly traded corporation shall, immediately and for the duration of such suspension, suspend such officers or employees from the performance of any duties wherein they are actively and directly engaged in administration or supervision of the jai-alai or concession activities of the corporate licensee.

§4861. Duties of Publicly Traded Corporation after Registration.

After the publicly traded corporation has registered pursuant to this Subchapter, and while the subsidiary holds a jai-alai or concession license, the publicly traded corporation shall:

(1) Report promptly to the Commission in writing any change in its officers, directors or employees who are actively and directly engaged in the Administration or supervision of the jai-alai or concession activities of the corporate jai-alai or concession licensee;

(2) Each year furnish to the Commission a profit and loss statement and a balance sheet of the publicly traded corporation as of the end of such year, and, upon request of the Commission therefor, a copy of the publicly traded corporation's federal income tax return within 30 days after such return is filed with the Federal Government. All such profit and loss statements and balance sheets shall be submitted within 120 days after the close of the fiscal year to which they relate, and may be those filed by the publicly traded corporation with or furnished by it to the Securities and Exchange Commission;

(3) Report promptly to the Commission in writing any changes in ownership of record of its equity securities which indicate that any person has become the owner of record of more than 10 percent of its outstanding equity securities of any class;

(4) Upon request of the Commission furnish to it a copy of any document filed by the publicly traded corporation with the Securities and Exchange Commission or with any national or regional securities exchange to be confidential in nature, or furnished by it to any of its equity security holders of any class.

**\$4862. Disciplinary Action by Commission for Noncompliance by Corporate Licensee, Publicly Traded Corporation.**

If any corporate licensee owned or controlled by a publicly traded corporation subject to the provisions of this Subchapter, or such publicly traded corporation, does not comply with the laws of the State of Delaware and the regulations of the Commission, the Commission may in its discretion do any one, all or a combination of the following:

(1) Revoke, limit, condition or suspend the jai-alai or concession license of the corporate licensee; or

(2) Fine the persons involved, the corporate licensee or the publicly traded corporation in accordance with the laws of the State of Delaware and the regulations of the Commission.

**\$4863. Limited Partnerships, Business Trust, Association of a Quasi-Corporate Character.**

No general or limited partnership, business trust or organization or other association of a quasi-corporate character shall be eligible to receive or hold any license under this Subchapter unless all persons having any direct or indirect interest therein of any nature whatsoever, whether financial, administrative, policymaking or supervisory, are individually qualified to be licensed under the provisions of this Subchapter.

**\$4864. Investigation of Applicant.**

(a) The Commission shall investigate each applicant to determine its financial standing and credit, moral character, expertise in conducting exhibitions of the game of jai-alai, experience in managing pari-mutuel wagering, experience in managing any concession, the criminal record, if any, of the individual applicants, and, as to corporations, the criminal record, if any, of the corporation itself, its directors, officers, and shareholders as disclosed in its application and any other matters which the Commission deems pertinent to the issuance of a license.

(b) The blueprints and specifications submitted with the application pursuant to §4836 (b) (2) shall be subject to

the approval of the Commission which, at the expense of the applicant, may order such engineering examination thereof as to the Commission deems necessary. The erection, construction and safety of the fronton of any applicant for a license to conduct a jai-alai meeting under this Subchapter shall be subject to the reasonable inspection of the Commission which may order such engineering examination as it deems necessary at the expense of the applicant, and may employ such inspectors as it considers necessary for that purpose. Any fronton shall be constructed, operated and maintained in conformity with all applicable local laws, codes and regulations.

**\$4865. Prohibited Licensees.**

(a) No license shall be issued to any applicant, who has been convicted of a crime which is a felony under the laws of the State of Delaware, under the laws of the United States of America or under the laws of the jurisdiction where such conviction occurred; nor shall a license be issued to any applicant who has been convicted of any offense against the gambling laws of any jurisdiction or of any offense involving moral turpitude.

(b) No license shall be issued to any corporate applicant who has been convicted of a crime as specified in subsection (a) hereof or to any corporate applicant having an officer, director, or any corporation not publicly traded having a shareholder, as disclosed pursuant to §4848, who has been convicted of a crime as specified in subsection (a) hereof.

**\$4866. Public Hearing on License Application**

After the completion of the Commission's investigation pursuant to §4864, the Commission shall hold a public hearing on any application to conduct a jai-alai meeting notice of which hearing shall be published at least 7 days before the hearing in a newspaper of general circulation in New Castle County.

**\$4867. Denial of License.**

The Commission may reject any application for a license for good cause which it deems sufficient.

**\$4868. Issuance of License.**

(a) The Commission shall issue a license to conduct a jai-alai meeting or operate a concession to an applicant who has satisfied the requirements of this subchapter where the Commission has found, in its discretion, that said applicant possesses the technical and financial ability to conduct a jai-alai meeting of the highest quality; that the issuance of said license will serve the public convenience and necessity and is in the best interest of the State of Delaware.

(b) The Commission shall make its order, either recommending approval or denial of an application no longer than 90 days after the application and supporting data are completed and filed with the Commission. In the event denial of an application is recommended, the Commission shall prepare and issue its written reasons upon which its order is based.

**\$4869. Award of Dates.**

(a) On or before the first day of May a licensee shall apply to the Commission for an award of dates for performance for the twelve month period commencing on the following September 1st.

(b) On or before the first day of June the Commission shall award dates for not less than 250 nor more than 255 performances during the twelve month period commencing on the following September 1st.

(c) The action of the Commission shall be final.

**\$4870. Application Fee; License Fee; Performance for Charity.**

Any person upon applying to the Commission for a license to conduct a jai-alai meeting or for an award of dates shall at the time of making the application pay to the Secretary of the Department of Finance a fee of \$500.

Any person who is granted a license or a licensee who is awarded dates by the Commission shall at the time the license is granted or award made pay to the Secretary of the Department of Finance an additional fee of \$250.

**\$4871. Award of Dates for Charitable Performances.**

The Commission, upon joint application of the licensee and a Delaware charitable organization qualified as such under Section 501 (c) (3) of the Internal Revenue Code of 1954, may award in any year not more than five additional performances the net proceeds of which shall accrue to the charitable organization receiving such approval from the Commission. Net proceeds shall be defined as all taxes otherwise collected under \$4884 and all licensee's commissions authorized under \$4885.

**\$4872. Non-Assignability of License.**

No license or any interest therein or any interest in any licensee shall be assignable or otherwise transferable without prior written consent of the Commission. A transferee or assignee shall satisfy all of the requirements of the Subchapter for licensing.

§4873. Regulation Concerning Operation of Jai-Alai Meeting,  
Fines, Suspension, Revocation of License.

(a) The Commission shall adopt regulations governing the operation of a jai-alai meeting, including the regulation of betting in connection therewith, to insure the integrity and security of the conduct of meetings held pursuant to this Subchapter. Such regulations shall include provision for the imposition of fines, suspension or revocation of licenses for violations thereof.

(b) The Commission shall have the authority to impose a fine of up to five thousand dollars for any violation of such regulation; the players' manager of a jai-alai meeting acting in accordance with such regulations if authorized by the Commission shall have the authority to impose a fine of up to two hundred and fifty dollars or impose a suspension of up to 15 days upon any player who violates such regulations. All fines imposed pursuant to this section shall be paid over to the general fund upon receipt by the Commission. A player fined or suspended by the players' manager, shall have a right of appeal to the Commission and for a hearing before the Commission. Any person, firm, partnership, association or corporation fined or suspended by the Commission shall have a right of appeal to the Superior Court of the State of Delaware in and for New Castle County. The action of the Commission shall stand unless and until reversed by the Court.

(c) The Commission may compel the production of any and all books, memoranda or documents showing the receipts and disbursements of any person licensed to conduct jai-alai meetings with wagering thereon.

(d) The Commission shall have the power to require that the books and financial or other statements of any person, firm, partnership, corporation or association licensed under the provisions of this Subchapter shall be kept in any manner which the Commission may deem best, and the Commission shall also be authorized to visit, to investigate and to place expert accountants and such other persons as it may deem necessary, in the corporation or association, for the purpose of satisfying itself that the Commission's regulations are strictly complied with.

(e) The Commission may at any time for good cause require the removal of any employee or official employed by any licensee hereunder.

(f) Any license granted under the provisions of this Subchapter shall be subject to the regulations set forth by the Commission, and shall be subject to suspension or revocation for good cause, after giving the licensee a reasonable opportunity for a hearing at which he shall have the right to be represented

by counsel. If any license is suspended or revoked, said Commission shall state the reasons for such suspension or revocation and cause an entry of such reasons to be made on the record books of the Commission. Any licensee aggrieved by the action of the Commission may appeal therefrom to the Superior Court of the State of Delaware in and for New Castle County within thirty days of the final decision of the Commission.

**\$4874. Inspection of Fronton Prior to Meet.**

No less than 5 days prior to the opening of any jai-alai meeting authorized by the Commission, the Commission, at the expense of the licensee, shall cause to be made an inspection of the fronton where the jai-alai meeting is to be held.

**\$4875. Rates or Charges; Rules, Regulations and Special Powers of Commission.**

(a) The rate of charge by a licensee for admission, or for the performance or any service, or the sale of any article on the premises of a licensee shall be subject to the approval of the Commission.

(b) All proposed extension, additions, or improvements to the fronton owned or leased by a licensee under this Chapter shall be subject to the approval of the Commission.

**\$4876. Licensee's Annual Financial Statement.**

Every licensee shall file with the Department of Finance not later than 4 months after the close of its fiscal year a statement, duly certified by an independent public accountant, of its receipts from all sources whatsoever during the fiscal year and of all expenses and disbursements, itemized in the manner and form directed by the Department of Finance, showing the net revenue from all sources derived by the licensee during the fiscal year covered by such statement.

**\$4877. Liability Insurance of Licensee.**

Ten days before any jai-alai meetings may be held under this Subchapter the licensee shall deposit with the Commission a policy of insurance against personal injury liability which may be sustained at the fronton. The insurance shall be in an amount approved by the Commission, with premium prepaid.

**\$4878. Limitation on Compensation that may be Paid by Licensee.**

No salary, fee or compensation exceeding the sum of \$2,000 shall be paid in any calendar year by any person licensed under this Subchapter, except to officials, employees, or others actively engaged in the operations incident to the holding of the jai-alai meeting or in the maintenance and administration of the fronton.

**\$4879. Enforcement.**

All officers of the law shall cooperate with the Commission for the proper enforcement of this Subchapter.

**\$4880. Aiding or Abetting an Unlicensed Meet; Penalty.**

Whoever aids in the conduct of any jai-alai meeting within this State upon which wagering or betting is conducted as provided in this Subchapter except in accordance with a license duly issued and unsuspended or unrevoked by the Commission, shall be fined not less than \$500 and not more than \$10,000, or imprisoned for two years, or both, for each day of such unauthorized meeting.

**\$4881. Failure of Licensee to Pay Tax; Penalty.**

(a) Whoever, being a licensee, fails or refuses to pay any tax as provided in this Subchapter shall be fined not more than \$25,000 in addition to the amount due.

(b) All fines up to the amount found to be due the Department of Finance and paid into Court by a licensee found guilty of violating this section, shall be paid to the Department of Finance.

**\$4882. Jurisdiction in Superior Court.**

The Superior Court of the State of Delaware in and for New Castle County shall have exclusive jurisdiction of violations of \$4880 and 4881.

**\$4883. Pari-Mutuel Betting.**

(a) At exhibitions of the game of jai-alai licensed under the provisions of this Subchapter, the licensee shall be permitted to conduct betting or wagering under a pari-mutuel system, so called, including standard pari-mutuel, daily double, exacta, guinella, trifecta and superfecta betting, and such other forms of multiple betting or wagering as the Commission may determine.

(b) The pari-mutuel system, so called, shall not be used or permitted at any location other than the fronton at which the game of jai-alai is licensed to be played.

(c) No licensee shall knowingly permit a minor to be a patron of the pari-mutuel system.

**\$4884. Tax on Pari-Mutuel and Totalizator Pools; Special Fund.**

Every person engaged in the business of conducting a jai-alai meeting under this Subchapter shall pay as a tax a

percentage of the total contributions to all pari-mutuel and totalizator pools conducted or made on each day of the jai-alai meeting at any and every fronton licensed under this Subchapter and on all performances that day at such fronton as follows:

(1) Three-fourths of one percent to the City of Wilmington.

(2) Five percent to this State, plus one-half of the odd cents of all redistributions to be made on pari-mutuel and 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.

The tax shall be computed daily and shall be paid by certified check to the Secretary of the Department of Finance by the close of the next banking day after each day's jai-alai exhibition and any tax not paid upon demand of the Commission shall bear interest at the rate of one percent per month from the time of the delinquency. Failure to pay any such tax upon demand shall be cause for revocation of license.

**\$4885. Licensee's Commissions on Pari-Mutuel and Totalizator Pools.**

The Commission shall authorize as commissions on pari-mutuel and totalizator pools to the licensee operating a jai-alai meeting under this Subchapter, twelve and one-fourth percent of the total daily contributions to all pari-mutuel and totalizator pools conducted or made at the jai-alai meeting and at every performance at the meeting, plus 1/2 of the odd cents of all redistributions to be made on all pari-mutuel and 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.

**\$4886. Tax on Admissions; Inspection of Licensee's Records.**

(a) Every person licensed to hold a jai-alai meeting under this Subchapter shall pay a tax of 20 cents on each admission to any performance excepting admissions of persons performing any duty or work in connection with the holding of the jai-alai meeting. Ten cents of each admission tax shall be paid to the Department of Finance, and ten cents of each admission tax shall be paid to the City of Wilmington. The licensee may collect such amount from each ticket holder in addition to the amount charged for the ticket of admission.

(b) Accurate records and books shall at all times be kept and maintained by the licensee showing the number of admissions and employees of the licensee on each jai-alai meeting. The Department of Finance, or its duly authorized representative, shall at all reasonable times have access to the admission records



of any licensee for the purpose of examining and checking the same and ascertaining whether or not the proper amount has been, or is being, paid the State. The Department of Finance may also, from time to time, require sworn statements of the number of numbers of such admissions and prescribe plans upon which the reports shall be made.

\$4887. Deduction of Federal Taxes from Total of Contributions.

For the purpose of making any of the calculations of amounts payable to the State and to the licensee under \$4884 and \$4885 of this title, no federal taxes, if any, shall be deducted from the amount of total contributions before applying the percentage specified in those sections.

\$4888. Taxes Due City of Wilmington.

All taxes due and payable to the City of Wilmington, if any, under this Subchapter shall be transmitted by the licensee to the Secretary of the Department of Finance who shall deposit the same in a special account entitled "City of Wilmington Jai-Alai Tax Account." Within 14 days following the week for which the tax is due, the Secretary of the Department of Finance shall transfer and deliver all moneys in said account to the City of Wilmington.

\$4889. Disposition of Moneys for Unclaimed Pari-Mutuel Tickets.

All sums held by any licensee for payment of outstanding pari-mutuel tickets not claimed by the person or persons entitled thereto within a period of 1 year following the last day of the meet shall be paid by certified check to the Secretary of the Department of Finance.

\$4890. Regulation of Pari-Mutuel Betting.

(a) The Commission shall devise a system of accounting and shall supervise betting at such fronton in such manner that the rights of the State are protected and shall collect all fees and licenses under such regulations as it shall prescribe.

(b) The Commission may authorize members of the Commission or duly authorized agents of the Department of Finance to enter upon the premises of the jai-alai exhibition for the purpose of inspecting books and records, supervising and examining cashiers, ticket sellers, pool sellers and other persons handling money at said event and such other supervision as may be necessary for the maintenance of order at such event.

\$4891. Annual Audit of Licensee.

The Commission shall annually cause to be made by some competent person or persons in the Department of Finance a

thorough audit of the books and records of each licensee under this Subchapter, which audit record shall be kept on file in his office at all times and a copy of which shall be forwarded to the Commission immediately upon completion thereof; and each licensee shall permit access to its books and records for the purpose of having such audit made, and shall produce upon written order of the Department of Finance, any and all papers and information required for such purpose.

\$4892. Collection of Fees, Penalties or Tax.

At any time within 5 years after any amount of fees, interest, penalties or tax required to be collected pursuant to the provisions of this Act shall become due and payable, the Commission may bring a civil action in the courts of this State or any other State or of the United States, in the name of the State of Delaware, to collect the amount delinquent, together with interest at one percent per month for the period of the delinquency. An action may be brought whether or not the person owing the amount is at such time a licensee pursuant to the provisions of this Act. If such action is brought in this State, a writ of attachment may be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in this State, the records of the Commission shall be prima facie evidence of the determination of the tax or the amount of the delinquency.

\$4893. Regulations Governing Occupational Licenses.

The Commission shall adopt regulations governing the issuance of occupational licenses and payment of annual fees for the same in accordance with the following schedule:

(a) Licenses:

1. Concessionaire, for each concession,  
ten dollars;
2. Concession Employees, two dollars;
3. Jai-alai players, five dollars;
4. Officials and supervisors, five dollars;
5. Pari-mutuel employees, five dollars.

(b) Each applicant for a license under subsection (a) of this section shall be fingerprinted before such license is issued.

\$4894. Severability.

If a provision of this Act or its application to a person or circumstance is held invalid, the invalidity shall not affect other provisions of this Act and to this end the provision of this Act are severable."

Section 3. The sum of \$50,000.00 is hereby appropriated to the Delaware Jai-Alai Commission for the purpose of paying the expenses of the Commission during the current fiscal year and the funds herein appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated. The funds herein appropriated which are unexpended or unencumbered on June 30, 1978 shall revert to the General Fund of the State of Delaware.

Approved August 12, 1977.

## CHAPTER 190

FORMERLY SENATE BILL NO. 353  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 13, 17, 27, AND 31, TITLE 14, OF THE DELAWARE CODE RELATING TO EXCEPTIONAL PERSONS, TO INCLUDE AUTISTIC CHILDREN AND TO REQUIRE THE STATE TO PROVIDE AN EDUCATIONAL PROGRAM FOR ALL HANDICAPPED PERSONS AND PROVIDING A SUPPLEMENTARY APPROPRIATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend subsection (a) of Section 1324, Chapter 13, Title 14, Delaware Code, by striking the word "or" immediately preceding the words "the partially deaf" and by adding between the words "hearing" and "as provided" the words "or autistic".

Section 2. Amend Section 1703, Chapter 17, Title 14, Delaware Code, by striking the period at the end of the first sentence of subsection (d) and inserting in lieu thereof ",classes for autistic children, 1 unit for 4 children."; by striking the period at the end of the first sentence of subsection (e) and inserting in lieu thereof "or autistic." and by striking subsection (f) in its entirety.

Section 3. Amend Section 2705, Chapter 27, Part I, Title 14 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"§2705. Exception; handicapped persons

Other provisions of this Title notwithstanding, a child may be exempted from the provisions of §2702 of this Chapter upon request of the parent, guardian, or other person legally having control of that child when the request is supported by written documentation of a physician, psychiatrist, psychologist, or neurologist as the case may require. The request and documentation shall be addressed to the Superintendent of Schools of the school district in which the person resides indicating that the person is mentally or physically handicapped to such an extent that attendance in a school program is impracticable or unsafe.

Any disputed decision under the provisions of this section shall be presented first to the Board of Education of the school district of which the child is a resident and may thereafter be appealed to the State Board of Educa-

tion. The decision of the State Board of Education is final."

Section 4. Amend Section 3101, Chapter 31, Title 14, Delaware Code, by adding thereto a new subsection (10), to read as follows:

"(10) 'Autistic children' means children between the chronological ages of 4 and 21 who have been determined by individual psychological or psychiatric examination to have the specific disability of autism. The behavioral manifestations of autism include some combination of the following: Inability to use language for appropriate communication, a history of inability to relate appropriately to other individuals and continued impairment in social interaction from infancy or early childhood, an obsession to maintain sameness, a preoccupation with objects and/or inappropriate use of objects, extreme resistance to controls, and/or exhibition of peculiar motoric mannerisms and motility patterns."

Section 5. Amend Chapter 31, Title 14, Delaware Code, by adding thereto new Sections 3110 and 3111, to read as follows:

"§3110. Supportive services for autistic children

Any school district administering a program for autistic children may provide from its own personnel or contract with another state agency, or a private service provider if necessary for appropriate supportive services; including, but not limited to, physical, art and music education, psychological services, language and speech therapy, physical and occupational therapy. The supportive services to be provided shall be based upon a program for each child as approved by the State Board of Education. Funds for such services are to be paid from the Educational Contingency Fund of the State Board of Education.

§3111. Handicapped persons; private placement with financial aid

(a) Private placement with financial aid shall be granted only to a 'complex or rare' handicapped person defined as a person in the chronological age group four through twenty years inclusive, who is found to suffer from two or more of the defined handicaps, or who is so severely afflicted by a single handicap, that the total impact of the condition means that he or she cannot benefit from the regularly offered free appropriate public educational programs.

The determination shall be made by a committee appointed by the local Board of Education for identification, placement, review and dismissal of handicapped persons and by the State Board of Education that no school district or other State agency has a suitable free and appropriate program of education for the particular person. Such private placement shall be in a school/institution approved by the State Board of Education. The State Board of Education shall make the final determination concerning the designation of a person eligible under the provisions of this definition.

(b) In the case of dispute concerning the private placement of a child, the aggrieved party shall first be heard by the local Board of Education. Such hearing shall be conducted by an impartial hearing officer appointed at the discretion of the local Board of Education, but who shall not be an employee of the district involved in the education of the child or have any interest in the outcome of the hearing. The ruling of the local Board of Education may be appealed to the State Board of Education. The decision of the State Board of Education shall be final in determining the private placement school or institution in which the authorized persons shall be enrolled.

(c) 'Financial aid' shall include maintenance, transportation and tuition as herein defined:

(i) 'Maintenance' shall mean the cost for room and board at a residential institution or in a residence approved by the institution in which a person is enrolled. Maintenance does not include the cost of health care or treatment.

(ii) 'Transportation' is defined for in-state placement at the same number of dollars as provided for a nonpublic school student in accordance with rules and regulations of the State Board of Education; in the case of out-of-state private placement, transportation is defined as the amount provided for nonpublic school students for one round trip per year between Delaware and the school based upon actual air coach fare if that is the lesser amount or as determined by the State Board of Education if no air coach fare estimate is possible.

(iii) 'Tuition' shall mean payment for instructional services, materials and supplies. Tuition does not include the cost of health care or treatment.

(iv) The amount authorized for payment shall be the amounts charged by that institution for tuition

or for program costs, transportation and maintenance in accordance with the definitions set forth herein."

Section 6. The provisions of Sections 1 through 5 of this Act shall take effect July 1, 1977.

Section 7. Effective July 1, 1978, amend Chapter 31, Part I, Title 14 of the Delaware Code by striking the Chapter heading and by striking Sections 3101 through 3109 of said Chapter in their entirety and substituting in lieu thereof the following:

"CHAPTER 31. EXCEPTIONAL PERSONS

SUBCHAPTER I. Definitions

§3101. Definitions

The following words, terms and phrases, when used in this Chapter shall have the meanings ascribed to them except when the context clearly indicates a different meaning:

(a) 'Exceptional persons' means a handicapped person or a gifted and talented person, as defined herein.

(b) 'Free appropriate public education' means special education that is specially designed instruction including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions, and related services as defined by State Board of Education Rules and Regulations and as may be required to assist a handicapped person to benefit from an education that:

(1) is provided at public expense, under public supervision and direction, and without charge in the public school system;

(2) meets the standards of the State Board of Education as set forth in this Title or in the rules and regulations of the Board; and

(3) includes elementary, secondary, or vocational education in the State; and

(4) is individualized to meet the unique needs of the handicapped person.

The related services to be provided shall be based upon a program for each child as approved by the State Board of Education. Funds for such services are to be paid from the Educational Contingency Fund of the

## State Board of Education.

(c) 'Gifted or talented person' means a person in the chronological age group four through twenty years inclusive, who by virtue of certain outstanding abilities is capable of a high performance in an identified field. Such an individual, identified by professionally qualified persons, may require differentiated educational programs or services beyond those normally provided by the regular school program in order to realize his or her full contribution to self and society. A person capable of high performance as herein defined includes one with demonstrated achievement and/or potential ability in any of the following areas, singularly or in combination:

- (1) general intellectual ability;
- (2) specific academic aptitude;
- (3) creative or productive thinking;
- (4) leadership ability;
- (5) visual and performing arts ability;
- (6) psychomotor ability.

(d) 'Handicapped person' means a person in the chronological age group four through twenty years inclusive, who because of mental, physical, emotional or learning disability problems as defined by the State Board of Education, requires special educational services in order to develop his or her capabilities.

(e) 'Person' means a child or other individual ages four through twenty years inclusive.

## SUBCHAPTER II. General Provisions

§3110. Rules and Regulations

(a) The State Board of Education is designated as the State Agency that shall make rules and regulations to carry out the provisions of this and other Titles relative to the identification, evaluation, education, training, and transportation of exceptional persons including specific definitions for the categories of units for exceptional children authorized for funding in §1703 of this Title.

(b) The rules promulgated by the State Board of Education shall provide the criteria by which identified handicapped persons, ages four through twenty inclusive, shall be assigned to a public school facility, or, if otherwise eligible for admission, to an institution of another State agency, or released for authorized placement in a private school or agency, pursuant to Subchapter III of this Chapter.



§3111. The Advisory Council for Exceptional Citizens

The Governor shall appoint an Advisory Council to act in an advisory capacity to the State Board of Education and other State agencies on the needs of exceptional citizens. The General Assembly shall provide for the maintenance of the Council. The Council shall also serve in the capacity of the Advisory Panel as required by P.L. 94-142.

SUBCHAPTER III. Handicapped Persons

§3120. Handicapped persons; required provisions

The State of Delaware shall provide, in the school districts of the State or in other State institutions and agencies or in special programs and private agencies as established or approved by the State Board of Education, that each handicapped person as defined in this Chapter shall receive a free and appropriate public education designed to meet his or her needs. The State Board of Education shall be the agency responsible for the implementation of this required provision.

§3121. Handicapped persons; special classes and facilities

Each school district and other State agencies responsible for the care of Delaware citizens shall provide and maintain, under appropriate regulations of the State Board of Education, special classes and facilities to meet the needs of handicapped persons as herein defined and recommended for special education or training who are residents of any geographical area within the State and who can be served by such special classes and facilities. The provisions of this and other sections of this Chapter and this Title may be carried out by assigning children who are residents of one school district to attend classes in facilities of another school district according to the provisions of Chapter 6 of this Title concerning tuition. Placement in a State agency that is not part of the public school system shall be in accordance with rules developed under §3110 of this Chapter.

§3122. Identification and reporting of handicapped person

Each school district shall be required to identify, locate, and evaluate, or reevaluate, any person residing within the confines of that school district who is handicapped, regardless of the severity of the handicap, and who is in need of special education and related services. The State Board of Education shall provide through rules and regulations that a practical method for carrying out the provisions of this section be developed. The identifi-

cation system so developed shall provide information concerning the time and method of the evaluation or reevaluation of the handicapped person and shall indicate the training, education, or related services he or she is receiving and the location of that training, education, or related services. The system shall further indicate any instance in which the person is not receiving training, education, or related services and the reason for that situation. Nothing in this Chapter or the rules and regulations issued thereunder shall authorize or require medical treatment of any person who objects, or, in the case of a minor, whose parent or guardian objects thereto on religious grounds.

#### SUBCHAPTER IV. Gifted or Talented Persons

##### §3126. Gifted or Talented Persons; Rules and Regulations

The extent of programs and facilities provided for persons determined to be gifted or talented shall be in accordance with the rules and regulations of the State Board of Education."

Section 8. Effective July 1, 1978 amend Sections 3110 and 3111 of Chapter 31, Title 14, Delaware Code, by redesignating said Sections as Sections 3124 and 3125.

Section 9. (a) An amount of \$763,000 is appropriated to the State Board of Education for carrying out the provisions of this Act during the fiscal year beginning July 1, 1977.

(b) This appropriation is a supplemental appropriation and the funds hereby appropriated shall be paid by the State Treasurer from the General Funds of the State of Delaware from monies not otherwise appropriated. Any monies appropriated herein which remain unexpended on June 30, 1978 shall revert to the General Fund.

Section 10. Except as set forth in Section 6 of this Act, the provisions of this Act shall take effect July 1, 1978.

Approved August 13, 1977.

## CHAPTER 191

## FORMERLY SENATE BILL NO. 364

AN ACT AWARDED 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; REPEALING CERTAIN SECTIONS OF 60 DELAWARE LAWS, CHAPTER 711.

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</u> <u>Reference</u> <u>Vol. Chapter</u>	<u>Pensioner</u>	<u>Nature of</u> <u>Pension Benefit</u>	<u>Monthly</u> <u>Benefit</u>
60 711	Ann Cannon	Disability	\$ 79.67
60 711	Bessie George	Survivor's	73.51
60 711	Kathleen Porter	Survivor's	56.85
60 711	Marie A. Queen	Survivor's	75.96
60 711	Elton R. Wood	Disability	50.55
60 711	Helen Carmean	Survivor's	98.09
60 711	Norman F. Hastings	Disability	148.75
60 711	Mrs. Fred Perkins	Survivor's	42.46
60 711	Mrs. Harrison B. Lomax, Jr.	Survivor's	99.35
60 711	Mrs. Stanley J. Lewandowski	Survivor's	20.42
60 711	Mrs. Grace G. Gottwals	Disability	43.23
60 711	Mrs. Ellis P. Sartin	Survivor's	82.34
60 711	George B. Davis	Service	92.85
60 711	Anna E. Klumpp	Service	40.02
60 711	Leo B. Green	Service	68.28
60 711	Nicholas DeSimone	Service	535.28
60 711	Angeline Morris	Survivor's	91.36
60 711	Margaret C. Harris	Service	177.00
60 711	Herman Roach	Service	38.72
60 711	Bessie Sudler	Service	150.00
56 230	Elmer Messick	Service	187.14
57 7	Lulu M. Stayton	Service	77.24
57 305	Martha J. Sullivan	Survivor's	90.15
57 312	John McGinnes	Service	178.50
57 337	Edith E. Francis	Service	187.75
57 408	Hettie D. Gardiner	Service	178.50
57 677	Thomas Henry	Disability	178.50
57 698	Samuel Joseph	Service	154.84
57 753	Geneva H. Saulsbury	Survivor's	75.00
59 9	Helen Hoffman	Survivor's	123.81
59 359 )			

<u>Legislative Reference Vol. Chapter</u>	<u>Pensioner</u>	<u>Nature of Pension Benefit</u>	<u>Monthly Benefit</u>
60 42 (	Lawrence Thompson	Service	157.50
59 461	Edna Wright	Survivor's	71.65
59 464	James Sheridan	Service	175.48
59 501	Wallace Truitt	Service	157.50
59 530	Renee Steele	Survivor's	33.84
59 533	Kenneth Parsons	Service	112.97
59 548	Phillip F. Susi	Service	157.50
59 552	Rosemary Heron	Survivor's	153.72
59 436	A. James Gallo	Service	315.00
60 60	George Rossiter	Service	96.23
60 10	Martin J. Finerty	Service	141.79
58 257 )			
59 457 (	Mary Royal	Survivor's	135.38
58 257 )			
59 457	Helen Toner	Service	121.32

Section 2. 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 Reference Vol. Chapter</u>	<u>Pensioner</u>	<u>Nature of Pension Benefit</u>	<u>Monthly Benefit</u>
59 509	Katherine J. Episcopo	Survivor's	\$ 157.50
59 691	Howard Teal	Service	157.50
60 256	Joseph Lenhoff	Disability	183.56
60 222	Volta Wimbrow	Survivor's	64.22
60 112	Sara Beckett	Survivor's	77.66
60 178	Catherine T. Sampson	Survivor's	49.27
60 214	Harvey B. Spicer	Service	60.00
60 214	J. Carl McGuigan	Service	100.00
60 214	Ralph S. Keenan	Service	130.00
60 214	John J. McMahon	Service	90.00
60 124	Glenn W. Busker	Service	90.00
60 214	T. Lees Bartleson	Service	120.00
60 214	Eugene Lammot	Service	120.00

Section 3. Increases in 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:

Legislative Reference		<u>Pensioner</u>	Nature of Pension Benefit	Increase Monthly Pension Benefit	
<u>Vol.</u>	<u>Chapter</u>			<u>From</u>	<u>To</u>
60	711	Charles A. Dougherty	Service	\$ 276.76	\$ 328.65
60	711	Esther Stevens	Service	166.45	242.83
60	711	Inez Roach	Service	43.73	133.08

Section 4. Increases in 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:

Legislative Reference		<u>Pensioner</u>	Nature of Pension Benefit	Increase Monthly Pension Benefit	
<u>Vol.</u>	<u>Chapter</u>			<u>From</u>	<u>To</u>
58	257 )				
59	457	Harris McDowell	Service	\$208.95	\$251.03
59	457	Virginia Butts	Service	372.73	435.18
59	457	Mary Johnson	Service	378.74	381.24
59	457	Francis Denney	Service	182.30	185.86
59	457	Molloy Vaughn	Service	202.26	251.82
59	457	Beatrice Simonds	Service	206.62	253.33
59	457	Robert K. Marshall	Service	141.81	150.00
59	457	Johanna G. Wolfe	Service	145.04	182.62
59	457	Mabel L. Dempsey	Service	65.45	150.00
59	457	Mabel Lambden	Service	51.25	151.99
59	457	William Horner	Service	333.62	357.42
59	457	George Ludvigson	Service	359.53	367.78
59	457	W. Clifford Pryor	Service	115.78	174.76
58	257 )				
59	457 (	Anna Scott	Service	138.84	150.00
59	457	M. Luella Kitselman	Service	180.58	199.41
59	457	Erminie Nye	Service	371.17	409.81
59	457	Elsie O'Bier	Service	387.63	448.12
59	457	Anna Beebe	Service	467.16	509.98
59	457	Miriam H. Douglas	Service	391.65	437.88
59	457	Pearl C. Cooper	Service	379.25	409.24
59	457	Madelyn Trammel	Service	340.03	360.08
59	457	Gladys T. Spencer	Service	330.72	349.35
59	457	Alma Mustard	Service	178.50	253.73
59	457	Annabelle Everett	Survivor's	82.22	85.58
59	457	Gladys Green	Survivor's	223.13	267.43
59	457	Elizabeth Roberts	Survivor's	65.16	76.87
59	457	Hester Pleasanton	Survivor's	53.51	83.34
59	457	Edna C. Spicer	Survivor's	10.33	82.09
59	457	Ida T. Bush	Survivor's	80.02	89.56
59	457	Margaret Walls	Survivor's	33.87	79.48
59	457	Ruth Blanchfield	Survivor's	102.51	107.05
59	457	Anna Berger	Survivor's	16.85	109.06

Legislative Reference Vol. Chapter	Pensioner	Nature of Increase Monthly		
		Pension Benefit	Pension From	Benefit To
59 457	Bess Dill	Service	\$ 357.60	\$ 363.82
59 457	Margaret Walls	Service	135.64	154.26
59 457	Jane Moore	Survivor's	104.01	109.61
59 457	Edna Sharp	Survivor's	56.50	79.24
59 457	Joseph Morris	Survivor's	83.20	90.78
59 457	Virginia Pinder	Survivor's	122.19	125.84
59 457	Ellen Collins	Service	341.47	361.53
58 257 )				
59 457 (	Mary Maybee	Survivor's	123.78	124.64
59 457	Eva T. Mancill	Survivor's	123.41	124.10
59 457	Frank T. Dickerson	Service	107.10	150.00
58 156	Joseph A. Bradshaw	Service	816.29	1,173.01

Section 5. All service and disability pensions granted or increased under the provisions of this Act shall entitle the recipients thereof to coverage under §5528, Chapter 55, Title 29, Delaware Code, as in effect on July 1, 1976.

Section 6. The sum of \$114,927 is hereby appropriated and shall be paid out of the General Fund of the State of Delaware from funds otherwise not appropriated for the purpose of providing annual funding for the pension benefits granted in Sections 1 through 5 of this Act and the aforesaid appropriation shall be deposited by the State Treasurer in the State Employees' Retirement Fund for the aforesaid purpose.

Section 7. 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, 1978, to the General Fund of the State of Delaware.

Section 8. 60 Delaware Laws, Chapter 711, is hereby amended by repealing Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20; such repealer shall be effective for all payments made or to be made after June 30, 1977.

Section 9. This Act shall become effective July 1, 1977, except that Sections 2 and 3 shall be effective retroactive to December 1, 1976.

Approved August 9, 1977.

## CHAPTER 192

FORMERLY SENATE BILL NO. 389  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTION TO TRANSFER AUTHORIZED POSITIONS BETWEEN DIVISIONS AND TO TRANSFER FY 1978 HUDGET APPROPRIATIONS WITHIN THE DEPARTMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Department of Correction is hereby authorized to make the following transfer of monies appropriated on the effective date of this act:

TRANSFERRED FROM:

<u>Item/Description</u>	<u>Amount</u>
<u>(38-13-002) Ferris School for Boys</u>	
Salaries and Wages of Employees	\$ 51,739
Salaries - Hazardous Duty	3,200
F.I.C.A. - Employer's Share	3,213
Pensions	6,372
<u>(38-13-003) Woods Haven-Kruse School for Girls</u>	
Salaries and Wages of Employees	\$ 27,121
Salaries - Hazardous Duty	400
F.I.C.A. - Employer's Share	1,610
Pensions	3, 192

TRANSFERRED TO:

<u>(38-08-001) Office of Bureau Chief</u>	
Salaries and Wages of Employees	\$ 11,904
F.I.C.A. - Employer's Share	696
Pensions	1,381
<u>(38-08-003) Women's Correctional Institution</u>	
Salaries and Wages of Employees	\$ 56,931
Salaries - Premium Pay	7,472
Salaries - Shift Differential	1,744
Salaries - Hazardous Duty	4,400
F.I.C.A. - Employer's Share	4,136
Pensions	8,183

Section 2. On the effective date of this Act, the following positions will be deleted from the General Fund authorization for the respective agency budget in the Department of Correction for the remainder of the fiscal year ending June 30, 1978:

<u>Title/Classification</u>	<u>Number of Positions</u>
<u>(38-13-002) Ferris School for Boys</u>	
Correctional Security Superintendent	1
Juvenile Group Leader I	7
Juvenile Group Leader Supervisor	1
<u>(38-13-003) Woods Haven-Kruse School for Girls</u>	
Correctional Institutional Superintendent	1
Clerk Typist II	1
Counselor	1

Section 3. On the effective date of this Act, the following positions will be included in the General Fund authorization for the respective agency budget in the Department of Correction for the remainder of the fiscal year ending June 30, 1978:

<u>Title/Classification</u>	<u>Number of Positions</u>
<u>(38-08-001) Office of Bureau Chief</u>	
Prison Industries Director	1
<u>(38-08-003) Women's Correctional Institution</u>	
Correctional Officer Trainee	9
Clerk Typist II	1
Counselor	1

Section 4. On the effective date of this Act, the Budget Director, with concurrence of the Controller General, is authorized to transfer five (5) Juvenile Group Leader II positions and General Fund monies appropriated for such positions from (38-13-003) Woods Haven-Kruse School for Girls to (38-13-002) Ferris School for Boys.

Section 5. On the effective date of this Act, any monies appropriated to (38-08-000) Department of Correction for the remainder of the fiscal year ending June 30, 1978, for health care services may be transferred within the Department of Correction by the Budget Director, with the concurrence of the Controller General, to the appropriate line(s) within (38-01-002) Administration in order to provide health care services.



Section 6. This Act shall take effect upon the signature of the Governor.

Approved October 15, 1977.

## CHAPTER 193

## FORMERLY SENATE BILL NO. 392

## AN ACT TO AMEND CHAPTER 65, PART IV, SUBCHAPTER VI, TITLE 11 OF THE DELAWARE CODE RELATING TO CLASSIFICATION OF INMATES.

WHEREAS, the United States District Court for the District of Delaware concluded in *Anderson v. Redman*, Civil Action 76-364 that Sections 6530 and 6531 of Title 11 of the Delaware Code mandated that the Department of Correction maintain a system of classification of inmates whereby inmates are housed according to various classifications assigned to them; and

WHEREAS, the United States District Court for the District of Delaware also concluded in the same action that such a mandatory system of housing classification thereby required the Department to maintain an overall vacancy of at least eight percent below the design capacity of the Delaware Correctional Center in the portions of the Center used to house convicted persons; and

WHEREAS, the United States District Court based these conclusions on the laws of the State of Delaware; and

WHEREAS, it was not the purpose of sections 6530 and 6531 to require a classification system whereby inmates are housed according to design capacity to the various classifications assigned them, nor was it the intent of the General Assembly in enacting such sections or any other sections of the Delaware Code to require the maintenance of the inmate population below the design capacity of any correctional facility.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6529(b), Chapter 65, Part IV, Title 11 of the Delaware Code by striking the words "(e.g. determining maximum and minimum security)."

Section 2. Further amend Section 6529, Chapter 65, Part IV, Title 11 of the Delaware Code, by adding thereto three new subsections, designated as §6529 (e), (f) and (g), which new subsections shall read as follows:

"(e) Nothing in this Chapter shall be construed to require the Department to institute or maintain any system of classification of convicted persons for the purpose of assignment to institutions or housing units within institutions. However, the Department may, at its discretion, institute or maintain any such system at any or all of its institutions.

(f) Nothing in this Chapter shall be construed to require the Department to reduce the inmate population of any of its institutions below the capacity for which that institution was designed in order to accommodate any system of classification of convicted persons for purposes of assignment to institutions or housing units within an institution which the Department institutes or maintains.

(g) Nothing in this Chapter requiring or permitting the Department to institute or maintain a program or programs for the custody, rehabilitation or care of persons coming under the jurisdiction of the Department, including but not limited to such programs as may be required or permitted by Sections 6530 and 6531 of this Title, shall be construed to require the Department to reduce the inmate population at any of its institutions below the capacity for which that institution was designed."

Approved October 15, 1977.

## CHAPTER 194

## FORMERLY SENATE BILL NO. 397

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE OFFICE OF ATTORNEY GENERAL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated to the Office of Attorney General for the expense of commencing and conducting litigation as is necessary to protect the best interests of the State of Delaware and her crippled children and elderly who are beneficiaries of the trust of Alfred I. duPont.

Section 2. This Act is a supplementary appropriation and the monies hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated.

Section 3. Any funds hereby appropriated and remaining unexpended or unencumbered as of June 30, 1979, shall revert to the General Fund of the State of Delaware.

Approved October 15, 1977.

CHAPTER 195

FORMERLY SENATE BILL NO. 396

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES FOR THE FISCAL YEAR ENDING JUNE 30, 1978.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of sixty thousand dollars (\$60,000) is hereby appropriated to the Department of Administrative Services, Division of Facilities Management (30-04-000) for the purpose of planning, designing, construction, rearrangement and related changes are necessary to facilitate the occupancy by the Office of Attorney General and Securities Commissioner on certain floors of the new State Office Building in Wilmington.

Section 2. This Act is a supplementary appropriation and the monies hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated.

Section 3. Any funds hereby appropriated and remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved October 25, 1977.

## CHAPTER 196

HOUSE BILL NO. 458  
 AS AMENDED BY  
 HOUSE AMENDMENT NO. 1  
 AND  
 SENATE AMENDMENT NO. 1

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES, FOR OPERATIONAL COSTS FOR FISCAL YEAR 1977.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of \$79,787 to the Department of Administrative Services, to meet the operational deficiencies for the fiscal year ending June 30, 1977, in the following categories:

Office of the Secretary

Contractual Services	\$ 500.00	
Supplies and Materials	<u>200.00</u>	
		\$ 700.00

Division of Facilities Management

Contractual Services	<u>\$2,698.00</u>	
		\$ 2,698.00

Division of Central Data Processing

EDP Hardware Rental

Division of Business & Occupational Regulation

Personal Services	\$1,139.00	
Contractual Services	8,950.00	
Rental	<u>1,300.00</u>	
		<u>\$11,389.00</u>

TOTAL		\$14,787.00
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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.

Section 3. Any funds remaining unexpended as of June 30, 1978, shall revert to the General Fund of the State of Delaware.

Section 4. The sum of \$65,000 appropriated herein to the Division of Central Data Processing is only an advance on their billings, therefore when the monies are collected in Fiscal Year 1978 they shall revert back to the General Fund.

Approved October 25, 1977.

## CHAPTER 197

## SENATE BILL NO. 374

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DE LA WARR SCHOOL DISTRICT TO COVER THE COST OF TUITION RESULTING FROM THE VOLUNTARY TRANSFER PLAN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$301,950 is hereby appropriated to the De La Warr School District. Said sum shall be used to pay the tuition costs of pupils transferring to other school districts pursuant to §603, Title 14 of the Delaware Code. Any portion of this sum not required for this purpose by June 30, 1978, shall revert to the General Fund.

Section 2. The De La Warr School District shall reduce its property tax by forty-eight cents (\$.48) per one hundred dollars (\$100.00) of assessed valuation for the tax year beginning July 1, 1977. In the event any taxpayer has already paid said tax, the refund shall be made pursuant to the provisions of §1921, Title 14 of the Delaware Code.

Section 3. This is a supplemental appropriation Act, and the monies appropriated shall be paid by the State Treasurer out of the General Fund.

Section 4. All previous Acts of the General Assembly inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

Approved October 26, 1977.

## CHAPTER 198

## FORMERLY SENATE BILL NO. 391

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF PUBLIC HEALTH, COMMUNITY HEALTH, TO PROVIDE NURSING SERVICES TO NON-PUBLIC SCHOOLS IN NEW CASTLE COUNTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of eighteen thousand dollars (\$18,000) is hereby appropriated to the Department of Health and Social Services, Division of Public Health, Community Health, to provide nursing services to non-public schools in New Castle County.

Section 2. This Act is a supplementary appropriation and the monies hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated.

Section 3. Any funds hereby appropriated and remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved October 26, 1977



## CHAPTER 199

## FORMERLY HOUSE BILL NO. 617

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF JUSTICE AND THE DEPARTMENT OF CORRECTION FOR THE FISCAL YEAR ENDING JUNE 30, 1978, TO PROVIDE OPERATING FUNDS FOR CERTAIN NEW FACILITIES, PROGRAMS, AND POSITIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of five hundred sixty-five thousand two hundred nineteen dollars (\$565,219) is hereby appropriated to the Department of Justice and the Department of Correction for the purposes and in the amounts set out below:

(15-00-000) LEGAL(15-01-000) Department of Justice(15-01-001) Office of Attorney General

Salaries of Deputies (1)	7,875
F.I.C.A. - Employer's Share	461
Pensions	<u>914</u>

Total: Office of Attorney General	9,250
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Total: Department of Justice	<u>9,250</u>
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(38-00-000) DEPARTMENT OF CORRECTION(38-01-000) Office of the Commissioner(38-01-001) Commissioner's Office

Contractual Services	
Renovations - Pre-release center	15,000
Inmate Boarding	<u>84,400</u>

Total: Commissioner's Office	99,400
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(38-01-002) Administration

Contractual Services	
Health Care	341,000

Total: Administration	<u>341,000</u>
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Total: Office of the Commissioner	<u>440,400</u>
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(38-08-000) Bureau of Adult Correction(38-08-001) Office of the Bureau Chief

Salaries & Wages of Employees (1)	11,140
F.I.C.A. - Employer's Share	652
Pensions	1,292
Contractual Services	
Design & Engineering Studies for	
multi-purpose facility	75,000
Other Contractual Services	1,000
Supplies & Materials	250
Capital Outlay	<u>750</u>
Total: Office of the Bureau Chief	90,084

(38-08-004) Sussex Correctional Center

Salaries & Wages of Employees (3)	12,879
Salaries - Premium Pay	1,809
Salaries - Hazardous Duty	1,050
F.I.C.A. - Employer's Share	921
Pensions	1,826
Contractual Services	<u>7,000</u>
Total: Sussex Correctional Center	25,485
Total: Bureau of Adult Correction	<u>115,569</u>
Total: Department of Correction	<u>555,969</u>

Section 2. This Act is a supplementary appropriation and the monies hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated.

Section 3. Any funds hereby appropriated and remaining unexpended or unencumbered as of June 30, 1978 shall revert to the General Fund of the State of Delaware.

Section 4. The positions authorized by this Act for which General Funds have been appropriated in Section 1 of this Act are set out below:

ADDITIONS

<u>ACCOUNTING CODE</u>	<u>AGENCY/TITLE OF POSITION</u>	<u>NUMBER OF POSITIONS</u>
15-01-001	Office of Attorney General Deputy Attorney General	1
38-08-001	Office of the Bureau Chief Assistant Director of Classification & Treatment	1

38-08-004

Sussex Correctional Center  
Correctional Officer Trainee

3

Approved November 28, 1977

## CHAPTER 200

FORMERLY HOUSE BILL NO. 618  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF CORRECTION, BUREAU OF ADULT CORRECTION, FOR RENOVATING AND STAFFING A SHORT-TERM CORRECTIONAL FACILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of three hundred fifty-four thousand, eight hundred ninety-four dollars (\$354,894) is hereby appropriated to (38-00-000) Department of Correction, (38-08-001) Bureau of Adult Correction, for renovation and staffing of a short-term correctional facility, as follows:

(38-08-011) Short-term Correctional Facility

Salaries - Casual and Seasonal	4,113
Salaries & Wages of Employees (29)	120,980
Salaries - Overtime	6,000
Salaries - Premium Pay	12,090
Salaries - Shift Differential	1,863
Salaries - Hazardous Duty	8,700
F.I.C.A. - Employer's Share	8,754
Pensions	17,357
Personal Services	
Payments to inmates	1,837
Contractual Services	
Renovations	70,000
Other Contractual Services	35,600
Supplies & Materials	35,000
Capital Outlay	<u>32,600</u>

Total: Short-term Correctional Facility \$354,894

Section 2. This Act is a supplementary appropriation and the monies hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated.

Section 3. Any funds hereby appropriated and remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund of the State of Delaware.

Section 4. The positions authorized by this Act for which General Funds have been appropriated in Section 1 of this Act are set out below:

ADDITIONS

<u>ACCOUNTING CODE</u>	<u>AGENCY/TITLE OF POSITION</u>	<u>NUMBER OF POSITIONS</u>
38-08-011	Short-term Correctional Facility	
	Captain	1
	Lieutenant	5
	Correctional Officer	3
	Correctional Officer Trainee	16
	Clerk-Steno II	1
	Correctional Cook	1
	Counselor	1
	Correctional Building Mechanic II	1

Approved November 28, 1977

## CHAPTER 201

## FORMERLY HOUSE BILL NO. 619

## AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF CORRECTION FOR AN INMATE GRIEVANCE OFFICER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of twelve thousand, six hundred and four dollars (\$12,604) is hereby appropriated to (38-00-000) Department of Correction (38-01-000) Office of the Commissioner for a Prison Inspector and Inmate Grievance Officer, as follows:

(38-01-000) Commissioner's Office

Salaries and Wages of Employees (1)	9,033
F.I.C.A. - Employer's Share	524
Pensions	1,047
Supplies and Materials	250
Capital Outlay	<u>750</u>

Total: Commissioner's Office	<u>\$12,604</u>
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Section 2. The position authorized by this Act for which funds have been appropriated in Section 1 of this Act are set out below:

ADDITIONS

<u>ACCOUNTING CODE</u>	<u>AGENCY/TITLE OF POSITION</u>	<u>NUMBER OF POSITIONS</u>
38-01-001	Commissioner's Office Prison Inspector & Inmate Grievance Officer	1

Section 3. This Act is a supplementary appropriation and the monies hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated.

Section 4. Any funds hereby appropriated and remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved November 28, 1977

CHAPTER 202

FORMERLY HOUSE BILL NO. 622

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO  
PERSONAL INCOME TAXATION OF LUMP SUM DISTRIBUTORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Section 1106(a), Title 30, Delaware Code relating to additions to Federal adjusted gross income, by redesignating paragraph (3) as paragraph (2) and adding a new paragraph (3) to read as follows:

"(3) the amount of the deduction from Federal adjusted gross income allowed under Sections 62 (11) and 402(e) (3) of the Federal Internal Revenue Code of 1954, as amended, relating to certain portion of lump sum distributions from pension plans."

Section 2. This amendment shall apply to lump sum distributions received on or after the date of enactment.

Approved December 30, 1977

## CHAPTER 203

## FORMERLY HOUSE BILL NO. 643

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES TO BE USED TO DETERMINE THE EXISTENCE OF CORROSION OF THE STRUCTURAL STEEL OF THE HIGHWAY ADMINISTRATION BUILDING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated to the Department of Administrative Services the sum of \$36,000 to be used to pay for all expenses necessary to investigate the structural steel in the Highway Administration Building to determine the extent of any corrosion.

Section 2. This is a supplementary appropriation and the sums hereby appropriated shall be paid out of the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1978.

Approved December 30, 1977



## CHAPTER 204

## FORMERLY HOUSE BILL NO. 486

## AN ACT TO AMEND CHAPTER 15, TITLE 13, DELAWARE CODE, RELATING TO TEMPORARY ALIMONY IN DIVORCE AND ANNULMENT ACTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1502, Chapter 15, Title 13, Delaware Code, by striking paragraphs (5), (6) and (7) in their entirety and by substituting in lieu thereof the following new paragraphs (5), (6) and (7), to read as follows:

"(5) Except as provided in §1518(g) of this title, to award alimony only to respondents divorced on account of incompatibility or mental illness who are dependent upon petitioner for support, but only during the continuance of such dependency;

(6) To award alimony in appropriate cases so as to encourage parties to become self-supporting;

(7) Except as provided in §1518(g) of this title, not to award alimony to petitioners who seek divorce for any reason and reject the respondent as a spouse."

Section 2. Amend §1518, Chapter 15, Title 13, Delaware Code, by adding thereto a new subsection, designated as subsection (g), to read as follows:

"(g) In order to assist a party to achieve independent financial status, the Court may award temporary alimony, or continue an award of interim alimony, for a period of time immediately following the divorce, but not to exceed two consecutive years if the marriage existed less than 20 years on the date of the commencement of the action, pursuant to the requirements and on the conditions specified in §1512 of this title, except that the party seeking temporary alimony may be a petitioner or a respondent, and, if a respondent, without regard to the characterization of the marriage under §1512(a) of this title. Nothing herein shall limit allowance of alimony under §1512 of this title."

Approved January 24, 1978

## CHAPTER 205

FORMERLY SENATE BILL NO. 144  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER V, CHAPTER 40, PART III, OF TITLE 31,  
DELAWARE CODE RELATING TO THE REQUIREMENTS OF SECURITY GUARDS  
AT ALL PUBLIC HOUSING UNITS IN CERTAIN MUNICIPALITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §4053, Subchapter V, Chapter 40, Part III,  
Title 31, Delaware Code by adding thereto a new subsection to be  
designated as subsection 26 which shall read as follows:

"(26) To require a minimum of one (1) security guard at  
all public housing units patrolling twenty-four (24) hours  
per day, seven (7) days a week in any municipality with a  
population of more than fifty thousand (50,000) persons."

Section 2. The provisions of this Act shall apply only to  
Senior Citizens apartment units under the supervision and control  
of the Wilmington Housing Authority.

Section 3. This Act shall become effective ninety (90) days  
after signature of the Governor.

Approved January 31, 1978

## CHAPTER 206

FORMERLY SENATE BILL NO. 159  
AS AMENDED BY  
SENATE AMENDMENT NOS. 1 AND 3

AN ACT TO AMEND CHAPTER 45, PART II, TITLE 11 OF THE DELAWARE CODE RELATING TO APPEALS FROM CONVICTIONS BEFORE ANY ALDERMAN OR MAYOR; AND PROVIDING FOR AN ACCUSED'S RIGHT TO ELECTION TO BE TRIED IN THE COURT OF COMMON PLEAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §4503, Chapter 45, Part II, Title 11 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§4503. Convictions before Alderman or Mayor; Advising Accused of Right to Trial by Court of Common Pleas

(a) Excepting those cases in which the sentence for the conviction of a crime was imprisonment not exceeding one month, or a fine not exceeding one hundred dollars (\$100.00), any person convicted before any Alderman or Mayor of any incorporated city or town in this State for the violation of any city or town ordinance may appeal from such conviction to the Superior Court of the county in which he has been so convicted, upon giving bond to the State with surety satisfactory to the Alderman or Mayor before whom such person was convicted, binding the person taking the appeal to appear before the Court. Notice of such an appeal shall be given to such Alderman or Mayor within 15 days from the time of conviction, counting the date of conviction as 1, and the bond with surety shall be filed within 15 days. Such appeal shall be prosecuted and the proceedings therein shall be had as in an appeal from a conviction before a Justice of the Peace in the case of a violation of the laws relating to the operation of motor vehicles.

Approved January 31, 1978

## CHAPTER 207

SENATE BILL NO. 161  
AS AMENDED BY  
SENATE AMENDMENT NO. 3  
AND  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 53, PART III, TITLE 11 OF THE DELAWARE CODE RELATING TO ELECTION BY ACCUSED TO HAVE CERTAIN CASES TRIED IN THE COURT OF COMMON PLEAS WHEN PROCEEDINGS ARE ORIGINALLY BROUGHT BEFORE JUSTICES OF THE PEACE, OR ANY ALDERMAN OR MAYOR OF ANY INCORPORATED CITY OR TOWN.

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 §5303, Chapter 53, Part III, Title 11 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §5303 to read as follows:

"§5303. Election by accused to have case tried by court when  
proceeding brought before Justice of the Peace

The accused, in all criminal cases in which there is a possibility that a period of incarceration may be imposed where a Justice of the Peace, or Alderman or Mayor of any incorporated city or town, except the City of Newark, in the county where the charge is brought has jurisdiction and power to hear and finally determine the matter, may elect at any time prior to day of trial to have the case tried by the Court."

Section 2. This Act shall apply to crimes committed after the effective date hereof.

Approved January 31, 1978.

CHAPTER 208

HOUSE BILL NO. 22  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1  
AND  
SENATE AMENDMENT NO. 5

AN ACT TO AMEND CHAPTER 10, TITLE 14 OF THE DELAWARE CODE RELATING  
TO VOCATIONAL-TECHNICAL SCHOOL DISTRICTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 10, Title 14 of the Delaware Code by prefacing the paragraph under §1029 with an (a) and adding a new subsection (b) to said section to read as follows:

"(b) In each reorganized vocational-technical school district there shall be a vocational-technical school board which shall have the authority to administer and to supervise all the vocational-technical centers or schools of the vocational-technical school district and which shall have the authority to determine policy and adopt rules and regulations for the general administration and supervision of the vocational-technical centers or schools of the reorganized vocational-technical school district. Such administration, supervision and policy shall be conducted and formulated in accordance with Delaware law and the policies, rules and regulations of the State Board of Education. All vocational-technical centers or schools shall come within the authority of the vocational-technical school board in the county in which they are located."

Section 2. The authority as conveyed in this Act for the vocational-technical school board to administer all the vocational-technical centers or schools in the county in which the board is located shall not be considered a consolidation for the purposes of Section 1027 of Title 14 of the Delaware Code.

Section 3. This Act shall become effective July 1, 1978 and vocational-technical centers or schools currently administered by a reorganized school district other than the vocational-technical school district shall continue as heretofore until July 1, 1978.

Approved February 2, 1978.

CHAPTER 209

SENATE BILL NO. 336  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 61, TITLE 9 OF THE DELAWARE CODE RELATING  
TO THE BORROWING POWER OF THE GOVERNMENT OF SUSSEX COUNTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Section 6102 (a), Chapter 61, Title 9 of the Delaware Code is hereby amended by striking the figure "\$300,000", as the same appears in the last line of said subsection, and substituting in lieu thereof the figure "\$2,000,000".

Approved February 6, 1978.

## CHAPTER 210

FORMERLY SENATE BILL NO. 456  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND DELAWARE CODE, TITLE 14, TO PROVIDE FOR THE REORGANIZATION OF CERTAIN SCHOOL DISTRICTS FOR THE GOVERNANCE THEREOF, INCLUDING THE USE OF FEDERAL FUNDS BY SUCH DISTRICTS AND TO PROVIDE FOR AN ELECTION TO DETERMINE THE EXCLUSIVE BARGAINING REPRESENTATIVES OF THE PUBLIC SCHOOL EMPLOYEES OF THE NEW REORGANIZED DISTRICTS.

WHEREAS, acting beyond the control of the General Assembly and contrary to arguments advanced by the State Board of Education, the United States District Court for the District of Delaware in the case of Evans v. Buchanan, by its January 9, 1978, Order, causes one school district comprising all of New Castle County except for Appoquinimink School District and a portion of Smyrna School District to be created and to replace eleven presently existing school districts which exist under State law; and

WHEREAS, the General Assembly finds that the creation of an almost County-wide school district in place of eleven districts in New Castle County would be contrary to and in conflict with established and traditional state policy favoring small school districts encouraging local control, and would be against the best interests of, and detrimental to, the people of the State of Delaware and the educational structure of the State of Delaware and would not provide the highest quality education for all the students attending public schools in those districts; and

WHEREAS, the District Court in Evans v. Buchanan has recognized that "local community control is, of course, an important feature of American education," 416 F. Supp. 328, 352, and that the "operation of public schools is traditionally a matter of local concern, and properly so," 416 F. Supp. at 365; and

WHEREAS, the District Court in its January 9, 1978, Opinion further acknowledged that many matters involving the governance of school districts are more properly a part of the political process of the State; and

WHEREAS, the General Assembly believes that pupil reassignment for "desegregation" should not be required by Court order but recognizes that the District Court has issued an order requiring pupil reassignment and mandatory busing regardless of whether the General Assembly

acts, and that if the General Assembly provides for reorganization of present school districts for governance purposes, once pupils are reassigned pursuant to a court order they will be able to attend school in smaller districts, thereby hopefully ameliorating some of the massive problems anticipated from having both (1) an almost County-wide school district and (2) mandatory pupil reassignment and mandatory busing imposed upon the State against its desires at the same time; and

WHEREAS, the General Assembly wholeheartedly supports continued appeals and the prosecution of the pending appeals by the State Board of Education in the case of Evans v. Buchanan and is willing to enact this legislation dealing with the reorganization of school districts only because it has been advised by counsel that such legislative action will not and should not prejudice the appeals; and

WHEREAS, the General Assembly finds that an educational structure established in accordance with State legislation is preferable to one almost County-wide school district; and

WHEREAS, any legislation requiring reorganization of school districts is adopted solely because it may be necessary in the absence of a stay or reversal of the January 9, 1978, Order of the United States District Court in the case of Evans v. Buchanan in order to preserve some local control over the education of Delaware children in accordance with established and recognized Delaware tradition; and

WHEREAS, the General Assembly is advised that in the case of Evans v. Buchanan, the Court's January 9, 1978, Order requires the mandatory reassignment and busing of pupils for alleged racial balance, and it is the intent of the General Assembly that nothing in this Legislation will be construed to confer any power or authority upon any State Agencies or upon any local School District Agencies to mandatorily assign or reassign or bus pupils between any districts; and

WHEREAS, the General Assembly does not intend by this Legislation to impede or interfere with the desegregation process of the Federal Courts, but the General Assembly does desire to reduce the intrusion of the federal judiciary into the educational system of the State as much as possible, consistent, however, with no imperiling or making ineffective such desegregation process; and

WHEREAS, the provisions of this Bill will therefore set a method of establishing multiple school districts in the desegregation area; and



WHEREAS, although the General Assembly continues to believe that no unconstitutional segregation exists in the area ordered to be consolidated by the Court in Evans v. Buchanan and that no reassignment of students or changes in governance structure should be required by Court Order, the General Assembly recognizes that the Court Order has the force of law and that the new district will be a reality for the next succeeding public school years until and unless the Court Order is stayed or reversed, and thus this Legislation is necessary to avoid the possibility of one large single district with approximately 70,000 pupils; and

WHEREAS, it is the intent of the General Assembly that any legislation adopted by it requiring reorganization of school districts be without prejudice to the State's appellate positions in the case of Evans v. Buchanan, and it is the declaration of the General Assembly that this Legislation is enacted without prejudice to the appellate and legal positions and contentions of the defendants in the case of Evans v. Buchanan;

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 10, Title 14, of the Delaware Code by striking Subchapter 1 of said Chapter in its entirety and substituting in lieu thereof a new Subchapter 1 to read as follows:

"SUBCHAPTER I. Reorganization

§1001. Purpose

The purpose of this subchapter is to continue the statewide process of reorganization of school districts begun under the School District Reorganization Act of 1968; to preserve the historic concept of semi-autonomous locally controlled school districts throughout the State; to provide a procedure for the effective and orderly reorganization of certain existing school districts in Delaware; and to provide a framework of a governance system for such reorganized districts.

§1002. Definitions

Unless otherwise defined in this Chapter:

(1) 'School district' means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area provided that 'school district' shall not, for the purpose of this subchapter, include any district specifically created to administer a system of vocational and/or technical education; (2) 'Reorganized school district' or 'newly reorganized school district' means a school district which is constituted and established

in accordance with the provisions of this subchapter including, where applicable, a school district resulting from a consolidation or division in accordance with the provisions of this subchapter, provided that 'reorganized school district' or newly reorganized school district for the purposes of this subchapter shall not include any district specifically created to administer a system of vocational and/or technical education; (3) 'School Board' means the board of education of a reorganized school district consisting of members duly elected or appointed in accordance with the provisions of this chapter; (4) 'Component former school district' or 'component school district' means a school district, as constituted on July 1, 1977, which comprises in whole or in part a reorganized school district on or after July 1, 1978; (5) 'Component former school board' means the board of education of any component former school district or component school district; (6) 'Commission' means the Joint Legislative/Executive Commission on School Reorganization created by Chapter 11 of this title.

§1003. Criteria

The State Board of Education is hereby authorized and empowered to reorganize school districts pursuant to the provisions of this chapter. Any such reorganization shall meet at least the following criteria:

(1) Provide a complete instructional program for grades 1 through 12 except as may be provided for vocational and/or technical education;

(2) Be composed of whole component school districts or parts of component school districts or any combination of whole and parts of component school districts without regard to any specific provisions of this chapter which would otherwise require the preservation of the boundaries of any component school district.

§1004. Plan of reorganization of certain school districts; review and approval by Commission; adoption and implementation of plan

(a) The State Board of Education on or before February 10, 1978, shall meet and adopt a plan of reorganization of those school districts of the State subject to an order of the United States District Court for the District of Delaware dated January 9, 1978, and shall transmit such plan to the Commission.

(b) The Commission shall promptly meet to consider the plan submitted to it. The Commission shall either approve or disapprove the plan submitted and shall report its actions to the State Board of Education no later than February 15,

1978; provided that any plan shall be approved only upon the affirmative vote of at least two-thirds of those members who have been appointed and commissioned pursuant to §1102 of this title. If the Commission disapproves the plan, it shall state the basis of its disapproval in writing.

(c) If the Commission disapproves the plan, the State Board may, not later than February 23, 1978, forward to the Commission either a response to the Commission's objections or an amended plan dealing with such objections. The Commission, not later than February 28, 1978, shall either approve or disapprove the original plan or the amended plan. Such approval or disapproval shall be final.

(d) If the Commission approves the plan, the State Board, within seven days of such approval, shall initiate the implementation thereof in accordance with §1008 of this title. If the Commission finally disapproves the plan or amended plan submitted to it, no plan or reorganization shall be implemented, and, insofar as this subchapter is concerned, the school districts shall continue as heretofore constituted.

§1005. Establishment or reorganized school districts

On July 1, 1978, all proposed school districts contained in the plan approved by the Commission in accordance with this subchapter, shall be constituted and established as reorganized school districts and shall be organized and administered according to the provisions of this title in the same manner as they would have been if constituted and established pursuant to §1027 of this title, except that the maximum tax rates for any such districts shall be determined as provided in Chapter 19 of Title 14.

§1006. Deployment of school employees in each newly reorganized school district

The State Board of Education shall devise a fair and equitable procedure for the deployment of school employees among and within the districts reorganized pursuant to this subchapter which will be consistent with the criteria for reorganization set out in §1003 of this title.

§1007. Employee rights to fair dismissal

Nothing in this chapter shall be deemed to alter or affect in any way either the provisions of chapter 14 of this title or the right to terminate the employment of any

school employee, to whom the provisions of chapter 14 of this title do not apply, for cause or for any other reasons not inconsistent with the purpose of this section, except that, for purposes of §1403 of this title, a teacher as defined in §1401 of this title, shall be deemed employed by the school board of the reorganized school district for that period of time such teacher was deemed to be continuously employed under the rules and regulations in effect as of January 1, 1978, in the component former school district employing the teacher as of that date.

**§1008. Creation of interim Boards as new boards; authority, membership, vacancies, funding**

(a) Within seven days of the approval of a reorganization plan by the Commission, the State Board shall appoint an Interim Board of Education of five members for each reorganized district, with at least one being a representative of each of the component school districts and parts of component school districts. Members of the Interim Board shall be selected from the incumbent members of the component former school boards. If only part of a component school district becomes part of a reorganized school district pursuant to this title, the member of the Interim Board for such reorganized school district appointed from such component school district shall be a resident of that part of the component school district which becomes part of the reorganized school district; if there is no incumbent of the component former school board who is a resident of that part of the component school district which becomes part of the reorganized school district, then the State Board of Education shall select a member from the citizens of that part of the component school district who is eligible for membership on a school district Board of Education according to the provisions of Subchapter III of this Chapter. In any instance where there are fewer than five component school districts or parts of component school districts, the number of additional members necessary to maintain a membership of five shall be appointed by the State Board of Education from the entire area of the proposed reorganized school district at large. Each interim Board of Education shall be called into session by the President of the State Board of Education on a date not later than March 1, 1978, shall be sworn into office and shall elect its officers.

(b) Each Interim Board shall have all of the authority of a board of education as established in this title as the authority is applied to planning and preparing for the establishment of a reorganized school district to be established effective July 1, 1978, in accordance with the provisions of

\$1005 of this title. The Authority herein granted to each Interim Board includes at least but is not limited to the authority to establish a tax rate in accordance with Chapter 19 of this title, negotiate contracts, employ personnel for assignment as of July 1, 1978, select a name for the reorganized school district, and employ personnel for immediate assignment to execute the policies of Interim Board.

(c) Members of each Interim Board shall become the members of the Board of Education of the newly reorganized school district on July 1, 1978, and shall serve for terms of one year or two years. The length of the term to be served after July 1, 1978, of each member shall be determined by lot at the time of appointment by the State Board of Education. Two members of each board shall serve for one year and three members shall serve for two years, after which time elections shall be held according to §1009 and other applicable sections of this title.

(d) A vacancy on each Interim Board of Education prior to July 1, 1978, shall be filled as prescribed in §1054 of this title.

(e) Each Interim Board of Education shall devise a budget to support its operation during the period from date of oath of office through June 30, 1978, and present that budget to the State Board of Education for approval. The State Board of Education shall approve a final budget for each Interim Board within fourteen days from the date of its first session. The budget so approved shall be funded by the component school districts or parts of component school districts comprising the newly reorganized school district. Each component school district shall contribute an amount assessed in proportion to the ratio which the assessed value of taxable real estate in that component school district or part of a component school district (such real estate not including taxable real estate which is exempt from County taxation as determined and fixed for County tax purposes) bears to the total assessed value of taxable real estate, similarly determined, in all districts being consolidated into such newly reorganized district pursuant to the provisions of this subchapter. If any component district fails to contribute the amount assessed against it within ten days of receipt of the Statement of Assessment delivered by certified mail, the Interim Board for the newly reorganized school district which includes that existing district, or part of existing school district shall report the delinquencies to the State Board of Education, which shall in turn verify the delinquencies and certify the delinquencies to the Secretary of Finance. Upon certification of the Secretary of Finance,

the State Treasurer shall pay the assessed amount to the Interim Board from such funds as are available in the State and local district accounts for the delinquent component district.

\$1009. Board of Education of newly reorganized school districts (s)

Notwithstanding other provisions of this title, the school board of a district newly reorganized under the provisions of this subchapter shall have members appointed according to the provisions of \$1008 (c) of this title, and elected according to the provisions in the Table of Terms in sub-section (a) immediately following, so that beginning with the elections in May, 1981, one member shall be elected each year for a term of five years.

(a) Table of Terms

<u>Term</u> <u>Beginning</u>	<u>Appointed Term</u> <u>(by lot)</u>	<u>By Election</u>	<u>Term of</u>	<u>By Election</u>	<u>Term of</u>
July 1, 1978	2 years	May, 1980	1 year	May, 1981	5 years
July 1, 1978	2 years	May, 1980	2 years	May, 1982	5 years
July 1, 1978	1 year	May, 1979	4 years	May, 1983	5 years
July 1, 1978	1 year	May, 1979	5 years	May, 1984	5 years
July 1, 1978	2 years	May, 1980	5 years	May, 1985	5 years

In the election of 1979, the candidate receiving the highest number of votes in any school district shall be elected for a term of five years and the candidate receiving the second highest number of votes shall be elected for a term of four years.

In the election of 1980, when three members shall be elected, the candidates receiving the highest, second highest and third highest number of votes in each school district shall be elected to terms of five years, two years, and one year, respectively .

(b) Beginning with the election of 1979, the persons elected to the Board of Education of a newly reorganized school district shall be elected from the same former component school district or part of a school district that was represented by his or her predecessor according to the appointments made pursuant to \$1008 of this title, except that in any instance where there are fewer than five such component districts or parts of component districts, or in

any instance where no person qualifies for election to the Board from a component district or part of a component district, the number of additional members necessary to maintain a membership of five shall be nominated from the entire area of the newly reorganized school district at large;

(c) All elections regardless of the area from which a candidate is nominated shall be at large. The Boards of Education of the existing component school districts shall conduct elections pursuant to the provisions of this title.

§1010. Property, indebtedness and obligation of component former school districts

(a) Except as otherwise provided in this section, all real and personal property of a component school district or districts composing any reorganized school district constituted and established pursuant to this subchapter of this title shall become the property of and vested in such reorganized school district; and all indebtedness and obligations of a component former school district shall become the indebtedness and obligations of such reorganized school district. All rights of creditors against any component former school district or districts shall be preserved against the reorganized school district. All indebtedness and obligations owed to a component former school district, and all indebtedness, obligations and taxes owing to or for the account or accounts of the component former school district or districts, uncollected in the component former school district or districts, and all moneys deposited to or for the account or accounts of component former school districts, shall be paid to or for, as the case may be, the account or accounts of the reorganized school district.

(b) All obligations of any component former school district evidenced by bonds, serial or otherwise, if any, shall become the common obligation of all of the residents of the reorganized school district and the principal and interest on the outstanding bonds shall be paid according to the original terms for principal and interest by means of a common tax levied uniformly throughout the reorganized school district.

(c) All bond issues or portions thereof, approved by the voters of a component former school district or districts prior to July 1, 1978, and remaining unissued on July 1, 1978, may be issued by the reorganized school district and such bonds shall become the common obligation of all of the residents of the reorganized school district and the principal and interest on such bonds shall be paid

by means of a common tax levied uniformly throughout the reorganized school district.

(d) Wherever a component former school district is made part of two or more reorganized school districts the property, indebtedness and obligations, and rights of such component former school district shall become the property, indebtedness and obligations of the reorganized school districts in a proportion to be determined by the State Board of Education.

\$1011. Property held by State Board of Education  
at time of reorganization

After July 1, 1978, but not later than December 31, 1978, the State Board of Education shall transfer and convey all property that, as determined by the State Board of Education, naturally belongs to any reorganized school district, to such reorganized school district and shall make and execute such deed or deeds of conveyance as are necessary to pass to the reorganized school district the legal title to all such property.

\$1012. Federal funds

(a) The State Board of Education, the school boards of each reorganized district, and any other department, agency or board of this State or any political subdivision having appropriate responsibility shall apply for, receive and maintain and pay out such federal funds as are now or hereafter available for the operation of any district reorganized pursuant to the provisions of this subchapter.

(b) Each reorganized schooldistrict shall, to the maximum extent possible, utilize any federal funds received for its use and/or benefit to defray the costs of salaries, benefits or operations attributable to the hiring of personnel or the implementation of programs relating to counseling and guidance, curriculum, reading and communication skills, in-service training, human relations and student discipline heretofore or hereafter mandated in any such reorganized school district by order of, or instituted in accordance with an order of, any court of competent jurisdiction. All funds available for expenditure for the purposes enumerated in this Section shall in the first instance be utilized to defray such expenses or the portions thereof as are allocable or chargeable to the State of Delaware.



(c) Nothing in this subchapter shall be construed to reduce the dollar level of support from the State of Delaware for any fiscal year starting with the fiscal year commencing July 1, 1978 below the dollar level of State support for the fiscal year ending June 30, 1978 or the fiscal year ending June 30, 1977, whichever is higher, for any school district or districts in the State of Delaware, including without limitation the eleven component districts involved in Evans v. Buchanan."

Section 2. Amend Title 14 of the Delaware Code, by adding thereto a new Chapter II to read as follows:

"CHAPTER II. JOINT LEGISLATIVE/EXECUTIVE COMMISSION ON SCHOOL REORGANIZATION

§1101. Purpose

The purpose of this chapter is to provide for the establishment of a temporary Commission appointed by and serving jointly the Legislative and Executive Branches of Delaware State Government.

It shall be the purpose of this Commission to review and approve or disapprove the plan or plans of reorganization submitted to it by the State Board of Education pursuant to Subchapter 1 of Chapter 10 of this title.

§1102. Appointment and Organization

The Commission herein authorized shall be composed and organized in the following manner: (1) the number of members of the Commission shall be nine, each of whom is a citizen of the State of Delaware; (2) two members of the Commission shall be appointed by the President Pro Tempore of the Senate, two by the Speaker of the House of Representatives, four by the Governor, one by the Attorney General, and all members so appointed shall be commissioned by the Governor; (3) the Chairperson shall be chosen by the membership of the Commission from among its membership.

§1103. Meetings

The Commission herein authorized shall meet at the call of its chairperson on such occasions and at such places designated by the Chairperson as will enable it to carry out the purposes of the Commission.

§1104. Term of the Commission

The Commission shall be appointed as prescribed herein, and organized at a date, time and place fixed by the Governor, not later than ten days after signature of the authorizing legislation by the Governor. The Commission shall continue in existence until June 30, 1978."

Section 3. Amend Chapter 40, Title 14 of the Delaware Code by adding thereto a new section 4004A, which section shall read as follows:

"§4004A. Certification of exclusive bargaining representation in newly reorganized school districts

In connection with the school district reorganization to take place pursuant to the School District Reorganization Act of 1978, the following provisions shall apply:

(1) The Interim Board of Education of each school district, reorganized pursuant to the Act shall within seven days of assuming office, schedule an election to determine the exclusive negotiating representative of the public school employees of the newly reorganized district, such election to be held not later than sixty days after the Interim Board assumes office.

(2) The organizations to be listed on the ballots in each newly reorganized district shall be the Delaware Federation of Teachers and the Delaware State Education Association.

(3) The public school employees entitled to vote in each newly reorganized district shall be the employees deployed or to be deployed to that district by the State Board of Education pursuant to §1006 of this title."

Section 4. This Act shall be construed so as not to impair the rights of any bondholder, and all bonds outstanding shall remain in full force and effect according to the terms thereof.

Section 5. Nothing in this Act shall be construed as affecting the validity of any reorganization plan implemented in any school district in the State pursuant to the Educational Advancement Act of 1968, or as abrogating any rights of any employees thereof arising under such Act prior to the effective date of this Act.

Section 6. Nothing in this Act or in this Chapter shall be construed to confer any power or authority to assign or reassign pupils between any districts.

Section 7. Nothing contained in this Act shall be construed as repealing any section of Delaware law except as specifically provided in this Act.

Section 8. If any provisions of this Act of the application of this Act or any of its provisions to any person or circumstances is held invalid, the other provisions of this Act, or the application of this Act or its provisions to other persons or circumstances, shall not be affected thereby.

Section 9. In the event any order of the United States District Court for the District of Delaware requiring or necessitating dissolution of the school districts subject to such order is reversed on appeal so that the eleven districts involved in Evans v. Buchanan are legally authorized to regain their separate identities and status, any reorganization plan adopted or implemented pursuant to this Act shall be null and void; provided, however, that if the reversal of such order occurs during the school year as defined in §1023 of Chapter 10 of Title 14, any reorganization shall remain in effect until the end of such school year.

Section 10. This Act shall be known as the School District Reorganization Act of 1978.

Approved February 9, 1978.

## CHAPTER 211

FORMERLY SENATE BILL NO. 457  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 19, TITLE 14 OF THE DELAWARE CODE, TO PROVIDE FOR THE ESTABLISHMENT OF TAX RATES IN SCHOOL DISTRICTS CREATED AFTER FEBRUARY 1, 1978, BUT PRIOR TO JULY 30, 1978.

WHEREAS, the General Assembly wholeheartedly supports continued appeals and the prosecution of the pending appeal by the State Board of Education in the case of Evans v. Buchanan; and

WHEREAS, the Court in Evans v. Buchanan on January 9, 1978 ordered that eleven school districts in northern New Castle County be consolidated into one large school district and authorized the school board of the new district to levy and collect taxes for current operating expenditures upon the assessed value of real estate in such district up to a maximum authorized rate of \$1.91 per \$100 of assessed valuation; and

WHEREAS, in calculating the maximum rate of \$1.91 the Opinion of the Court indicates that the decision to authorize a rate of up to \$1.91 was based, in part, on a desire to follow certain provisions of Delaware law; and

WHEREAS, the Court's Opinion in Evans v. Buchanan further states that "Authorization to set a school tax rate is properly a product of the political process" and that the Court is authorizing the school board of the new district to establish a tax rate not greater than the certain maximums specified by the Court "with the understanding that the Legislature can alter the parameters authorized" and further that "Because state political processes are preferred over even limited intervention by a Federal Court, the Delaware Legislature may raise or lower the tax authorization established here" (Evans v. Buchanan, January 9, 1978 Opinion at pages 98, 100-101); and

WHEREAS, the Court in Evans v. Buchanan cautions that "any Legislative action that lowers the established tax rate below a generally acceptable rate to a point at which the desegregation process would be imperiled will be received skeptically," and "the usual presumption of legislative regularity will not attach" (Evans v. Buchanan, January 9, 1978 Opinion at pages 100-101); and

WHEREAS, the Court in Evans v. Buchanan recognizes "that the beleaguered taxpayer ought to incur a tax increase beyond that absolutely essential for effective reorganization" (Evans v. Buchanan, January 9, 1978 Opinion at page 108); and

WHEREAS, the General Assembly is of the opinion that the provisions of Delaware law to which the Court in Evans v. Buchanan refers in authorizing a maximum tax rate for locally funded current operation expenditures of \$1.91 per \$100 of assessed valuation are not fair or appropriate as applied in this instance because those provisions in the present special and peculiar situation result in the imposition of an increase in the maximum authorized tax rate for locally funded current operating expenses in ten of the eleven component districts which increase is beyond that absolutely essential for effective reorganization of the eleven districts by the Federal Courts; and

WHEREAS, the General Assembly believes it is reasonable and appropriate to tie maximum authorized tax rates for locally funded current operating expenses for the new district or districts to the average locally funded per pupil expenditure level for current operating expenses in the eleven component districts involved in the Court consolidation because that average results from the composite of educational financial support decisions made by the eleven districts, rather than the decisions on educational financial support made by only one of eleven districts; and

WHEREAS, the General Assembly believes that it is reasonable and appropriate to fix maximum authorized tax rates for locally funded current operating expenses for the new district or districts at rates which will be designed to produce in total revenues one hundred ten percent (110%) of the aggregate or total amount obtained by multiplying such average locally funded per pupil expenditure level by the total number of public school pupils anticipated for each new district for the next succeeding school year; and

WHEREAS, the General Assembly does not intend by this legislation to impede or interfere with the desegregation process of the Federal Courts, but the General Assembly does desire to reduce the financial impact of such desegregation process upon the citizens in the desegregation area as much as possible, consistent, however, with not imperiling or making ineffective such desegregation process; and

WHEREAS, the provisions of this Bill will therefore set a method of establishing a maximum authorized tax rate for locally funded current operating expenses for each new district which maximum authorized rate will be designed to produce in total revenues one hundred ten percent (110%) of the dollar product reached by multiplying (1) the average locally funded per pupil expenditure level for current operating expenses of the eleven component districts in the year in which the Federal Court is ordering consolidation by (2) the total number of public school students anticipated for each new district for the next succeeding school year; and

WHEREAS, the General Assembly believes that such a maximum authorized tax rate for locally funded current expenses does not lower the authorized maximum tax rate for locally funded current operating expenses in the new district below a generally acceptable rate nor to a point at which the desegregation process of the Federal Courts would be imperiled or rendered ineffective, and the General Assembly is advised that the Court's Opinion of January 9, 1978 indicates and suggests that the Court's view is similar; and

WHEREAS, the General Assembly believes that a fair and reasonable and adequate maximum authorized tax rate for locally funded current operating expenses for the new district might very well be less than such a rate which will be established by the provisions of this legislation, but in view of the cautionary language in the Court's Opinion quoted above, the General Assembly feels compelled to assure at this point in time that it not provide for such a rate lower than that provided for in this legislation, although the General Assembly believes (and is advised that the Court's Opinion indicates the Court believes) that the establishment of such a maximum authorized tax rate is most properly and preferably a function of the General Assembly; and

WHEREAS, although the General Assembly continues to believe that no unconstitutional segregation exists in the area ordered to be consolidated by the Court in Evans v. Buchanan and that no reassignment of students or changes in governance structure should be required by Court Order, the General Assembly recognizes that the Court Order, including its tax provisions, has the force of law and that the new district will be a reality for the next succeeding public school years until and unless the Court Order is stayed or reversed, and thus this legislation is necessary to avoid the possibility of a current operating expenses tax rate of \$1.91 per \$100 of assessed valuation in the consolidated area; and

WHEREAS, it is the intent of the General Assembly that this legislation be adopted without prejudice to the appellate and legal positions and contentions of the Defendants in the case of Evans v. Buchanan, and the General Assembly is advised that the passage of this Bill with these Recitals to it and with the express reservation of all legal and appellate contentions and positions of the Defendants in the case of Evans v. Buchanan will not jeopardize or adversely affect such contentions and positions, and it is only with such reservation and because of such advise that the General Assembly is enacting this legislation at this time, hereby declaring that it is enacted with such reservation and without prejudice to the appellate and legal positions and contentions of the Defendants in the case of Evans v. Buchanan.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter I, Chapter 19, Title 14 of the Delaware Code, by adding a new §1924 thereto to read as follows:

"§1924. Tax Rates in Districts Resulting from Consolidation Pursuant to Court Order or Created after February 1, 1978, but Prior to July 30, 1978

(a) For the purpose of this Section:

(1) The term reorganized school district shall mean any school district created by consolidation of whole existing school districts or parts of existing school districts or any combination thereof pursuant to Court Order or created by consolidation of whole existing school districts or parts of existing school districts or any combination thereof which occurs after February 1, 1978, but prior to July 30, 1978, except for consolidation of districts created specifically to administer a system of vocational and/or technical education.

(2) The term 'consolidated area' shall refer to a contiguous geographical area in which all school districts (except vocational technical school districts unless specifically included by the Court or the consolidation) are being organized into one or more reorganized school districts.

(b) The Interim Board of Education or Board of Education or other authority mandated by the Court or by this Title for each reorganized school district may annually set a tax rate for current operating expenses not greater than a maximum rate to be determined by the State Board of Education in accordance with the following mathematical procedure:

(1) Determine the total aggregate dollar amount of local tax funded current operating cost expenditure in the school districts (except vocational technical school districts unless such districts are included in the consolidation) of the consolidated area in the year prior to consolidation. In determining such total amount the State Board shall take the known total aggregate dollar amount of local tax funded current operating cost expenditure in the fiscal year preceding the year prior to consolidation and shall adjust this amount to take into account historic annual percentage changes in such total dollar amounts.

(2) Calculate the average per pupil local tax funded operating cost expenditure by dividing the dollar amount determined in part (1) by the total number of students resident in the consolidated area who attend public schools of the districts (except vocational technical school districts unless such districts are included in the consolidation) within the consolidated area on September 30 of the year prior to consolidation.

(3) Multiply the per pupil figure determined in part (2) by the projected number of pupils expected to attend school in the reorganized school district in the first year of consolidation, such projected number to be determined by the State Board of Education by whatever tests or standards it finds appropriate.

(4) Determine the tax rate which, when multiplied by the total assessed value of all taxable real estate in the reorganized school district at the time the maximum is calculated, except taxable real estate which is exempt from county taxation, as determined and fixed for county tax purposes, would yield tax dollars collectible equal to 110 per cent of the total dollar amount determined in part (3).

(c) The maximum rate of tax authorized in accordance with subsection (b) hereof includes the percentage for delinquencies and costs of collection provided for in Section 1913 of this Title.

(d) The Interim Board of Education or the Board of Education or other authority mandated by the Court or by this Title for each reorganized school district may at an appropriate time during each fiscal year set a tax rate for debt service for the next fiscal year that shall be adequate to make the payments for principal and interest on debts evidenced by bonds or bond obligations of the reorganized district and bonds or bond obligations in each of the whole component school districts included in the reorganized district and for that fraction of the bond obligation of each component school district partially included in the reorganized district equal to the fraction of the assessed value (except taxable real estate which is exempt from county taxation, as determined and fixed for county tax purposes) of such partially included district located in the reorganized district.



(e) The Interim Board of Education or Board of Education or other authority mandated by the Court or by this Title for each reorganized school district may each fiscal year determine and set tax rates for tuition and for minor capital improvements for the next fiscal year.

(f) Each reorganized school district may annually levy and collect taxes at rates set in accordance with this section upon the assessed value of all taxable real estate in such district, except taxable real estate which is exempt from county taxation, as determined and fixed for county tax purposes. Whenever this section provides for a maximum rate of tax, the levy of any taxes in excess of such maximum rate of tax shall in all respects be subject to the provisions of this Subchapter, notwithstanding the provisions of this Section."

Section 2. If Evans v. Buchanan is reversed, in whole or in part, so that the eleven districts consolidated pursuant to the Court Order are permitted to regain their identity and status, the tax rates set by the reorganized school district or school districts shall not be authorized in the component districts, and the tax rates authorized in each of the eleven districts shall be the rates authorized prior to the consolidation, until changed pursuant to the provisions of Title 14, Chapter 19, Subchapter I. Nothing herein is intended to invalidate any taxes levied pursuant to the authorization of Section 1 of this Act. Taxes levied pursuant to the authorization of Section 1 of this Act shall remain collectible.

Approved February 9, 1978.

## CHAPTER 212

FORMERLY SENATE BILL NO. 222  
AS AMENDED BY  
SENATE AMENDMENT NO. 1  
AND  
HOUSE AMENDMENT NOS. 1, 2, & 3

AN ACT TO AMEND PART VII, TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION OF THE STATE'S NATURAL RESOURCES; ESTABLISHING A STATE SYSTEM OF NATURE PRESERVES; AND PROVIDING FOR THEIR ACQUISITION, CONTROL, USE, MANAGEMENT AND PROTECTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part VII, Title 7 of the Delaware Code by striking the present title of said Part VII, and substituting in lieu thereof the following:

"PART VII. NATURAL RESOURCES"

Section 2. Amend Part VII, Title 7 of the Delaware Code, by adding thereto a new chapter, designated as Chapter 73, which new Chapter shall read as follows:

"CHAPTER 73. NATURAL AREAS PRESERVATION SYSTEM

§7301. Statement of Policy

Because of the continuing growth of the population and the development of the economy of the State of Delaware, it is necessary and desirable that areas of unusual natural significance be set aside and preserved for the benefit of present and future generations before they have been destroyed, for once destroyed they cannot be wholly restored. Such areas are irreplaceable as laboratories for scientific research, as reservoirs of natural materials - not all of the uses of which are now known, as habitats for plant and animal species and biotic communities whose diversity enriches the meaning and enjoyment of human life, as living museums where people may observe natural biotic and environmental systems of the earth and the interdependence of all forms of life, and as reminders of the vital dependence of the health of the human community upon the health of the natural communities of which it is an inseparable part.

It is essential to the people of the State of Delaware that they retain the opportunities to maintain close contact

with such living communities and environmental system of the earth and to benefit from the scientific, educational, esthetic, recreational and cultural values they possess. It is therefore the public policy of the State of Delaware that a registry of such areas be established and maintained by the Department of Natural Resources and Environmental Control, that such areas be acquired and preserved by the State, and that other agencies, organizations, and individuals, both public and private, be encouraged to set aside such areas for the common benefit of the people of present and future generations.

**§7302. Definitions**

The following words, terms and phrases, when used in the Chapter, shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

(a) 'Articles of dedication' shall mean the writing by which any estate, interest, or right in an area is formally dedicated as permitted by §7307 of this Chapter.

(b) 'Council' shall mean the Delaware Natural Areas Advisory Council.

(c) 'Dedicate' and 'dedication' shall mean the transfer to the Department of Natural Resources and Environmental Control, for and on behalf of the State of Delaware, of an estate, interest, or right in an area in any manner permitted by §7306 of this Chapter.

(d) 'Department' shall mean the Department of Natural Resources and Environmental Control.

(e) 'Natural area' shall mean an area of land or water, or both land and water, whether in public or private ownership, which either retains or has re-established its natural character (although it need not be undisturbed), or has unusual flora or fauna, or has biotic, geological, scenic, or archaeological features of scientific or educational value.

(f) 'Nature preserve' shall mean a natural area, any estate, interest, or right in which has been formally dedicated under the provisions of this Chapter.

(g) 'Secretary' shall mean the Secretary of the Department of Natural Resources and Environmental Control.

(h) 'System' shall mean the nature preserve held under the provisions of this Chapter.

### \$7303. Statement of Purpose

In order to secure for the people of the State of Delaware of present and future generations the benefits of an enduring resource of areas having one or more of the characteristics referred to in §7302 (e) of this Chapter, the State of Delaware, acting through the Department, shall acquire and hold in trust for the benefit of the people an adequate system of nature preserves for the following uses and purposes:

(a) for scientific research in such fields as ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, conservation, archaeology, and other subjects;

(b) for the teaching of biology, natural history, ecology, geology, conservation, and other subjects;

(c) as habitats for plant and animal species and communities and other natural objects;

(d) as reservoirs of natural materials;

(e) as places of natural interest and beauty;

(f) as living illustrations of our natural heritage wherein one may observe and experience natural biotic and environmental systems of the earth and their processes;

(g) to promote understanding and appreciation of the scientific, educational, esthetic, recreational and cultural values of such areas by the people of the State of Delaware;

(h) for the preservation and protection of nature preserves against modification or encroachment resulting from occupation, development, or other use which would destroy their natural or esthetic conditions.

In order to give recognition to natural areas, the Department shall establish and maintain a registry of natural areas of unusual significance, but no area so registered shall be a nature preserve unless and until it shall have been dedicated as provided for in §7306 of this Chapter.

### \$7304. Designation of Office of Nature Preserves

There is hereby designated within the Department an Office of Nature Preserves, which shall administer for the Department the provisions of this Chapter.

§7305. Provision for Expert Advice and Assistance

(a) There is hereby created a Delaware Natural Areas Advisory Council to advise the Secretary of the Department on the administration of nature preserves and the preservation of natural areas.

(b) The Council shall have eight members. The Secretary of the Department of Natural Resources and Environmental Control shall be an ex officio member of the Council, with a voice in its deliberations, but without the power to vote. The other members shall be appointed by the Governor of the State of Delaware, with the advice and consent of the Senate, shall be persons who have been active or have demonstrated an interest in preserving natural areas, and shall include members of public and private educational organizations, conservation organizations, industry leaders active in environmental matters, sport hunting organizations, and sport fishing organizations and shall not include more than four persons who belong to the same political party.

(c) The Department shall furnish clerical, technical, legal, and other services required by the Council in the performance of its official duties.

(d) Members of the Council shall receive no compensation but may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. The Council shall hold at least one regular meeting in each quarter of each calendar year and shall keep a record of its proceedings, which shall be open to the public for inspection.

(e) The Council shall:

(1) review and make recommendations on the Department's criteria for acquisition and dedication of nature preserves;

(2) review and make recommendations regarding inventories and registries of natural areas and nature preserves;

(3) review and make recommendations on departmental plans for the selection of particular natural areas for State acquisition;

(4) advise the Secretary on policies, rules, and regulations governing the management, protection, and use of nature preserves;

(5) recommend the extent and type of visitation and use to be permitted within each nature preserve;

(6) advise and consult with the Secretary and Departmental employees on preservation matters;

(7) advise and consult regarding any change from dedicated status of a nature preserve.

(8) within 10 days of receiving plans from the department for the selection of particular natural areas for State acquisition, issue written notice to adjacent landowners that such areas are being considered for State acquisition.

**\$7306. The Dedication Process**

(a) The Department is authorized and empowered, for and on behalf of the State of Delaware, to acquire nature preserves by gift, devise, purchase, exchange, or any other method of acquiring real property or any estate, interest or right therein provided that such acquisition shall not be made through the exercise of the power of eminent domain, and further provided that any interest owned by the State or by any subdivision thereof may be dedicated only by voluntary act of the agency having jurisdiction thereof. The Department may acquire the fee simple interest in an area or any one or more lesser estates, interests, and rights therein, including (without limitation upon the generality of the foregoing by reason of specification) a leasehold estate, an easement either appurtenant or in gross and either granting the State specified rights of use or denying to the grantor specified rights of use or both, a license, a covenant, and other contractual rights. A nature preserve may be acquired voluntarily for such consideration as the Department deems advisable or without consideration.

(b) The Secretary of the Department, upon the advice and concurrence of the Council, shall accept natural areas by articles of dedication or gift. A nature preserve is established when articles of dedication have been filed by or at the direction of the owner of land, or a governmental agency having ownership or control thereof, in the office of the County Recorder of the county in which the land is located.

(c) Articles of dedication shall be executed by the owner of the land in the same manner and with the same effect as a conveyance of an interest in land and shall be irrevocable except as provided in this section. The County Recorder may not accept articles of dedication for recording unless they contain terms restricting the use of the land which adequately provide for its preservation and protection against modification or encroachment

resulting from occupation, development, or other use which would destroy its natural or esthetic conditions for one or more of the uses and purposes set forth in this section.

(d) Articles of dedication may contain provisions for the management, custody, and transfer of land, provisions defining the rights of the owner or operating agency and the Department, and such other provisions as may be necessary or advisable to carry out the uses and purposes for which the land is dedicated. They may contain conditions under which the owner and the Department may agree to rescind the articles.

(e) The Department may make or accept amendments of any articles of dedication upon terms and conditions that will not destroy the natural or esthetic condition of a preserve. If the fee simple interest in the area is not held by the State, no amendments shall be made without the written consent of the owner. Each amendment shall be recorded in the same manner as the articles of dedication.

#### §7307. Additional Powers and Duties of Department

In furtherance of the purposes of this Chapter and in implementation of the powers and duties elsewhere provided in this Chapter, the Department shall have the following additional powers and duties:

(a) to formulate policies for the selection, acquisition, use, management, and protection of nature preserves;

(b) to formulate policies for the selection of areas suitable for registration under the provisions of this Chapter:

(c) to formulate policies for the dedication of areas as nature preserves;

(d) to determine, supervise and control the management of nature preserves and to make, publish, and amend from time to time rules and regulations necessary or advisable for the use and protection of nature preserves;

(e) to encourage and recommend the dedication of areas as nature preserves;

(f) to make surveys and maintain registries and records of unique natural areas within the State;

(g) to carry on interpretive programs and publish and disseminate information pertaining to nature preserves and other areas within the State; and

(h) to promote and assist in the establishment, restoration and protection of, and advise in the management of, natural areas and other areas of educational or scientific value and otherwise to foster and aid in the establishment, restoration and preservation of natural conditions within the State elsewhere than in the system.

**\$7308. Protection Against any Change in Status from that of Dedicated Nature Preserve**

Nature preserves dedicated under §7306 of this Chapter are to be held in trust, for the uses and purposes set forth for the benefit of the people of the State of present and future generations. They shall be managed and protected in the manner approved, by and subject to the rules and regulations established by the Department. They shall not be taken for any other use except another public use after a finding by the Department of the existence of an imperative and unavoidable public necessity for such other public use and with the approval of the Governor after consultation with the Advisory Council, and by Act of the Legislature not less than six months from the date of the Governor's approval. Except as may otherwise be provided by the articles of dedication, the Department may grant, upon such terms and conditions as it may determine, an estate, interest or right in, or dispose of, a nature preserve, but only after a finding by the Department of the existence of an imperative and unavoidable public necessity for such grant of disposition, and with the approval of the Governor after consultation with the Advisory Council, and by Act of the Legislature not less than six months from the date of the Governor's approval.

**\$7309. Public Participation**

Before the Department makes any finding of the existence of an imperative and unavoidable public necessity, or grants any estate, interest or right in a nature preserve or disposes of a nature preserve or of any estate, interest or right therein, as provided in §7308, it shall give notice of such proposed action and an opportunity for any person to be heard at a public hearing in the county in which the preserve is located. The public hearing shall be published at least once in newspapers with a Statewide circulation and general circulation in the county in which the nature preserve is located. The notice shall set forth the substance of the proposed action and describe, with or without legal description, the nature preserve affected, and shall specify a place and time not less than thirty days after such publication for a public hearing before the Department on such proposed action. All persons desiring to be heard shall have a reasonable opportunity to be heard prior to action by the Department on such proposal.



#### §7310. Enforcement

Enforcement of this Chapter, including enforcement of the articles of dedication, shall be the responsibility of the Department.

#### §7311. Transfer of Natural Areas

All units, departments, agencies, and instrumentalities of the State, including (without limitation upon the generality of the foregoing by reason of specification) counties, municipalities, schools, colleges and universities, are empowered and urged to dedicate as nature preserves suitable areas or portions of areas within their jurisdiction.

#### §7312. Additional Protection Unimpaired

Nothing contained in this Chapter shall be construed as interfering with the purposes stated in the establishment of or pertaining to any State or local park, preserve, wildlife refuge or other area or the proper management and development thereof, except that any agency administering an area dedicated as a nature preserve under the provisions of this Chapter shall be responsible for preserving the character of the area in accordance with the articles of dedication and the applicable rules and regulations with respect thereto established by the Department from time to time. Neither the dedication of an area as a nature preserve nor any action taken by the Department under any of the provisions of this Chapter shall void or replace any protective status under law which the area would have were it not a nature preserve, and the protective provisions of this Chapter shall be supplemental thereto."

Section 3. If any provision of this Act or the application thereof to any circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 4. All laws and parts of laws in conflict herewith, insofar as such conflicts exist, are hereby repealed.

Approved February 10, 1978.

FORMERLY SENATE BILL NO. 402

AN ACT TO AMEND CHAPTER 116, VOLUME 61, LAWS OF DELAWARE, THE 1978 BUDGET APPROPRIATION ACT, ORIGINALLY DESIGNATED HOUSE BILL NO. 300, AMENDED BY HOUSE AMENDMENT NO. 27 AND SENATE AMENDMENT NO. 1.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 116, Volume 61, Laws of Delaware by adding a new section thereto to read as follows:

"Section 97. Section 1 of this Act provides an appropriation of \$167,411 for Learning Disabilities - Tuition under (95-01-003) Educational Contingency. The Department of Public Instruction shall administer this appropriation for the fiscal year ending June 30, 1978, in accordance with the following:

'The State Board of Education shall provide through rules and regulations for the establishment of evaluation and placement committees in the school districts of the State, the purpose of which shall be to evaluate each potential candidate for enrollment in a class in the category known as 'learning disabilities' and to recommend appropriate placement to the parents or legal guardian of the potential candidate and to the superintendent of the school district. Each evaluation and placement committee shall contain a psychologist, psychiatrist or both licensed to practice in this State. No state expenditure for classes in the category known as 'learning disability' shall be authorized unless the qualifications of the teacher and the instructional program shall have been approved by the State Board of Education. In any instance in which such an evaluation and placement committee certifies that a particular child cannot be adequately served in any of the units described in this section for handicapped children, including the unit described by the term "learning disabilities" or where such a unit for learning disabilities is not available in the district of residence or a district within reasonable transportation distance of the home of the child, then the committee may recommend to the parents or legal guardian of the child and to the superintendent of the district that the child be authorized to attend a specialized public or private school in this State or in another State of the United States and that the district of residence be authorized to include in the budget of that district a separate amount to be drawn from state funds, which may be used to cover the cost of tuition, transportation and housing for such a specialized assignment. Such amounts may be used up to but not in excess of an amount equal to this State's average expenditure per pupil as expended from state funds in the prior year. Any amount so authorized and allocated in the budget of

the school district shall not be counted against the allocation otherwise granted to that district for other unit purposes, nor shall the district count the student in the certified count by which units are determined for the school district. When the timing of a pupil evaluation and placement does not coincide with the timing of the budget presentation, then the amounts shall be provided from the Educational Contingency Fund."

Section 2. Section 1 of this Act authorizes the State Board of Education to approve learning disability private placements during the school year 1977-1978. This authorization will remain in effect until the implementation on July 1, 1978 of the provisions of Chapter 190, Volume 61, Laws of Delaware, originally designated Senate Bill No. 353 of the 129th General Assembly. In the event that any monies have, prior to the enactment of this Act, been disbursed for transportation costs to otherwise qualified private placements under this Act, such monies shall be deducted from the tuition payment granted under Section 1 of this Act.

Approved February 10, 1978.

## CHAPTER 214

## FORMERLY SENATE BILL NO. 414

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF JUSTICE FOR THE PURCHASE OF MOTOR VEHICLES, AND FOR THE MAINTENANCE OF MOTOR VEHICLES WITHIN ITS CUSTODY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of twenty-nine thousand two hundred eighty-four dollars and fifty-five cents (\$29,284.55) is hereby appropriated to the Department of Justice for the following purposes:

(a) \$10,000 for the purchase of two automobiles to be utilized by State Investigators;

(b) \$6,400 for the purchase of two 1977 Venturas for State Detectives;

(c) \$3,794.85 to purchase a 1978 A.M.C. Concorde, two-door/V-6, with power steering, power brakes and A.M. radio for the Attorney General;

(d) \$7,589.70 for the purchase of two A.M.C. Concordes, each having two doors and a V-6 Engine; each having power steering, power brakes and an A.M. radio for New Castle County;

(e) \$1,500 to cover repairs and maintenance for the remaining portion of this fiscal year.

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 specified in subsections (a) through (e) of Section 1 above, and any funds appropriated but unexpended by July 1, 1978, shall thereupon revert to the General Fund of the State Treasury.

Approved February 10, 1978.

## CHAPTER 215

FORMERLY HOUSE BILL NO. 214  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 17, TITLE 14, OF THE DELAWARE CODE TO PROVIDE A TWELVE-MONTH INSTRUCTIONAL SCHEDULE FOR TRAINABLE 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, Chapter 17, Title 14, of the Delaware Code by re-designating present subsection (f) as new subsection (g), by re-designating all subsequent subsections accordingly; and by adding thereto a new subsection (f) which shall read as follows:

"(f) Programs shall be conducted on a twelve-month schedule for children who are identified as trainable 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. The State share of the salary paid to the 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 2. The sum of fifty-nine thousand dollars (\$59,000) is hereby appropriated to the State Board of Education in order to carry out the purposes of this Act in FY 1978. None of the funds appropriated herein shall be used for a purpose or expense not related to the extension of the school program for the trainable mentally retarded from ten to twelve months.

Section 3. 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. Any of said funds remaining unexpended or unencumbered on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Section 4. Teachers and other personnel engaged in the school program for the trainable mentally retarded shall not be required to perform any services not required by existing contract. This section shall not apply to contracts executed subsequent to the effective date of this Act.

Approved February 10, 1978.

## CHAPTER 216

## FORMERLY HOUSE BILL NO. 298

AN ACT TO AMEND CHAPTER 23, TITLE 18, DELAWARE CODE RELATING TO DISCRIMINATION AGAINST BLIND OR DEAF PERSONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 23, Title 18, Delaware Code by adding thereto a new section to be designated as §2316 which shall read as follows:

" §2316. Refusal to Issue Policy to Blind or Deaf Persons; Prohibition

(a) No insurer authorized to issue policies of accident and sickness insurance in the State of Delaware shall refuse, for the reason of blindness or deafness, to issue an individual policy of accident and sickness insurance, which provides hospital expense and surgical expense coverage, to any person residing in the State of Delaware.

(b) No insurer authorized to issue life insurance policies in the State of Delaware shall refuse, for the sole reason of blindness or deafness, to issue a policy of individual life insurance on the life of any such person residing in the State of Delaware."

Approved February 10, 1978.

CHAPTER 217

FORMERLY HOUSE BILL NO. 400  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR  
PAYMENT OF AN ANNUAL INCREMENT THAT WAS NOT GIVEN TO AN EMPLOYEE.

WHEREAS, Saralene Oldfield was employed by the Department of  
Agriculture as a secretary; and

WHEREAS, an audit by the State Auditors Office disclosed that  
although Saralene Oldfield was due an annual increment on July 1,  
1969, she has not received it; and

WHEREAS, the total underpayment to Saralene Oldfield as of June  
30, 1976, was \$2,111.47; and

WHEREAS, this amount should be appropriated to the Department  
of Agriculture to be paid to Saralene Oldfield.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of two thousand  
one hundred and eleven dollars and forty-seven cents (\$2,111.47) to the  
Department of Agriculture to pay to Saralene Oldfield, an employee of  
the department, for increments to which she was entitled but did not  
receive from July 1, 1969, through June 30, 1976.

Section 2. This is a supplementary appropriation and the funds  
shall be paid by the State Treasurer out of the General Fund of  
Delaware from funds not otherwise appropriated. Any funds remaining  
unexpended on June 30, 1978 shall revert to the General Fund.

Approved February 10, 1978.

## CHAPTER 218

FORMERLY HOUSE BILL NO. 483  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 & 2

AN ACT TO AMEND PART I, TITLE 31 OF THE DELAWARE CODE RELATING TO  
THE ESTABLISHMENT OF MULTI-PURPOSE SERVICE PROGRAMS FOR DIS-  
PLACED HOMEMAKERS AND MAKING APPROPRIATION THEREFOR.

WHEREAS, the General Assembly hereby finds and declares that there is an ever-increasing number of persons in this State who, having fulfilled the role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, or other loss of family income. As a consequence, displaced homemakers are very often without any source of income; they are subject to the highest unemployment rate of any sector of the work force; they face continuing discrimination in employment because they are older and have no recent paid work experience; they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are ineligible for Social Security because they are too young and, for many, they will never qualify for Social Security because they have been divorced from the family wage earner; they have often lost their rights as beneficiaries under employers' pension and health plans through divorce or death of spouse, despite many years of contribution to the family well-being; and they are most often ineligible for welfare in the State of Delaware, and are generally unacceptable to private health insurance plans because of their age; and

WHEREAS, the General Assembly further finds and declares that homemakers are an unrecognized part of the work force who make an invaluable contribution to the welfare of society as a whole.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part I, Title 31 of the Delaware Code by adding thereto a new chapter, designated as Chapter 13, which new Chapter shall read as follows:

"CHAPTER 13. DISPLACED HOMEMAKERS

§1301. Definitions

As used in this Chapter:

(a) 'Displaced homemaker' shall mean an individual who has worked in the home for a substantial number of years providing unpaid household services for family members; who is



not gainfully employed; who has had, or would have, difficulty finding employment; and who has depended on the income of a family member and has lost that source of income or has depended on government assistance as the parent of dependent children, but who is no longer eligible for such assistance.

(b) 'Department' shall mean the Department of Labor.

(c) 'Secretary' shall mean the Secretary of the Department of Labor.

(d) 'Coordinator' shall mean the Coordinator of the Displaced Homemakers Program.

**§1302. Assistance to Displaced Homemakers**

The Secretary shall appoint a Coordinator who shall, in consultation with the Secretary, establish, in conjunction with other governmental agencies and private employers, job-counseling, job-placement programs; provide information on money management and relevant government programs such as Social Security, Veterans Administration benefits, public assistance, and medical assistance. The Coordinator, in consultation with the Secretary, shall promulgate rules and regulations regarding the eligibility of persons for participation in programs under this Chapter; establish contracts as necessary with non-profit agencies and/or organizations, and with the private sector to conduct service programs; and carry out such other duties as the Secretary deems necessary. The Secretary shall employ such additional staff as required to carry out the provisions of this Chapter, within the limits of the funds appropriated therefor.

**§1303. Duties of the Coordinator**

The Coordinator shall coordinate contact with, and referrals to, programs applicable to displaced homemakers which shall include:

(a) Job counseling by professionals and peers specifically designed for a person entering the job market after a number of years as a homemaker;

(b) Job training and placement services, including:

(1) training programs for available jobs in the public and private sectors taking into account the skills and job experiences of a homemaker, and developed by working with public and private employers;

(2) assistance in locating available employment for displaced homemakers, some of whom could be employed in existing job training and placement programs;

(3) utilization of the services of the State Office of Personnel, which shall cooperate with the Department in locating employment opportunities;

(c) Financial management services providing information and assistance with respect to insurance, including but not limited to life, health, home and automobile insurance, and taxes, estate and probate problems, mortgages, loans and other related financial matters;

(d) Education and health services which would be of interest and benefit to displaced homemakers;

(e) Research for the creation of new jobs making maximum use of skills developed from homemaking experience. Such jobs may include but shall not be limited to lay advocacy, home health technician, aging programs specialist, craft exchange coordinator, money management specialist, food production specialist, and surviving spouse counselor.

**\$1304. State-Federal Programs**

The Department shall, through coordination with the appropriate State and Federal agencies, determine the feasibility of, and appropriate procedures for, allowing displaced homemakers to participate in:

(1) programs established under the Comprehensive Employment and Training Act of 1973 (29 U.S.C., 801 et seq.);

(2) work incentive programs established under Section 432 (b) (1) of the Social Security Act;

(3) related Federal and State employment, education, and health assistance programs."

Section 2. The sum of thirty thousand nine hundred dollars (\$30,900.00) is hereby appropriated to the Department of Labor for the purpose of carrying out the provisions of this Act.

Section 3. This Act is a supplementary appropriation and the money hereby appropriated shall be paid out of the General Fund of the State of Delaware. Any money appropriated herein and remaining unexpended or unencumbered on June 30, 1978 shall revert to the General Fund of the State of Delaware.

Approved February 10, 1978.

CHAPTER 219

FORMERLY HOUSE BILL NO. 664

AN ACT TO AMEND SUBCHAPTER VII, CHAPTER 1, TITLE 20 OF THE DELAWARE  
CODE RELATING TO THE WILMINGTON ARMORY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Section 191, Subchapter VII, Chapter 1, Title 20  
of the Delaware Code is hereby repealed.

Approved February 10, 1978.

## CHAPTER 220

## FORMERLY HOUSE BILL NO. 665

AN ACT TO AUTHORIZE AND APPROVE THE LEASING OF THE WILMINGTON ARMORY TO ST. ANTHONY'S SENIOR AND COMMUNITY CENTER, INC., A NON-PROFIT CORPORATION.

WHEREAS, the Wilmington, Armory, located at Tenth and duPont Streets in the City of Wilmington, owned by the State of Delaware has been vacated by the Delaware National Guard and is no longer used as a state arsenal and armory;

WHEREAS, it has been determined by the State that there is a serious need for a senior citizens and community center and housing for the elderly in the community in which the Wilmington Armory is located to serve the citizens of Wilmington and neighboring New Castle County;

WHEREAS, St. Anthony's Senior and Community Center, Inc., a non-profit corporation has offered to establish and operate a senior citizens and community center at the Wilmington Armory location;

WHEREAS, St. Anthony's Housing for The Elderly Corporation, non-profit corporation has offered to establish and operate a housing for the elderly project at the Wilmington Armory location;

WHEREAS, the State of Delaware through the Department of Administrative Services has agreed to lease the Wilmington Armory to St. Anthony's Senior and Community Center, Inc. for a period of ninety-nine years, for a nominal consideration, upon condition that the armory be used as a senior citizens and community center and housing for the elderly project and upon further conditions as hereinafter set forth.

WHEREAS, it is the purpose of this Act to approve the leasing of the Wilmington Armory to St. Anthony's Senior and Community Center, Inc. upon the conditions hereinafter described and to authorize the Department of Administrative Services to enter into a lease agreement with said corporation.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The leasing of the state real property, located at Tenth and duPont Streets in the City of Wilmington, known as the Wilmington Armory, including the buildings thereon erected, to St. Anthony's Senior and Community Center, Inc. for the consideration of one dollar (\$1.00) subject to the conditions hereinafter recited is hereby approved.

Section 2. The above described real property is to be leased to St. Anthony's Senior and Community Center, Inc., a non-profit corporation (hereinafter referred to as "Tenant") upon the following conditions:

(1) The term of the lease shall be for a period of ninety-nine (99) years; and

(2) Tenant shall use the leased premises solely as a senior citizen and community center and housing for the elderly project, and when it is no longer used for such purpose or purposes, the lease shall terminate, become null and void and possession of said leased premises shall be delivered and turned over to the State of Delaware; and

(3) Tenant, during the entire period that the lease is in force and effect shall be responsible for all maintenance expenses, repair expenses, insurance expenses and any and all other expenses related to the operation of the leased premises and the State shall not have any responsibility in connection therewith; and

(4) Tenant, during the entire period that the lease is in force and effect may sublease a portion of the leased premises to any non-profit organization or non-profit corporation which provides non-profit below cost basis rental housing and related facilities and services for the elderly; Provided that Tenant shall not receive compensation for the subleasing of a portion of said property, and provided further that Tenant shall not sublease any portion of said property without first obtaining the written approval of the Department of Administrative Services; and

(5) Tenant, during the entire period that the lease is in force and effect shall have the right to make alterations and/or modifications and/or improvements to the leased premises at its own expense provided that no such alterations and/or modifications and/or improvements shall be made unless the same shall be approved in writing by the Department of Administrative Services; and

(6) The lease shall contain such other provisions or conditions as the Department of Administrative Services shall deem necessary to protect the interest of the State in the leased premises and to protect the State from liability or damages arising out of the use of the leased premises by Tenant.

Section 3. The Department of Administrative Services is hereby authorized and empowered to execute a written lease agreement with St. Anthony's Senior and Community Center, Inc., wherein and whereby the above described real property shall be leased to said corporation for the term and upon the conditions hereinabove recited.

Approved February 10, 1978.

## CHAPTER 221

## FORMERLY HOUSE BILL NO. 638

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF FINANCE FOR THE PURPOSE OF PROVIDING ADDITIONAL OPERATING FUNDS FOR THE FISCAL YEAR ENDING JUNE 30, 1978.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of one hundred thirteen thousand eight hundred dollars (\$113,800) to the Department of Finance for the purpose of providing additional operating funds for the fiscal year ending June 30, 1978 as follows:

(25-00-000) Division of Revenue

(25-06-000) Division of Revenue

Salaries - Casual & Seasonal	\$ <u>113,800</u>
TOTAL - Department of Finance	\$ <u>113,800</u>

Section 2. This act shall be considered a supplementary appropriation and the money hereby appropriated shall be paid out of the General Fund of the State Treasury from monies not otherwise appropriated. Any funds remaining unexpended as of June 30, 1978, shall revert to the General Fund of the State Treasury.

Approved February 10, 1978.

## CHAPTER 222

## FORMERLY HOUSE BILL NO. 685

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE COMMISSION ON MESSAGE ESTABLISHMENTS AND ADULT BOOK STORES FOR THE FISCAL YEAR ENDING JUNE 30, 1978, TO PROVIDE FUNDS FOR THE ORGANIZATION AND OPERATION OF THE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of Thirteen Thousand, Two Hundred and Eighty-eight Dollars (\$13,288) is hereby appropriated to the Commission on Message Establishments and Adult Book Stores for the purposes and in the amounts set out below:

(79-01-000)	Commission on Message Establishments and Adult Book Stores	
	Salaries of Board Members (5)	\$3,000
	Salaries - Casual and Seasonal	2,500
	Salaries & Wages of Employees (1)	2,200
	F.I.C.A. - Employer's Share	133
	Pensions	255
	Travel	1,000
	Contractual Services	
	Rent	1,200
	Other Contract Services	1,000
	Capital Outlay	1,500
	Supplies and materials	500
	TOTAL	\$13,288

Section 2. This is a supplementary appropriation and the monies hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated.

Section 3. The funds herein appropriated remaining unexpended on June 30, 1978 shall revert to the General Fund of the State of Delaware.

Approved February 10, 1978.

## CHAPTER 223

## FORMERLY HOUSE BILL NO. 697

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES FOR THE PURPOSE OF PROVIDING ADDITIONAL OPERATING FUNDS FOR THE FISCAL YEAR ENDING JUNE 30, 1978, AND PRIOR YEAR'S EXPENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of \$400,610 to the Department of Administrative Services for the purpose of providing additional operating funds for the fiscal year ending June 30, 1978 as follows:

(30-00-000) DEPARTMENT OF ADMINISTRATIVE SERVICES

(30-07-000) Division of Central Data Processing

Contractual Services	
Rental EDP Equipment	\$400,610

TOTAL -- Division of Central Data Processing	\$400,610
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Allocation of Central Data Processing Services

30 Administrative Services - Unallocated	
Fixed Rental Cost	\$ 400,610

TOTAL -- Central Data Processing Services	\$ 400,610
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TOTAL -- DEPARTMENT OF ADMINISTRATIVE SERVICES	\$ <u>400,610</u>
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Section 2. This Act shall be considered a supplementary appropriation and the money hereby appropriated shall be paid out of the General Fund of the State Treasury from monies not otherwise appropriated. Any funds remaining unexpended as of June 30, 1978, shall revert to the General Fund of the State Treasury.

Approved February 10, 1978.



## CHAPTER 224

FORMERLY HOUSE BILL NO. 724  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTION TO USE FOR FIRE SAFETY EQUIPMENT CERTAIN FUNDS AUTHORIZED BY CHAPTER 40, VOLUME 61, LAWS OF DELAWARE FOR USE IN PRISON RENOVATION PROJECTS.

WHEREAS, Chapter 40, Volume 61, Laws of Delaware, known as Senate Bill 203, authorized the use of the sum of \$165,324 which had been transferred from the School Bond Reversion Account to the Department of Correction for the erection of fencing, gates and sally ports at the Delaware Correctional Center, and

WHEREAS, there remains \$42,000 in this appropriation, which amount is more than sufficient to complete the projects for which the monies were transferred; and

WHEREAS, these funds can be better utilized to complete renovation projects to meet fire safety standards at the Pre-Trial Annex Building.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Funds designated by Chapter 40, Volume 61, Laws of Delaware, to be used for the erection of fencing, gates and sally ports for the Delaware Correctional Center shall be used for the following purpose, not to exceed the amount set forth:

Office of the Bureau Chief

Pre-Trial Annex

Fire Safety Equipment      \$20,000

Section 2. Funds appropriated by this Act shall be exempt from the bid law requirements under Chapter 69, Title 29, Delaware Code, to enable the Department to immediately resolve the safety hazard at Pre-Trial Annex, and a waiver of such requirements is hereby authorized.

Approved February 10, 1978.

## CHAPTER 225

## FORMERLY HOUSE BILL NO. 647

AN ACT TO AMEND CHAPTER 5 OF TITLE 28, DELAWARE CODE, RELATING TO THE STATE TAX ON ADMISSIONS AND ON CONTRIBUTIONS TO PARI-MUTUEL AND TOTALIZATOR POOLS CONDUCTED OR MADE AT HARNESS RACING TRACKS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §530 (a) of Chapter 5, Title 28, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new §530 (a) to read as follows:

"§530. Tax on Admissions; Inspection of Licensee's Records

(a) Every person licensed to hold a harness racing meet within this State shall pay to the Department of Finance a tax of ten cents on each admission on each day of any such meet, excepting admissions of persons performing any duty or work in connection with the holding of the meet, admissions of spouse's of driver's, owners and trainers of horses participating in the meet and admissions of patrons not charged an admission or entrance fee by the licensee. The licensee may, if it desires, collect such amount from each ticket holder in addition to the amount or amounts charged for the ticket of admission."

Section 2. Amend §555 of Chapter 5, Title 28, Delaware Code, by adding thereto a new paragraph to be designated as paragraph (d) to read as follows:

"(d) Where the total contributions to pari-mutuel and totalizator pools conducted or made at a racing meet or meets during any fiscal year ending subsequent to 1976 average \$350,000 or less per day during such fiscal year and the licensee conducting such meet or meets sustained a loss before taxes on income of such fiscal year, which loss shall be determined from a certificate from the licensees' independent public accountants and confirmed by the Delaware Harness Racing Commission, the licensee shall be entitled to take a credit against the amount of tax on pari-mutuel and totalizator pools, as computed and payable under this Section, for the meet or meets conducted in the fiscal year immediately following the fiscal year in which the loss occurred, equal to the loss sustained in the preceding year. The term "fiscal year", as used in this subsection, shall mean the fiscal year of the licensee.

Notwithstanding any of the foregoing, however, each licensee under this subsection, averaging under \$200,000.00 per racing day,

shall pay as a tax to this State a minimum of \$1,000 for each racing day; each licensee under this subsection, averaging between \$200,000.00 and \$350,000.00 per racing day shall pay as a tax to this State a minimum of \$2,000 for each racing day, regardless of the amount of the loss before taxes on income sustained in the preceding fiscal year. For purposes of this subsection, the licensees' loss for any given fiscal year shall be computed without any consideration to any credits received under this subsection."

Approved February 21, 1978. .

## CHAPTER 226

## FORMERLY HOUSE BILL NO. 642

AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CERTAIN CAPITAL IMPROVEMENTS AND EXPENDITURES AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fourths of the members elected thereto concurring therein):

Section 1. There is appropriated to the Department of Administrative Services the sum of one million four hundred thousand dollars (\$1,400,000) or so much thereof as may be necessary for carrying out the purposes set forth in Section 6 of this Act.

Section 2. The funds appropriated by this Act may be used for the costs incidental to the uses set forth in Section 6 of this Act, and are to include but not be limited to design, planning, acquisition of utility and service areas, construction, repairing, remodeling, equipping, landscaping, and inspection costs.

Section 3. The said sum of \$1,400,000 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/or 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 authorized Act may be known, styled, or referred to as "Capital Improvement Bonds of 1978."

Section 4. There is appropriated from the General Fund of the State such sums as may be necessary for the expenses incurred 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 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 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 6. The monies appropriated herein, or so much thereof as is necessary to carry out the purposes of this Act, shall be expended by the Department of Administrative Services for the projects and in the amounts set out below:

DELAWARE STATE BUILDING

(a) Exterior Construction of Plaza	\$300,000
(b) Completion of the Delaware State Building	800,000
(c) Interior Finishing and Furniture	<u>300,000</u>
	<u>\$1,400,000</u>

Section 7. 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 8. Prior to June 30, 1978, the General Fund will be reimbursed \$60,000 to design the Offices of the Attorney General in the Delaware State Building, in accordance with the Provisions of Chapter 195, Volume 61, Delaware Code.

Section 9. No bonds or notes shall be issued or monies borrowed on behalf of this State, pursuant to this Act, after December 31, 1983, except as provided in Chapter 75, Title 29, Delaware Code.

Section 10. The Department of Administrative Services 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 contract shall be executed without the prior approval of the State Architect.

Section 11. 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 12. The Department of Administrative Services receiving funds by this Act must, on a semi-annual basis beginning with June 30, 1978, report to the Office of Management, Budget and Planning the status of each 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.

Approved February 23, 1978.

## CHAPTER 227

FORMERLY SENATE BILL NO. 327  
AS AMENDED BY  
SENATE AMENDMENT NO. 1  
AND  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, PART I, TITLE 11 OF THE DELAWARE CODE  
RELATING TO THE THEFT OF SERVICES FROM A PUBLIC UTILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §485, Chapter 5, Part I, Title 11 of the Delaware Code, by re-designating the first paragraph of said section as new subsection (a).

Section 2. Amend §485, Chapter 5, Title 11 of the Delaware Code by striking the second paragraph of said section and substituting in lieu thereof the following:

"(b) In any prosecution for theft of services where services have been obtained from a public utility by the installation of, rearrangement of or tampering with any facility or equipment owned or used by the public utility to provide such services, without the consent or permission of the public utility, or by any other trick or contrivance, it shall be a rebuttable presumption that the person to whom the services are being furnished has created, caused or knows of the condition which is a violation of this section.

(c) A person who has obtained services from a public utility by installing, rearranging or tampering with any facility or equipment owned or used by the public utility to provide such services, or by any other trick or contrivance is presumed to have done so with an intent to avoid, or to enable others to avoid, payment for the services involved.

(d) The rebuttable presumptions referred to in subparagraphs (b) and (c) of this section shall not apply to any person to whom such services have been furnished for less than 31 days or until there has been at least one meter reading."

Approved February 24, 1978.

## CHAPTER 228

## FORMERLY SENATE BILL NO. 463

AN ACT AUTHORIZING THE MUSKRAT TRAPPING SEASON TO BE EXTENDED DURING  
CALENDAR YEAR 1978.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Notwithstanding the provisions of Subsection 703 (5), Chapter 7 of the Delaware Code, for the calendar year 1978, the trapping season for muskrats throughout the State shall end on March 20, 1978, but in embanked meadows or marshes in New Castle County, the open season shall end on March 25, 1978. This Act is retroactive to March 10, 1978.

Approved March 14, 1978.



## CHAPTER 229

## FORMERLY SENATE BILL NO. 475

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 THE DEPARTMENT OF CORRECTION FOR 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 7 hereof the sum of \$1,000,000 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 7 of this Act.

Section 2. The funds appropriated by this Act may be used for the costs incidental to the uses set forth in Section 7 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.

Section 3. None of the monies appropriated by this Act shall be expended after June 30, 1980, on any of the projects authorized in this Act unless such projects have progressed into any or all of the following phases prior to July 1, 1980: Initial Engineering, Planning, Procurement, Construction.

Section 4. The said sum of \$1,000,000 or so much thereof as may be necessary for carrying out the purposes of this Act, shall be borrowed by the issuance of 20 year 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 "The Capital Improvement Bond of 1978" for the purpose of constructing a Maximum Security Building

Section 5. 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 6. 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 the 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 7. 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 agency or its successor:

(b) Department of Corrections	
Maximum Security Building	<u>\$1,000,000</u>
GRAND TOTAL STATE FUNDS	\$1,000,000

Section 8. 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 has not been undertaken, on a timely basis, 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 9. No bonds or notes shall be issued or monies borrowed on behalf of this State, pursuant to this Act, after June 30, 1983, except as provided in Chapter 75, Title 29, Delaware Code.

Section 10. The Department of Correction 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 shall be executed without the prior approval of the State Architect.

Section 11. 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 12. All projects funded by this Act shall be built to standards that are no less stringent than American Society of Heating, Refrigerating, and Air Conditioning Engineering, Inc., Standard 90-75.

Section 13. All new construction and/or rehabilitation of existing structures shall comply with flood plain management requirements of local communities. If any project is located in a non-participating local community, the State shall comply with the criteria set forth in §1910.3, 1910.4 and 1910.5 of the National Flood Insurance Act of 1968 as amended.

Approved March 27, 1978.

## CHAPTER 230

## FORMERLY HOUSE BILL NO. 460

AN ACT TO AMEND CHAPTER 45, OF TITLE 21, DELAWARE CODE RELATING TO  
LAW ENFORCEMENT WEIGHING PROCEDURES AND EQUIPMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §4508 (a) (2) of Chapter 45, Title 21, Delaware Code by striking said subsection (2) in its entirety and substituting in lieu thereof a new subsection (2) to read as follows:

"(2) 'Axle Load Scale' meaning a scale permanently or semi-permanently installed in a fixed location, or a portable self contained scale having a platform adapted to determining the combined weight of all wheels on a single axle or of all wheels on a tandem or tri-axle of a highway vehicle."

Section 2. Amend §4508 of Chapter 45, Title 21, Delaware Code by adding thereto a new paragraph to be designated as paragraph (d) to read as follows:

"(d) The use of 'axle load scales' or 'wheel load weighers' by law enforcement personnel shall be restricted to their placement at State Police installations, other state owned facilities, and to those locations where surveys by the Division of Highways or the Division of State Police reveal that overweight violations are prevalent and likely to cause roadway damage. 'Axle load scales' and 'wheel load weighers' shall not be used at locations where sufficient 'off roadway' area is not available to permit them to be used in safety."

Approved March 27, 1978.

## CHAPTER 231

## FORMERLY HOUSE BILL NO. 791

AN ACT PROVIDING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS AT THE REMAINDER OF THE FISCAL YEAR ENDING JUNE 30, 1978.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated the sum of \$1,540,411 to the Division of Highways of the Department of Transportation to pay for increased costs resulting from the severe winter conditions for the fiscal year ending June 30, 1978:

Salaries - Overtime	\$ 350,549
F.I.C.A. - Employer's Share	21,208
Pensions	40,664
Operations	<u>1,127,990</u>
Total	\$1,540,411

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. The funds herein appropriated remaining unexpended on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved March 28, 1978.

CHAPTER 232

FORMERLY HOUSE BILL NO. 747  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO MAKE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF  
PUBLIC SAFETY FOR THE PURCHASE OF AXLE-LOAD WEIGHERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated to the Department of Public Safety the sum of \$45,000 to be used for the purchase of two sets of axle-load weighers and related equipment to be used by the Division of State Police in enforcing the size and weight provisions of Chapter 45, Title 21, of the Delaware Code.

Section 2. This is a supplementary appropriation and the funds hereby appropriated shall be paid by the State Treasurer from the General Fund from monies not otherwise appropriated.

Section 3. The funds so appropriated shall be used only for the purpose set forth in Section 1, herein, and any funds appropriated and not expended or encumbered by July 1, 1978 shall revert to the General Fund of the State of Delaware.

Approved March 29, 1978.

## CHAPTER 233

## FORMERLY SENATE BILL NO. 482

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DE LA WARR SCHOOL DISTRICT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$12,375 is hereby appropriated to the De La Warr School District for the fiscal year ending June 30, 1978, for the purpose of keeping the Rose Hill School open to the end of the school year.

Section 2. This Act shall be a supplementary appropriation and the monies appropriated by this Act shall be in addition to any heretofor appropriated and shall be paid out of the General Fund.

Approved March 29, 1978.

CHAPTER 234

FORMERLY SENATE BILL NO. 483

AN ACT TO AMEND CHAPTER 116, VOLUME 61, LAWS OF DELAWARE, KNOWN AS THE BUDGET ACT FOR FISCAL 1978, BY CHANGING THE METHOD FOR REDUCING STATE SUPPORT TO DE LA WARR SCHOOL DISTRICT BECAUSE OF VOLUNTARY TRANSFERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 12 (b), Chapter 116, Volume 61, Laws of Delaware, by adding at the end thereof the following:

"Provided, however, in the event the reduction in certified units is in whole or in part the result of the voluntary transfer plan as set forth in §603, Title 14, of the Delaware Code, the State Board of Education and the Budget Director shall not reduce the appropriation for any unit reduction attributable to said plan in the De La Warr School District and such units shall be applied to all categories of funding and employees to which they normally would be applied."

Approved March 29, 1978.



## CHAPTER 235

## FORMERLY SENATE BILL NO. 485

AN ACT TRANSFERRING CERTAIN LOCAL FUND MONIES IN THE DE LA WARR  
SCHOOL DISTRICT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The De La Warr School District is hereby authorized and empowered to transfer the sum of \$85,000 from Fund 84 (Minor Capital Improvements) and the sum of \$35,000 from Fund 81 (Debt Service) to Fund 80 (Current Expenses) during the Fiscal Year ending June 30, 1978.

Approved March 29, 1978.

CHAPTER 236

FORMERLY HOUSE BILL NO. 684

AN ACT AUTHORIZING THE BOARD OF EDUCATION OF THE MARSHALLTON-MCKEAN REORGANIZED SCHOOL DISTRICT TO TRANSFER CERTAIN FUNDS FROM ITS MAJOR AND MINOR CAPITAL DEBT SERVICE ACCOUNT TO ITS CURRENT OPERATING ACCOUNT FOR MAINTENANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Board of Education of the Marshallton-McKean Reorganized School District is authorized to transfer \$65,000 from its major capital debt service account and \$25,000 from its minor capital debt service account to its current operating account to be used only for maintenance projects.

Approved March 29, 1978.

## CHAPTER 237

## FORMERLY HOUSE BILL NO. 774

AN ACT AUTHORIZING THE CLAYMONT SCHOOL DISTRICT TO TRANSFER FUNDS FROM THE LOCAL BALANCE OF MINOR CAPITAL IMPROVEMENTS PROGRAM AND FROM ITS DEBT SERVICE ACCOUNT TO THE CLAYMONT SCHOOL DISTRICT OPERATING ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Board of Education of the Claymont School District is authorized to transfer the sum of \$45,000 from the local balance of minor capital improvements account and \$30,000 from its debt service account to the Claymont School District operating account for the purpose of replacing a roof on the Pennsylvania Avenue Elementary School.

Approved March 29, 1978.

CHAPTER 238

FORMERLY SENATE BILL NO. 491

AN ACT TO AMEND CHAPTER 9, OF TITLE 5, DELAWARE CODE RELATING TO  
INDEMNIFICATION OF FARMERS BANK DIRECTORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §935(h) of Chapter 9, Title 5, Delaware Code by striking the date and year "March 31, 1978" as the same appears in said subsection (h) and inserting in lieu thereof the following:

"January 31, 1979"

Approved March 29, 1978.

## CHAPTER 239

## FORMERLY HOUSE BILL NO. 648

AN ACT TO AMEND CHAPTER 418, VOLUME 60, LAWS OF DELAWARE, ENTITLED,  
"AN ACT TO PERMIT THE BOARD OF EDUCATION OF THE DELMAR SCHOOL  
DISTRICT TO TRANSFER CERTAIN FUNDS FROM THE DEBT SERVICE ACCOUNT  
TO THE CURRENT EXPENSE ACCOUNT."

WHEREAS, Chapter 418, Volume 60, Laws of Delaware, formerly House  
No. 888, as amended, of the 128th General Assembly, authorized  
Delmar School District to transfer \$38,000 from its Debt Service  
Account to its Current Expense Account for the acquisition of land;  
and

WHEREAS, at the time of transfer, the Delmar School District had  
first option on all adjacent land surrounding the school at an es-  
timated cost of \$100,000; and

WHEREAS, the District purchased 6.915 acres using \$17,557 of  
the \$38,000 that was to be used as the District share; and

WHEREAS, the Board of Education of the Delmar School District  
has no plans to purchase additional land in the immediate future and  
desire to retain the residual amount of \$20,442.32 in the Current  
Expense Account and utilize the funds to meet operational expenses.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 418, Volume 60, Laws of Delaware, by  
adding a new section to read as follows:

"Section 2. The Board of Education of the Delmar School District  
is authorized to utilize the funds remaining after acquisition of  
the property as authorized in Section 1 of this Act to meet operational  
expenses of the School District."

Approved March 29, 1978.

## CHAPTER 240

## FORMERLY SENATE BILL NO. 376

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES FOR THE PURPOSE OF PAYING AN EMPLOYEE WHO FAILED TO RECEIVE PAYMENT FOR OVERTIME HOURS WORKED.

WHEREAS, as a result of information provided by the Harness Racing Commission, and audited by the Department Personnel Section, the Controller General's Office, and the State Office of Personnel, it was revealed that an employee of the Harness Racing Commission did not receive overtime payments when they were due; and

WHEREAS, this employee is entitled statutorily and by regulation of the State Office of Personnel to overtime pay when working in excess of 37-1/2 hours per week, or when an individual is required to work on a legal State holiday; and

WHEREAS, Ernest Roach, the said employee of the Harness Racing Commission, is entitled, as a result of the audit, to back pay in the amount of \$6,598.82.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$5,608.80 is hereby appropriated to the Department of Administrative Services for the purpose of paying Ernest Roach, who inadvertently was not paid for overtime hours at the proper time, dating back to November 1, 1973. The above appropriation contains \$653.42 for pensions and \$336.60 for the State share of F.I.C.A.

Section 2. The funds appropriated by this Act shall be paid by the State Treasurer from General Fund monies not otherwise appropriated.

Section 3. This is a supplementary appropriation Act and the funds hereby appropriated which remain unexpended on June 30, 1978, shall thereupon revert to the General Fund.

Approved March 29, 1978.

## CHAPTER 241

## FORMERLY SENATE BILL NO. 345

AN ACT TO AMEND CHAPTER 16, TITLE 16, DELAWARE CODE, BY ADDING A  
NEW SECTION 1608 RELATING TO ENFORCEMENT OF THE LITTER  
CONTROL LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 16, Title 16, Delaware Code, by adding  
thereto a new Section 1608 to read as follows:

"§1608. Enforcement

All law enforcement agencies of the State, including  
enforcement personnel of the Department of Natural Resources  
and Environmental Control, shall have authority to enforce  
the provisions of this Chapter."

Approved March 29, 1978.

## CHAPTER 242

FORMERLY HOUSE BILL NO. 316  
AS AMENDED BY  
SENATE AMENDMENT NO. 1AN ACT TO AMEND CHAPTER 67, TITLE 25 OF THE DELAWARE CODE RELATING  
TO AGRICULTURAL LEASES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6702, Chapter 67, Title 25 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following new section to read as follows:

"§6702. Term of Verbal Lease and Term of a Lease  
in which No Term is Expressed: Notice to  
Terminate: Continuance of Lease

(a) Every verbal lease of agricultural land and every written lease of agricultural land in which no term is expressed shall be deemed and construed to be a lease having a term of one year.

(b) In every verbal lease of agricultural land and every written lease of agricultural land in which no term is expressed, the lease shall terminate at the end of one year, provided, however, the landlord or tenant gives the other party notice in writing at least four months in advance of the expiration date thereof that the landlord or tenant, as the case may be, intends to terminate the lease at the expiration date thereof. If no such notice is given by either party the lease shall become a year to year lease renewing itself yearly under the same terms and conditions until the herein-mentioned notice requirement is met by either party desiring to terminate said lease.

(c) Notice, as provided for herein, shall not be required if all parties to a lease of agricultural land specify in writing that said lease shall terminate on the expiration date thereof without notice of such termination."

Section 2. Amend §6703, Chapter 67, Title 25, of the Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following new section to read as follows:



"§6703. Lease of Agricultural Land in Which Term is Expressed: Notice to Terminate: Continuation of Lease

(a) In every written lease of agricultural land, which by its terms is for a definite period, the lease shall terminate on the expiration date thereof provided, however, the landlord or tenant gives the other party notice in writing at least four months in advance of the expiration date thereof that the landlord or tenant, as the case may be, intends to terminate the lease at the expiration date thereof. If no such notice is given by either party the lease shall become a year to year lease renewing itself yearly under the same terms and conditions until the hereinmentioned notice requirement is met by either party desiring to terminate said lease.

(b) Notice, as provided for herein, shall not be required if all parties to a lease of agricultural land specify in writing that said lease shall terminate on the expiration date thereof without notice of such termination."

Approved March 29, 1978.

CHAPTER 243

FORMERLY SENATE BILL NO. 497

AN ACT TO PERMIT THE CAPITAL SCHOOL DISTRICT TO TRANSFER CERTAIN FUNDS FROM ITS MINOR CAPITAL IMPROVEMENTS ACCOUNT TO ITS OPERATING ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Board of Education of the Capital School District is authorized to transfer the sum of \$100,000 from its Minor Capital Improvements Account to its Operating Account. The sum herein transferred shall be used for site improvements and renovations at Dover High School and Dover Middle School.

Section 2. Any funds transferred as provided herein and not expended for the purposes herein specified shall be redeposited in the Minor Capital Improvements Account.

Approved March 29, 1978.

## CHAPTER 244

## FORMERLY HOUSE BILL NO. 624

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES TO BE USED FOR THE DELAWARE ADOLESCENT PROGRAM.

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. There is hereby appropriated to the Department of Health and Social Services, Division of Public Health, the sum of \$91,023 to be used for the Delaware Adolescent Program.

Section 2. This is a supplementary appropriation and the sums hereby appropriated shall be paid out of the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1978.

Approved March 29, 1978.

## CHAPTER 245

FORMERLY SENATE BILL NO. 243  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 15, TITLE 3, DELAWARE CODE RELATING TO DUTIES AND AUTHORITY OF THE DEPARTMENT OF AGRICULTURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1507 (b), Chapter 15, Title 3, Delaware Code, by adding thereto a new paragraph to be designated as paragraph (7) to read as follows:

"(7) To conduct the seed certification program for the State of Delaware; to prescribe rules and regulations governing seed certification; to fix and collect fees for inspection, grading and certification. Any fees collected shall be transferred to the State Treasurer and credited to the special fund entitled 'Department of Agriculture Inspection Fund' to aid in defraying the expenses of the seed certification program."

Section 2. Amend Section 1507, Chapter 15, Title 3, Delaware Code, by adding thereto a new subsection (c) to read as follows:

"(c) A Seed Industry committee consisting of three persons shall aid the Secretary in determining policies of the seed certification program. The committee shall consist of a Cooperative Extension representative from the Plant Science Department, University of Delaware, chosen by the Director of the Cooperative Extension Service; the Seed Analyst, State Department of Agriculture; and one person chosen by the Governor for a term of three years, from a list of three names submitted by the Delaware Crop Improvement Association."

Approved March 29, 1978.

## CHAPTER 246

## FORMERLY HOUSE BILL NO. 529

AN ACT MAKING AN APPROPRIATION TO THE DELAWARE TECHNICAL AND COMMUNITY COLLEGE FOR A NUCLEAR MEDICINE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$14,500 is appropriated to the Delaware Technical and Community College for a nuclear medicine program for the fiscal year starting July 1, 1977.

Section 2. This is a supplemental appropriation and the funds shall be paid by the State Treasurer out of the General Fund of the State of Delaware from funds not otherwise appropriated.

Section 3. Any funds remaining from this appropriation on June 30, 1978, shall revert to the General Fund.

Approved April 7, 1978.

## CHAPTER 247

FORMERLY HOUSE BILL NO. 792  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 69, TITLE 21, DELAWARE CODE RELATING TO REMOVAL OF MOTOR VEHICLES, TRAILERS AND MOPEDS FROM PUBLIC HIGHWAYS BY POLICE; AND PROVIDING A SUPPLEMENTARY APPROPRIATION THEREFOR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6901 of Chapter 69, Title 21, Delaware Code by inserting between the word "remove" and the word "or" as the same appears in second line of said section the word ", store" and further inserting between the word "removed" and the word "from" on the second line of said section the word ", stored".

Section 2. Amend Chapter 69, Title 21, Delaware Code by adding thereto a new section to be designated as section 6902 to read as follows:

"§6902. Notification to Owner of Removal of Vehicle; Disposal of a Removed Vehicle"

(a) Anyone rendering services under this Chapter or Chapter 44 of Title 21 has the right to detain the vehicle or motor vehicle rendered services to, about or for, to secure the payment of such services and shall have a lien upon said vehicle or motor vehicle.

(b) The lienor shall, by certified mail, return receipt requested, notify the lienee of the towing charges and, if compensation for storage is claimed, the per diem rate of storage charges, and a statement that the lienee must pay such charges on or before the date mentioned in the notice, said date not to be less than fifteen (15) days from service thereof. Notice shall be sent to last known address of the lienee and secured party. If the identity of the last registered owner or secured party cannot be determined with reasonable certainty, the contents of the notice set forth in this subsection shall be published one time in the newspaper of general circulation in the area where the vehicle was removed. The notice may contain multiple listings of removed vehicles. Notice by publication locally shall be the responsibility of the lienor. The notice shall have the same effect as notice sent by certified mail.

(c) The lienor may after the expiration of fifteen (15) days from date of notification request the Division of Motor

Vehicles to schedule a hearing to determine the intentions of the registered owner and/or secured party as to the disposition of said vehicle.

(1) Upon receiving such request the Division of Motor Vehicles shall by certified mail, notify the owner of record if known and each secured party as shown on the records of the Division of Motor Vehicles of the date and time of the hearing and his right to be present and contest said proposed disposition of such vehicle.

(2) The hearing officer of the Division of Motor Vehicles shall notify the lienor and the Delaware State Police Auto Theft Unit of the date and time of the hearing.

(3) If identity of the last registered owner and of all secured parties cannot be determined with reasonable certainty the Division of Motor Vehicles shall notify the Delaware State Police Auto Theft Unit.

(4) The non-appearance of the owner and/or secured party at the scheduled hearing is:

(i) a waiver by him of all rights, title, interest in the vehicle; and

(ii) a consent to dispose of the vehicle.

(5) The hearing officer shall determine the disposition of the vehicle if there is no objection at the hearing and shall certify that all applicable regulations of the Division have been met. The owner and/or secured party shall have fifteen (15) days from the date of the hearing with the Division of Motor Vehicles to appeal such disposition of said vehicle to the Director of Motor Vehicles. If after fifteen (15) days the owner and/or secured party has not filed an appeal to the Director of the Division of Motor Vehicles, the Division of Motor Vehicles shall issue a salvage certificate of title to the lienor.

(6) If, however, the owner and/or secured party objects to the disposition of the vehicle at the hearing, further proceedings by the Division of Motor Vehicles shall cease and all parties will be notified of their right to file with a Court of proper jurisdiction to seek judicial disposition."

Section 2. The sum of \$4,544 is hereby appropriated to the Division of Motor Vehicles, Department of Public Safety, for the

purpose of implementing the provisions of this Chapter for the remainder of fiscal year 1978 to be expended in the following manner:

Salaries of employees (2)	\$3,862
F.I.C.A.	234
Pensions	<u>448</u>
TOTAL	\$4,544

Section 3. This Act is a supplementary appropriation 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 herein appropriated shall be expended only in the manner set forth herein and any funds appropriated but unexpended by June 30, 1978, shall revert to the General Fund.

Approved April 8, 1978.



## CHAPTER 248

## FORMERLY SENATE BILL NO. 405

## AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE CITY OF NEW CASTLE.

WHEREAS, the City of New Castle was the site of the Separation Day festivities honoring Delaware's initial show of independence; and

WHEREAS, the citizens of New Castle enthusiastically worked together to put on one of the finest events of the Bicentennial Celebration; and

WHEREAS, the continuation of the Separation Day festivities will be beneficial to Delaware citizens of all ages, by increasing their awareness of the contributions of the Delawareans in an earlier period of this Nation's first step to greatness.

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 \$5,000 is hereby appropriated to the City of New Castle for continuation of Separation Day festivities.

Section 2. This Act is a supplementary appropriation and the monies appropriated shall be paid by the State Treasurer from General Fund monies not otherwise appropriated.

Approved April 13, 1978.

## CHAPTER 249

## FORMERLY HOUSE BILL NO. 807

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".

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 Section 8 (e)(2), Chapter 271, Volume 60, Laws of Delaware, by reducing the dollar amount as it appears for Corridor Projects by a reduction of \$497,500.

Section 2. Amend Section 8 (e)(10), Chapter 271, Volume 60, Laws of Delaware, by increasing the dollar amount as it appears for Engineering and Contingencies by an additional \$497,500.

Section 3. This Act shall become effective upon signature of the Governor.

Approved April 14, 1978.

## CHAPTER 250

## FORMERLY HOUSE BILL NO. 646

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DELAWARE  
TECHNICAL AND COMMUNITY COLLEGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of two hundred sixty-four thousand six hundred and seven dollars (\$264,607) is hereby appropriated to the Delaware Technical and Community College to the various divisions and for the line items indicated as follows:

(90-04-000) Delaware Technical and Community College(90-04-001) Administration

Salaries and Wages of Employees	\$ 30,513	
F.I.C.A. - Employer's Share	1,785	
Pensions	3,539	
Personal Services - Legal Fees	<u>20,000</u>	
		\$ 55,837

(90-04-002) Southern Campus

Salaries and Wages of Employees	39,532	
Salaries - Academic Degrees	5,484	
Salaries - Casual and Seasonal	5,000	
F.I.C.A. - Employer's Share	2,925	
Pensions	<u>5,221</u>	
		58,162

(90-04-004) Wilmington Campus

Salaries and Wages of Employees	36,770	
Salaries - Academic Degrees	3,656	
Salaries - Casual and Seasonal	20,202	
F.I.C.A. - Employer's Share	3,546	
Pensions	<u>4,689</u>	
		68,863

(90-04-005) Stanton Campus

Salaries and Wages of Employees	28,730	
Salaries - Academic Degrees	3,656	
F.I.C.A. - Employer's Share	1,894	
Pensions	<u>3,757</u>	
		38,037

(90-04-006) Charles L. Terry Campus

Salaries and Wages of Employees	21,311	
Salaries - Academic Degrees	1,828	
Salaries - Casual and Seasonal	15,618	
F.I.C.A. - Employer's Share	2,267	
Pensions	<u>2,684</u>	
		<u>43,708</u>
TOTAL		<u>\$264,607</u>

Section 2. The amounts appropriated herein shall be considered a supplementary appropriation and shall be paid by the State Treasurer out of monies of the General Fund not otherwise appropriated. Any monies remaining unexpended on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved April 24, 1978.

## CHAPTER 251

## FORMERLY HOUSE BILL NO. 449

## AN ACT TO REINCORPORATE THE CITY OF DELAWARE CITY.

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 following is hereby adopted as the charter of the city of Delaware City:

"CHARTER  
OF THE  
CITY OF DELAWARE CITY

## ARTICLE I - INCORPORATION

Sec. 1-01. Incorporation

The inhabitants of the City of Delaware City within the corporate limits as hereinafter defined in this Charter, Section 1-02, or as subsequently altered by annexation procedure as provided by law, are hereby declared to be a body politic incorporated in law and equity to be known as the "City of Delaware City" and shall continue to be a municipal corporation and body politic in perpetuity.

Sec. 1-02. Geographic Boundaries

The geographic boundaries of the City of Delaware City are hereby established and declared to be as follows:

BEGINNING at the intersection of the low water line of the Southwestern side of the Delaware River and the low water line of the Southeastern side of the entrance to the Delaware City Branch Canal (formerly the Chesapeake and Delaware Canal); thence in a Southerly direction along the Southeastern mean low water line edge of the Delaware City Branch Canal to the intersection with the Northern mean low water line edge of the Chesapeake and Delaware Canal (presently owned by the United States of America); thence across the Delaware City Branch Canal along a tie line which would correspond to the Northern mean low water line edge of the Chesapeake and Delaware Canal to the point of intersection of the Northwestern mean low water line edge of the Delaware City Branch Canal and the Northern mean low water line edge of the Chesapeake and Delaware Canal; thence along the Northern mean low water line edge of the Chesapeake and Delaware Canal to a point in the line of the former main drain passing under the old canal

(Circa 1826) extended; thence thereby about North 47 degrees West, 660 feet more or less to a point in the centerline of the former North Drain Ditch (as shown on the survey of U. S. Corps of Engineers, dated January 27, 1933, File 3111); thence thereby by the following three courses and distances, which bearings are based on true meridian; North 23 degrees 22 minutes 39 seconds East, 657.61 feet to a point; thence North 5 degrees 9 minutes 22 seconds West, 883.74 feet to a point; thence North 5 degrees 37 minutes 31 seconds West, 1688 feet more or less to a point in the Northwestern side of Clinton Street (sometimes referred to as Cox Neck Road, County Route 411) at the intersection of said North Drain Ditch; thence along the Northwest side of said Clinton Street (Cox Neck Road, County Route 411) to a point 200 feet Southwest of the Southwest side of the intersection of Clinton Street and Fifth Street; thence along a line at right angles to the Northwest side of Clinton Street (Cox Neck Road, County Route 411), a distance of 140 feet more or less to a point in the lands of the Mayor and Council of Delaware City; thence thereby South 42 degrees 10 minutes 30 seconds West, 238.98 feet to an iron pipe; thence North 47 degrees 45 minutes 00 seconds West, 156.73 feet to a monument; thence along the lands now or formerly of Delaware City Recreation, Inc., North 37 degrees 00 minutes 17 seconds East, 240 feet more or less to a point; thence along said aforementioned line at right angles to the Northwest side of Clinton Street (Cox Neck Road, County Route 411) to the Southeast side of the North Drain; thence with the centerline of the North Drain to a point which is the intersection of the centerline of the North Drain and the Southwest side of the Bridge on Delaware Route 9 (Fifth Street); thence along the Southwest side of Delaware Route 9 in a generally Northwesternly direction to a point which is due South of the intersection of the former Northwest boundary of the lands of William D. Clarke's Estate and Delaware Route 9; thence across Delaware Route 9 to said point of intersection; thence the following courses and distances (formerly the Northwest boundary of the lands of William D. Clarke's Estate):

- 1) North 10 degrees 06 minutes West;  
104.05 feet;
- 2) North 56 degrees 14 minutes 10 seconds  
East; 436.83 feet;

- 3) North 56 degrees 24 minutes 30 seconds East; 1064.7 feet;
- 4) North 82 degrees 54 minutes 30 seconds East; 1056.0 feet;
- 5) North 57 degrees 08 minutes 40 seconds East; 329.6 feet;
- 6) North 55 degrees 23 minutes East; 706.11 feet;
- 7) South 62 degrees 38 minutes 25 seconds East; 256.39 feet; and
- 8) North 47 degrees 31 minutes East; approximately 1823.6 feet to the low water line of the Delaware River; thence along the low water line of the Delaware River southeast to the point and place of Beginning.

The jurisdiction of the City shall extend over all wharves, docks, piers, and other construction in the Delaware River adjoining the limits of Delaware City and for one hundred yards in the Delaware River beyond such wharves, docks, piers, and other construction.

The Mayor and Council of Delaware City, at any time hereafter, may cause a survey and plat to be made of the said City and said plat, when made and approved by the Mayor and Council, shall be recorded in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware and the same, or the record thereof, or a duly certified copy of said record, shall be evidence in all Courts of law and equity in this State.

#### Sec. 1-03. Annexation

The City of Delaware City shall have the power to annex, by ordinance, any territory contiguous to the City of Delaware City whenever, pursuant to a Special Election, the property owners and qualified voters (as defined in this Charter) within the territory to be annexed determine, by majority vote, that such annexation is appropriate and thereby approved.

Before any additional territory shall be annexed to the City, the Mayor and Council shall pass a resolution describing and defining accurately the territory proposed to be annexed, shall provide for zoning of the annexed territory and shall give at least twenty (20) days notice for

the Special Election by posting a copy of the Resolution and Notice of Special Election in at least five (5) public places in the City and at least five (5) public places in the area to be annexed.

At the Special Election, every property owner, whether an individual, partnership or corporation shall have one (1) vote. Every resident of the territory to be annexed who is over the age of eighteen (18) and who is not a property owner, shall have one (1) vote. In the case of property owned jointly, each owner shall have the proportion of one vote that his/her interest in such joint ownership represents to the whole of the property owned. The books and records of the Board of Assessment and/or the Board of Elections of New Castle County shall be conclusive evidence of the right of any resident or property owner to vote at the Special Election.

## ARTICLE II -- POWERS OF THE CITY

### Sec. 2-01. Powers of the City

The City of Delaware City shall have all the powers granted to municipal corporations and to cities by the Constitution and general laws of the State of Delaware, together with all the implied powers necessary to carry into execution all the powers granted. The City of Delaware City shall continue to enjoy all powers which have been granted to it by special acts of the General Assembly of the State of Delaware, except insofar as they may be repealed by the enactment of this Charter. The City of Delaware City, as a body politic and corporate, shall succeed to, own or possess all property whether real, personal, or mixed, and all the rights, privileges, franchises, powers and immunities now or heretofore belonging to, possessed by, or enjoyed by the Mayor and Council of Delaware City.

The City of Delaware City may have and use a corporate seal, may sue and be sued, may acquire property within or without its corporate limits by purchase, gift, devise, lease or condemnation, for the purpose of providing sites for public buildings, parks, sewer system, sewage treatment plant, water system, water plant, gas or electric system, or other municipal purposes, and may sell, lease, mortgage, hold, manage and control such property or utility as its interest may require; and except as prohibited by the Constitution of the State of Delaware, or restricted by this Charter, the City of Delaware City shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the



powers enumerated herein, implied thereby, or appropriate to the exercise thereof, it is intended that the City of Delaware City shall have, and may exercise all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the City, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in a manner provided by ordinances or resolutions of the Mayor and Council.

All laws, ordinances, resolutions, rules and regulations for municipal purposes now in force within the City, not inconsistent with, nor modified or repealed by the provision of the Charter, shall continue in force until repealed, rescinded or changed by proper authority. This Charter shall be construed liberally in favor of the City, and nothing in this Charter shall be construed as exempting any individual or agency from the operation of this Section.

Sec. 2-02. Intergovernmental Relations

The City 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, or the United States or any agency thereof.

ARTICLE III -- THE MAYOR AND COUNCIL

Sec. 3-01. Form of Government

The form of government established by this Charter shall be known as the Council-Manager form. The Mayor shall continue to be elected by the people and shall have the power of appointment and the power to approve or veto ordinances.

Sec. 3-02. The Council

The Council shall consist of five (5) Councilpersons at large. The Mayor and Council may, however, provide by ordinance for Council districts from which each member of Council would be elected. Such districting could only be enacted upon a unanimous vote of Mayor and Council. It shall be the duty of each Councilperson to propose necessary and appropriate legislation and resolutions for Council consideration; serve on committees designated by the Mayor and Council; attend public hearings on proposed legislation; be available and responsive to constituents; and perform all other duties as provided in this Charter and by law.

Sec. 3-03. The Mayor

It shall be the duty of the Mayor to preside at all meetings of Council and to see that the laws, ordinances, rules and regulations of the City are faithfully executed. He shall have custody of the seal of the Corporation and shall have the right of affixing the seal. The Mayor shall approve or veto all ordinances, acts or resolutions of the Council, in accordance with the procedures set forth in this Charter or by ordinance.

The Mayor shall also have the power to administer oaths and affirmations. The Mayor shall appoint all committees, subject to confirmation by Council and shall be recognized as the head of the City Government. The Mayor shall appoint, subject to confirmation by a majority of the members of Council, a City Manager to oversee and manage the administrative affairs of the City.

Sec. 3-04. The Vice-Mayor

At the organizational meeting (see Sec. 3-12) of the Mayor and Council, the Council shall elect, by a majority vote, among its members a Vice-Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall become Mayor for remainder of the unexpired term. However, the Vice-Mayor may vote on all resolutions, motions and ordinances when temporarily acting as Mayor.

Sec. 3-05. Qualifications for Mayor and Councilpersons

Any qualified voter of the City of Delaware City who is at least eighteen (18) years of age, who is a United States citizen, who has not been convicted of a felony as that crime is designated by the State of Delaware, who has resided in the City for at least one year next preceding his election, and has currently paid all City taxes due, shall be eligible to hold the office of Mayor or Councilperson; provided that the "qualified voter" as used herein shall mean a person who is a registered voter at the time his/her nominating petition is filed.

Sec. 3-06. Election and Terms of Office

The general municipal election shall be held on the first Tuesday in April each and every year from 12 o'clock noon until 8 o'clock in the evening, local time. The Mayor and Council of said City shall continue to hold office during the

respective terms for which they were elected or until their successors have been duly chosen and qualified. On the first Tuesday in April of every year which has the last digit as an odd number and on the first Tuesday in April every two years thereafter, the Mayor and two members of Council shall be elected to hold office for the term of two years or until their successors have been duly chosen and qualified. On the first Tuesday in April of every year which has the last digit as an even number and on the first Tuesday in April every two years thereafter, the remaining three members of Council shall be elected to hold office for the term of two years or until their successors have been duly chosen and qualified.

Sec. 3-07. General Powers and Duties

All powers of the City shall be vested in the Mayor and Council, except as otherwise provided by law or this Charter, and the Mayor and Council provide for the exercise thereof and for performance of all duties and obligations imposed on the City by law.

Sec. 3-08. Council Prohibitions

A. Holding Other Office. Except where authorized by law, no Mayor or Councilperson shall hold any other City office or City employment during the term for which elected to Council, and no Mayor or Councilperson shall hold any compensated appointive City office or employment until two years after the expiration of the term for which elected to Council.

B. Appointments and Removals. Neither the Mayor nor the Council, nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, but the Mayor and Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

C. Interference with Administration. Except for the purpose of inquiries and investigations, the Mayor and Councilpersons shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor nor the Council, nor its members shall give orders to any such officer or employee, either publicly or privately, nor shall the Mayor nor any Councilperson usurp any power given to the City Manager in this Charter.

Sec. 3-09. Vacancies and Forfeiture of Office

A. Vacancies. The office of Mayor or Councilperson shall become vacant upon death, removal from the City, resignation, removal from office in any manner authorized by law, or forfeiture of office.

B. Forfeiture of Office. The Mayor or Councilperson shall forfeit office if: (1) he/she lacks, at any time during his/her term of office, any qualification for the office prescribed by this Charter or by law; (2) violates any express prohibition of this Charter; (3) is convicted of a felony as that term is defined by the State of Delaware.

C. Filling of Vacancies. In case of vacancy for any cause in the office of Mayor, the Vice-Mayor, who is appointed by the majority vote of the Council, shall fill such vacancy. In the case of a vacancy for any cause in the office of Councilperson, the Council, upon a majority vote shall make a temporary appointment within ten (10) days to fill such vacancy. Such appointment shall continue until the next general municipal election. Thereafter, such office shall be filled by election and the person so elected shall serve for the remainder of the term of the Councilperson whose office became vacant.

Sec. 3-10. Judge of Qualifications of Members

The Mayor and Council shall be the judge of the qualifications, as set forth within this Charter, of the Mayor and Council and of the grounds for forfeiture of their office, and for such purposes, shall have power to subpoena witnesses, take testimony, and require the production of records. A Mayor or Councilperson charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand; and notice of such hearing shall be posted in five (5) prominent locations in the City, one of which shall include the City Hall, at least ten days in advance of the hearing.

Sec. 3-11. Mayor and Council Compensation and Expenses

The Mayor and Council shall determine the annual salary of the Mayor and Councilpersons by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of members of the Mayor and Council elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Members of the Mayor and Council shall receive reimbursement for actual and necessary expenses as supported by receipts incurred in traveling when on official business. The salary of the Mayor may exceed that of Councilpersons.

**Sec. 3-12. Meetings of Council**

The Mayor and Council shall hold an organizational meeting in the evening of the second Monday in April following the regular municipal election and shall meet regularly at least once a month thereafter. Additional meetings may be held on a regular, adjourned or special basis, provided notice is given in accordance with the Law of the State of Delaware and the rules of the Mayor and Council. Special meetings may be called by the Mayor, by the City Manager or by written request of any two members of the Council and, whenever practicable, upon no less than eight hours notice to each member. All meetings shall be open to attendance by the public, provided however, the Council may recess for the purpose of discussing, in an Executive Session limited to its own membership, any matter appropriate under the law of the State of Delaware provided that the general subject matter for consideration is expressed in the motion calling for such session.

The Mayor and Council shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any adjourned or special meeting, called as aforesaid as the Mayor and Council has at a regular meeting.

**Sec. 3-13. Rules of Procedure**

The Council shall determine its own rules of procedure and order of business and shall provide for keeping a minute book of its proceedings, which shall be a public record and open to public inspection. Voting, except on procedural motions, may be by roll call but in any event the yeas and nays shall be recorded in the minutes. In any event each person who desires to speak at any Regular, Special or Adjourned Meeting of Council, shall be allowed to speak by submitting his/her name and a brief description of the subject matter to the City Secretary at least three days prior to the meeting for placement on the agenda.

**Sec. 3-14. Quorum and Majority Requirement**

A majority of the members of the Council shall constitute a quorum to do business. No ordinance shall be valid unless it shall have the affirmative vote of a majority of all the members of the Council. Resolutions, orders and motions shall be valid upon the affirmative vote of a majority of the members of Council present. No member shall be excused from voting on ordinances, resolutions, orders or motions except where a member of Council has a personal financial interest pursuant to Sec. 12-01 of this

Charter, in which event, said member shall disqualify himself/herself from voting. The member involved shall be the sole judge of whether or not there is such conflict of interest.

#### ARTICLE IV -- ASSESSMENT OF PROPERTY: TAXES

##### Sec. 4-01. Property Assessment Procedure

A. Generally. There annually shall be made a true, just and impartial valuation and assessment of all real estate within the City except such real estate as is exempt from municipal assessment and taxation by virtue of any State law, and also of such personal property as is subject to County assessment and taxation; provided, however, that in no event shall household furnishings, bank accounts, stocks, bonds or automobiles be assessed or taxed. A capitation tax may also be imposed where it shall be determined by resolution of the Mayor and Council to be appropriate.

B. Use of County Assessments. It shall be lawful for the City to enter into an agreement with the Board of Assessment for New Castle County to inspect and copy, or to obtain copies, of the assessments made for County purposes. Annually, the Mayor and Council shall make a judgment regarding whether the City will utilize such County assessments and whether said County assessments are a true, just and impartial evaluation. The Mayor and Council then shall order the adoption of such County assessment for municipal purposes or the adoption of assessments as determined by the City assessment authority; provided, however, that adoption of the County assessment for municipal purposes shall not preclude the City from modifying the County assessment list to take into account new construction or changes in ownership or use not reflected in the County assessment list, or clear cases of inequitable assessment. The determination to use the County assessments shall be made by ordinance before February 1st of any year and shall continue in effect from year to year until revoked by ordinance. Notice of a determination to use the County assessments shall be given to the Assessor or Board of Assessment prior to March 1st in the year that the determination is made and shall be published at least once a week for two (2) weeks prior to March 1st of each year in at least two (2) newspapers in the municipality, or to the extent no such newspaper exists, then in a newspaper of general circulation in New Castle County.

C. Approval and Posting of Assessment Roll. Each year, there shall be prepared and submitted to the Mayor and Council, at least 60 days before the beginning of the tax year, two or

more copies of the assessment roll, which shall show the location of each parcel of taxable real and personal property by street and number or other suitable description. When the Mayor and Council approve the roll as prepared, or as modified by the Mayor and Council, then a full and complete transcript thereof shall be posted in a place in the City designated by the Mayor and Council. Such posting shall take place at least 45 days before the beginning of the tax year and shall remain posted up to, but not including, the appeal day as herein set out. Notice of the time and place where the assessment list may be viewed shall be given by posting such announcement in at least five (5) public places throughout the City.

D. Assessment Board of Appeals. Each year, at least 30 days before the beginning of the tax year, the Mayor and Council shall hold a Board of Appeals, which Board shall continue open from 7 p.m. to 9 p.m., during which time the Mayor and Council acting as such Board shall hear and determine appeals from assessments and shall make such corrections and additions as may be deemed necessary and proper. The decision of a majority of the Mayor and Council sitting on appeals shall be final and conclusive in respect to all appeals.

No Mayor or Councilperson shall sit on his/her own appeal, but the same shall be heard and determined by the other members of Council. After the said valuation and assessment shall be examined and adjusted by the Council, all property taxes shall be levied on real and personal property thus assessed in just and equal proportions.

#### Sec. 4-02. Levy of Taxes

The Mayor and Council shall after having ascertained the revenue necessary to balance the budget and having apportioned said sum on the assessment and valuation as provided for in this Charter, shall, on the first day of the fiscal year, furnish the City Treasurer with a copy of the final assessment roll containing the names of the taxables, as well as the owners of real estate and those not owning real estate, distinguishing between them, the tax levied on each person and also the tax on the entire valuation and assessment at a rate per one hundred dollars. The assessment roll shall be certified true and correct by the Mayor and a majority of the members of Council.

#### Sec. 4-03 Payment of Taxes

All taxes shall be paid to the City Treasurer at the City Hall during regular business hours. All taxes are due on September 30 (or on the next banking day, if September 30 is a weekend or holiday) of each year. On all taxes paid after September 30 there shall be paid a penalty of five percent (5%).

There shall accrue interest on unpaid taxes at the rate of one percent (1%) per month or fraction thereof for each month unpaid after date due. All tax bills shall be sent out on or before August 15th of each year. Appropriate legal action shall be taken against all delinquent taxpayers whose taxes have become delinquent for period of two years or more.

Sec. 4-04. Collection of Delinquent Taxes -- Generally

A. Tax Liens. The provisions of Title 25, Delaware Code Annotated, Chapter 29, as amended, with reference to tax liens shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter.

B. Debt Action. The City Treasurer may recover the amount of the tax due in an action of debt against the delinquent taxpayer in any court of competent jurisdiction; and it shall be sufficient to set forth that the action is to recover a specified sum of money, being a tax or taxes assessed against property owned by the defendant, in whole or in part, together with such description of the property as will be sufficient to identify the same and the year for which the taxes were levied. The right of appeal shall be the same as in other civil actions.

If a judgment be rendered in favor of the City Treasurer, there shall be an allowance for the additional expense in attending to the suit, including counsel fees. The amount of accrued interest, which shall be taxed by the court in the costs, thereupon execution shall issue against the real estate of defendant. No execution against the real estate shall issue except out of the Superior Court. Where such judgment is recovery from a lower court of competent jurisdiction and it is the desire of the City Treasurer to proceed against the real estate of the defendant, the City Treasurer shall take a transcript of the judgment from such lower court and cause the same to be entered in the Superior Court in and for New Castle County. When such transcripts are entered, the subsequent proceedings shall be the same as upon other judgments. The lien of the judgment, as aforesaid, shall be deemed to relate back and take effect from the date of the Certified City Treasurer's assessment roll.

C. Remedies Cumulative. The remedies herein provided are cumulative and, if two or more proceedings are pending to recover the amount due for taxes upon the same property for any year, neither proceeding shall be pleaded in bar or in suspension of other proceedings. However, when the full amount due for taxes upon the property for the year shall have been paid to the plaintiff in any proceeding, together with all costs in all proceedings then pending, the plaintiff shall enter upon the records thereof discontinuances thereof.



Sec. 4-05. Collection of Delinquent Taxes -- Monition

A. Monition Method Established. In addition to all existing methods and authority for the collection of taxes or special assessments due the City of Delaware City, the monition method and authority is established.

B. Praeipe; Judgment; Monition. The City may file, or cause to be filed, a praecipe in the office of the Prothonotary of the Superior Court in and for New Castle County, which praecipe shall contain the name of the person against whom the taxes or assessments sought to be collected were assessed, and a copy of the bills showing the amount of taxes or assessments due and the property against which the tax or assessment was laid, and a statement of the lot number or numbers of the particular section in which said property is located. For the purpose of this and the next section, the street number or numbers also shall be sufficient identification and description of said property.

The Prothonotary shall make a record of the same on the judgment records of said Superior Court against the property mentioned or described in said praecipe. Thereafter, upon a praecipe for monition filed in the office of said Prothonotary by the City, a monition shall be issued by the Prothonotary aforesaid to the Sheriff of New Castle County, which monition shall briefly state the amount of the judgment for the taxes or assessments due and the years thereof, together with a brief description of the property upon which said taxes or assessments are a lien.

C. Form of Monition. The monition shall be in substantially the following form:

To all persons having or claiming to have any title, interest or lien upon the within-described premises, take warning that unless the judgment for the taxes or assessments stated herein is paid within twenty (20) days after the date hereof, or within such period of twenty (20) days, evidence of the payment of taxes herein claimed shall be filed in the office of the Prothonotary, which evidence shall be in the form of a receipted bill or duplicate thereof, bearing the date prior to the filing of the lien in the office of the Prothonotary for New Castle County, the City of Delaware City may proceed to sell the property herein mentioned or described for the purpose of collecting the judgment for the taxes or assessments herein stated.

Name of Person in Whose Name Property Is Assessed	Description of Property	Year or Years	Amount of Judgment
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D. Posting of Monition; Sheriff's Return; Alias and Pluries Monition

Said monition, or copy thereof, shall be posted by the Sheriff upon some prominent place or part of the property against which said judgment for the taxes or assessments is a lien. The Sheriff shall make due and proper return of his proceedings under said Monition to said Prothonotary within ten days after the posting of said copy of monition as aforesaid. Alias or Pluries Monition may issue upon like praecipe. The posting of said Monition shall constitute notice to the owner or owners and all persons having any interest in said property.

E. Issuance and Form of Writ of Venditioni Exponas. At any time after the expiration of twenty days following the return of the Sheriff upon such Monition, unless before the expiration of said twenty days, the said judgment and costs on said judgment shall be paid or evidence of the payment of such taxes evidenced by a receipted tax bill or a duplicate thereof, bearing date therefor prior to the filing of said lien for record in the office of the Prothonotary as aforesaid, upon praecipe filed by the City of Delaware City through its attorney or any other person authorized on its behalf to collect taxes or assessments due to the City of Delaware City, a writ of Venditioni Exponas shall issue out of the office of the said Prothonotary directed to the Sheriff, commanding the Sheriff to sell the property mentioned or described in said writ and make due return of his proceedings thereunder in the same manner as is not applicable with respect to similar writs of Venditioni Exponas issued out of the said Superior Court.

Said writ shall be substantially in the following form:

COUNTY OF NEW CASTLE:

: SS.

STATE OF DELAWARE :

TO THE SHERIFF OF NEW CASTLE COUNTY

GREETINGS:

WHEREAS, by a Monition issued out of the Superior Court dated at Wilmington, the \_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_, IT WAS COMMANDED, that you should post the said Monition or copy thereof upon the real estate therein mentioned and described, and make a return to the said Superior Court within ten days after said posting. That on the \_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_, you returned that a copy of the said Monition was posted on the real estate therein mentioned and described in the \_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_.

We therefore now command you to expose to public sale estate mentioned and described in said Monition as follows:

And that you should cause to be made as well a certain debt of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) lawful money of the United States, which to the said City of Delaware City, a municipal corporation of the State of Delaware, is due and owing, as also the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) lawful money as aforesaid, for its costs, which it has sustained by the detaining of that debt, whereof the said \_\_\_\_\_ was convicted as it appears of record and against which said property it is a lien;

And have you that money before the Judges of our Superior Court at Wilmington, on Monday, the \_\_\_\_ day of \_\_\_\_\_ next, to render to the said City of Delaware City, a municipal corporation as aforesaid, for its debt and costs as aforesaid, and this writ;

WITNESSETH, the Honorable \_\_\_\_\_ at  
Wilmington, the \_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_\_\_.

\_\_\_\_\_  
Prothonotary

Upon the return of the proceedings under said writ of Venditioni Exponas, the Superior Court may inquire into the regularity of the proceedings thereunder, and either approve the sale or set it aside.

F. Title of Property Sold. Any real estate or interest therein sold under the provisions hereof shall vest in the purchaser all the right, title and interest of the person in whose name said property was assessed, and/or all right, title and interest of the person or persons who are the owner or owners thereof, and likewise freed and discharged from any dower or courtesy or statutory right, in the nature of a dower or courtesy, whether absolute or inchoate, in or to said real estate, and from all equity of redemption and liens and encumbrances held by persons and corporations against said property.

G. Redemption by Owner. The owner of any such real estate sold under the provisions of this Charter or his legal representatives may redeem the same at any time within one year from the day the sale thereof is approved by the Court, by paying to the purchaser or his legal representatives, successors or assigns, the amount of the purchase price and fifteen percent in addition thereto, together with all costs incurred in the cause; or if the purchaser or his legal representatives, successors or assigns shall refuse to receive the same, or do not reside or cannot be found within the City of Delaware City, by

paying said amount into said Court for the use of said purchase, his legal representatives or assigns.

H. Petition by Purchasers for Deed of Conveyance. In the event that the owner of said property or his legal representatives shall fail to redeem said property as herein provided, the purchaser of said property or his legal representatives, successors or assigns may present a petition to the Superior Court setting forth the appropriate facts in conformity with this Charter and pray that the said Superior Court make an order directing the Sheriff, then in office, to execute, acknowledge and deliver a deed conveying the title to said property to the petitioner; and thereupon, the said Superior Court shall have power, after a hearing upon said petition, to issue an order directing the Sheriff to execute, acknowledge and deliver a deed as prayed for in said petition, and a description of said property by street number or by lot numbers of the particular section in which said property is located, together with a description of said property by metes and bounds.

I. Petition by Owner After Redemption for Entry on Judgement

Record. If the owner of any real estate sold under an order of sale, or his legal representative, shall redeem said real estate, he may prefer to said Superior Court a petition setting forth that fact and thereupon the said Superior Court, after hearing and determining the facts set forth in said petition, shall have power to cause to be entered upon the record of the judgment under which said real estate was sold, a memorandum that the real estate described in the proceeding upon which said judgment was entered has been redeemed, and thereafter, the said owner shall hold such redeemed real estate subject to the same liens and the same order of priority as they existed at the time of the sale thereof, excepting so far as the said liens have been discharged or reduced by the application of the proceeds by the said Sheriff from the said sale.

J. No Proceedings Unless Tax is a Lien Upon Property

No motion proceedings shall be brought under this Charter unless the tax or assessment sought to be collected hereunder shall, at the time of the filing of said petition in the office of the Prothonotary, be and constitute a lien upon the property against which the tax or assessment was assessed or laid. All taxes for City purposes which may hereafter be lawfully assessed on real estate shall constitute a prior lien thereon for a period of ten years from the first day of the City

tax year succeeding the assessment of said taxes, but if the said real estate remains the property of the person to whom it is assessed, then the lien shall continue until the tax is collected and may, with all incidental costs and expenses, be levied by sale thereof as hereinbefore provided.

K. Counsel Fees; Purchase by City. The said tax lien and costs and reasonable counsel fees for the collection thereof shall be full paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility which real estate may be charged with or liable to. The City of Delaware City shall have the authority to authorize any person or persons to make a bid or bids at the sale of any real estate under the provisions of this Charter, and in the event that such person or persons is the highest and best bidder or bidders therefor, the title thereto shall be taken in the name of the City of Delaware City. The Council, by resolution duly adopted, is authorized and empowered to sell and convey any real estate purchased under the provisions herein.

L. Definition of Superior Court. Whenever the Superior Court is mentioned in this or the preceding Section of this Charter, the same shall be held to embrace the Judges or any Judge thereof, and any act required or authorized to be done under this or the preceding Section, may be done by the said Superior Court or any Judge thereof in vacation thereof, as well as in term time.

M. Fees and Costs. The fees and costs to be fixed in all monition proceedings under this and the preceding Sections, where not otherwise provided for, shall be set by the Council by ordinance. All other charges not covered by this and the preceding Sections shall be the same as are provided by law.

#### ARTICLE V -- ORDINANCE PROCEDURE

##### Sec. 5-01. Ordinances Generally.

In addition to such acts of the Mayor and Council as are required by this Charter or by law to be by ordinance, every act of the Mayor and Council establishing a fine or penalty shall be by ordinance. Except as otherwise provided, every legislative act of Council which shall have the force of law shall be by ordinance and shall include an enacting clause which reads: "The Mayor and Council of the City of Delaware City hereby ordains:".

Sec. 5-02. Council Action on Ordinances

A. Every proposed ordinance shall be introduced in writing. Any ordinance which amends an existing ordinance shall set out in full that part of the ordinance, section or subsection to be repealed or amended, and shall indicate the matter to be omitted. Every ordinance, except general modifications and revisions of City ordinance, shall contain not more than one subject which shall be clearly expressed in its Title.

B. An ordinance may be introduced by any member of Council at any regular, adjourned or special meeting of the Council. Upon introduction of any ordinance, the City Secretary shall distribute a copy to the Mayor and each Councilperson and to the City Manager and City Solicitor, and shall file a reasonable number of copies in the City Hall and such other public places as the Mayor and Council may designate. No ordinance shall be passed unless it shall have been read in full or abstract at a previous meeting. After passage on first reading, the proposed ordinance shall be posted in five prominent locations in the City, one of which shall include the City Hall, at least seven (7) days prior to the established hearing date, stating the time and place where said ordinance will be given a public hearing and be considered for final passage.

C. At the time of the stated meeting and public hearing, which can be a regular, adjourned or special Council meeting, the proposed ordinance shall be read in full or abstract and considered for passage. After the public hearing and consideration, the Council may finally pass the proposed ordinance, or a substitute version thereof which is substantially similar thereto.

D. The Mayor shall approve or veto all ordinances of the Council. If approved, the Mayor shall sign the ordinance and it shall be duly adopted. If vetoed, the Mayor shall write "vetoed" and place his/her initials thereafter; at the same time the Mayor shall state his objections in writing; whereupon the Council may reconsider its vote and if four-fifths (4/5ths) of all members elected to Council shall vote to override the Mayor's veto, then the ordinance shall be duly enacted. If the Mayor fails to approve or veto any ordinance within 15 days of its final passage by Council, the ordinance shall be deemed to have been vetoed.

Sec. 5-03. Effective Date

Except as otherwise provided in this Charter, every adopted ordinance shall become effective immediately upon adoption or at a later date as specified in the Ordinance.

Sec. 5-04. Adoption of Codes of Technical Regulations

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that a copy of each adopted code of technical regulations as well as of the adopting ordinance shall be made available by the City Secretary or for purchase at a reasonable price.

Sec. 5-05. Authentication and Recordation

The City Secretary shall authenticate by his/her signature and record in full, in a properly indexed book for that purpose, all ordinances and regulations adopted by the Council.

Sec. 5-06. Emergency Ordinances

A. To meet a public emergency affecting life, health, property or the public peace, the Council may adopt emergency ordinances; but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by the City for any of its utilities, or authorize the borrowing of not more than three-tenths of one percent (0.3%) of the assessed valuation of the assessable and taxable real property within the limits of the City of Delaware City for emergency purposes.

B. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

C. An emergency ordinance may be adopted without a first reading, but copies of the ordinance shall be made available to the public prior to the meeting considering approval thereof, and time shall be set aside, prior to Council vote, for public comment.

D. An emergency ordinance may be adopted only by an affirmative vote of at least four (4) members of Council. After its adoption, the ordinance shall become effective upon its adoption or at such later time as it may specify; but, every emergency ordinance, including any amendment made therein after its adoption, shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted, unless extended by regular ordinance enacted by the Council, and it shall be the duty of the City Secretary to so notify the Council.

#### ARTICLE VI -- FINANCES AND INDEBTEDNESS

##### Sec. 6-01. Fiscal Year

The City's fiscal year, which shall constitute the budget and accounting year, but need not constitute the tax year, shall commence on July 1 of each year and conclude upon June 30 of the following year, but the Mayor and Council may by ordinance adopt a different fiscal year.

##### Sec. 6-02. Payment of Moneys Out of the City Treasury

All payments out of the City Treasury shall be by check of the City Treasurer and co-signed by the City Manager.

##### Sec. 6-03. Annual Operating Budget

A. It shall be the duty of the Mayor and Council, at least before the end of the fiscal year, to adopt the annual operating budget for the next fiscal year. Such budget shall be adopted by resolution with a hearing as required by Section 6-05 of this Charter. The consideration of the operating budget shall begin forthwith upon the receipt from the Mayor or the City Manager of an annual written operating budget message and the proposed annual operating budget, which shall be submitted at the first regular meeting in May. The proposed budget shall be regarded as having been introduced immediately upon its receipt.

B. The annual operating budget shall provide for discharging any deficit and shall provide for appropriations to the Council, the Mayor and all officers, departments, boards and commissions which form a part of the City Government, and for all other items which are to be met out of the revenue of the City. All appropriations shall be made in lump sum amounts and according to the following classes of expenditures for each office, department board or commission:



- (1) Personal services;
- (2) Materials, supplies and equipment;
- (3) Debt service; and
- (4) Such additional classes as the Mayor or the City Manager shall recommend in the proposed annual operating budget.

Expenditures of the repair of any property and for the acquisition of any property or for any work or project which does not have a probable useful life to the City of at least five years following the time the expenditure is made for it shall be deemed to be ordinary expenses to be provided for in the annual operating budget. Appropriations for the use of any departmental board or commission shall be made to the department with which it is connected.

Sec. 6-04. The Capital Plan and Capital Budget

A. Generally. The Mayor and Council shall adopt a capital plan and capital budget, which shall be submitted with the annual operating budget on or before the first regular meeting in May. Such budget shall be adopted by resolution with a hearing as required by Section 6-05 of this Charter.

B. The Capital Plan. The capital plan should embrace all physical public improvements and preliminary studies and surveys relative thereto, the acquisition of property of a permanent nature, and the purchase of equipment for any public improvement when first erected or acquired that are to be financed in whole or in part from funds subject to control or appropriation by the Mayor and Council. It should show the capital expenditures which are planned for each of the five (5) ensuing fiscal years. For each separate purpose, project, facility, or other property there should be shown the amount, if any, and the source of the money that has been spent, encumbered, or is intended to be spent or encumbered prior to the beginning of the ensuing fiscal year and also the amounts and the sources of the money that are intended to be spent during each of the ensuing five (5) years.

C. The Capital Budget. The capital budget shall show in detail the capital expenditures intended to be made or incurred in the ensuing fiscal year that are to be financed from funds subject to control or appropriation by the Mayor and Council, and shall be in full conformity with that part of the capital plan applicable to the year which it covers. Amounts

specified as intended to be spent out of new appropriations shall, upon enactment of the capital budget, constitute appropriations of such amounts.

Sec. 6-05. Mayor and Council on the Budgets

A. The Mayor and Council shall cause to be posted in at least five (5) prominent places located in the City, a general summary of the proposed capital and operating budget, a notice of the times and places where copies of such budgets are available to inspection and the time and place for a public hearing on such budgets. Such notice shall be posted at least ten (10) days prior to such hearing.

B. After the public hearing the Mayor and Council may adopt, by resolution, the budgets with or without amendment. The Mayor and Council may insert new items of expenditure or may increase, decrease, or strike out items of expenditure, except that no item of appropriation for debt service shall be reduced.

C. The budget and tax rate shall be adopted prior to the beginning of the fiscal year for which such budget relates. If the Mayor and Council fail to so adopt, the budget for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items prorated accordingly, until such time as the Mayor and Council adopts a budget for the ensuing fiscal year.

D. All amendments to the budget shall be made at meetings open to the public; any amendment to the budgets shall require a public hearing with notice thereof posted in five (5) prominent places located in the City at least five (5) days prior to the hearing.

Sec. 6-06. Power to Raise Revenue

A. The Mayor and Council shall have the power to levy and collect taxes on real property within the City, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than 2% of the assessed valuation of the assessable and taxable real estate within the City in any year clear of all delinquencies and expenses of collection; provided, however, in addition thereto, the Mayor and Council shall have the power to levy the taxes necessary to service the bonded indebtedness of the City.

B. The Mayor and Council shall have the right to grant or refuse, and to charge fees for licenses or permits for traveling shows and other businesses of any description within the City and to control their use of any property within the City. The Mayor and Council shall have the power to levy and collect fees.

C. The Mayor and Council shall have the power to impose reasonable penalties and forfeitures for tax delinquencies, and to review and determine proper and appropriate properties to be exempt from taxation.

D. The Mayor and Council shall have the power to fix the rates for utilities operated by the City and to collect and utilize revenues from such utilities for the benefit of the City.

E. The Mayor and Council shall have the right to levy and collect taxes upon all gas mains, water lines and telephone, telegraph power poles or other erections of like character erected within the limits of the City of Delaware City, together with the wires, cables and appliances thereto or thereon attached, as well as such wires, cables and appliances which may be installed underground, and to this end may, at any time, direct the same to be included in or added to the City assessment. In case the owner or lessee of such poles or erections and such wires, cables and appliances shall refuse or neglect to pay the taxes that may be levied thereon, the said taxes may be collected as in the case of other taxes.

Sec. 6-07. Borrowing for Current Expenses and Capital Expenditures

A. Whenever the needs of the City shall require more money than is, at the time, in the City treasury from current receipts, the Mayor and Council may, and it is hereby authorized and empowered, to anticipate current fiscal year revenue by borrowing such amounts as are needed; provided, however, the amount of such indebtedness shall not at any time exceed one-half of one percent (0.5%) of the assessed valuation of the assessable and taxable real property within the limits of the City.

B. The City of Delaware City shall have the full power and authority to borrow, for the exclusive purpose of financing a capital asset, upon the faith and credit of the City of Delaware City, a sum or sums of money not exceeding one percent (1%) of the total assessed property value, exclusive of borrowing against current expenses referred to in subsection A hereof,

when in the opinion of the majority of the Council the needs of the City demand it. The Council may secure such sum or sums of money by promissory note or notes, or certificates of indebtedness of the City of Delaware City, duly authorized by resolution of the Council, signed by the City Secretary, and by the Mayor or Acting Mayor, with or without the corporate seal of the City affixed in accordance with the request of the person or corporation advancing the money on said notes or certificates, and no officer, Mayor or Council member shall be personally liable for the payment of such note or notes, because of his signature as an officer of the Council, his membership in Council or his approval of the authorizing resolution. Provided however, that any sum of money borrowed by the Council on the full faith and credit of the City as aforesaid, shall be repaid in full, together with all interest and charges thereon, within a period not to exceed the estimated useful life of the capital asset or ten (10) years whichever is less and shall be repaid in equal annual installments.

This provision in no way shall be intended to apply to the right of the Mayor and Council to submit to the voters for their approval major capital improvement projects to be financed by long term bond issue as provided for in this Charter.

**Sec. 6-08. Power to Incur Bonded Indebtedness**

**A. Power to Borrow Money.** The City may incur indebtedness by issuing either general obligation bonds or certificates of indebtedness secured by the full faith and credit of the City, or by issuing revenue bonds, either in whole or in part of the total amount necessary to provide funds for the erection, extension, enlargement or repair of any plant, machinery, appliances or equipment for the furnishing of water; for the construction, repair or improvement of highways, streets or lanes, or the paving, curbing, or erection of gutters along the same; for the construction or repair of sewers or sewage disposal equipment; or to defray the cost of the share of the City in the cost of any permanent municipal improvement; or to replace any monies advanced from current funds of the City to finance any one or more of such projects; or to carry out any capital improvement project deemed by the Mayor and Council to be necessary to the proper execution of any function or power of the City.

If general obligation bonds are issued, the total outstanding debt secured by such bonds shall not exceed fifteen (15) percentum of the assessed value of all the real estate subject to taxation located within the City.

If revenue bonds are issued, each such bond shall recite in substance that said bond, including interest therein, is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the City of Delaware City within the meaning of the bonded indebtedness limitation; provided, however, that in the event of some emergency, the City may temporarily borrow, advance or loan such amount as is necessary to meet current interest on outstanding bonds, such advance or loan to be repaid to the City of revenue subsequently received from the undertaking. If revenue bonds are issued, the Mayor and Council shall prescribe and have collected reasonable rates, fees or charges for the service, facilities and accommodations of said undertaking and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will procure revenue at least sufficient to pay, when due, all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and to provide for all expenses of operation and maintenance of such undertaking, payments in lieu of taxes, depreciation and other reserves.

No capital improvement bonds, notes or certificates of indebtedness may be authorized, which bonds are payable more than forty (40) years from the date of issuance thereof.

B. Method of Borrowing Money. Before the City may incur indebtedness by the issuance of bonds as set out in the preceding Section, the borrowing of money shall have been authorized by the Mayor and Council and shall have been approved in the manner set out in this Section.

(1) The Mayor and Council shall, by resolution, propose to the qualified voters according to law in the City of Delaware City the purposes for which the stated amount of money shall be borrowed. 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, including data on total related debt and the debt limitations established by this Charter, shall fix a time and place for hearing on the resolution; and shall provide for publication of an announcement of the hearing in a newspaper of general circulation in the City

and posting of the announcement in at least five (5) prominent places in the City, one of which shall include the City Hall, at least ten (10) days prior to the hearing date.

(2) A public hearing shall be held, at which time all interested persons shall be given an opportunity to express their views. Their testimony shall be given in evidence by the Mayor and Council.

(3) If the Mayor and Council desire to continue with the bond proceedings, they shall then, by resolution, direct that the question be submitted to the public by a referendum. An election shall be held not less than thirty (30) days nor more than sixty (60) days after the date of such resolution.

(4) The notice of the time and place for holding said special election shall be printed in a newspaper of general circulation in the City once a week for two consecutive weeks prior to the election and notice of such election shall be placed in five (5) prominent places in the City, one of which shall include the City Hall, at least ten (10) days prior to the special election. The special election shall be conducted by the Election Board as herein established and provided for regular general elections.

(5) The Mayor and Council shall cause the Election Board to prepare the ballots for the voting machines and to hold the referendum. At said referendum, all qualified voters of the City of Delaware City shall be entitled to vote. In addition thereto, every person owning property in the City of Delaware City and who is not otherwise a qualified voter and each corporation owning property in the City of Delaware City shall be entitled to one vote under this Section.

(6) The Election Board shall count the votes for and against the proposed bond issue and shall announce the result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed issue; and shall deliver the same to the Mayor and Council, which certificate shall be entered on the Council minutes and the original thereof filed by the City Secretary. No bond issue shall be deemed approved unless a majority of those voting at such referendum shall vote for such bond issue.

(7) The form of the bonds or certificates of indebtedness, the date of payment of interest, the classes, the dates of maturity, and the provisions pertaining to any registration thereof, shall be determined by the Mayor and Council. The bonds shall be sold to the highest bidder after at least one month's notice, published at least twice in a newspaper of general circulation in the City and at least once in a publication carrying municipal bond notices and devoted primarily to financial news. The Mayor and Council shall provide, in the budget, for revenues sufficient to pay the interest and principal on said bonds or certificates at the maturity or maturities thereof. The full faith and credit of the City shall be deemed pledged for the due payment of the principal and interest of general obligation bonds issued within the prescribed debt limitation when the same have been properly executed and delivered for value.

Sec. 6-09. Independent Audit

Annually, the Mayor and Council shall designate a firm of certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of fiscal transactions of the City government and shall submit their report to the Council. Such accountants shall have no direct or indirect personal interest in the fiscal affairs of the City government or of any of its officers. They shall not maintain any accounts for the City, but shall, within specifications approved by the Council, audit the books and documents of all appropriate officers and employees of the City government in all departments, offices and agencies. Designation of the accountants shall be made by the Council not later than thirty days after the beginning of the fiscal year for which the audit is to be conducted. When received, the audit report shall become part of the Council minutes.

ARTICLE VII -- CITY APPOINTIVE OFFICES

Sec. 7-01. City Solicitor

The Mayor with the advice and consent of a majority of all members of Council shall appoint an officer of the City who shall have the title of City Solicitor. He/she shall be a member of the Bar of the State of Delaware and shall have practiced law for at least two years prior to appointment. It shall be the duty of the City Solicitor to give legal advice to the Mayor and Council, the City Manager, department heads and other officers of the City, and to all City departments, offices or agencies; he/she shall represent

the City in all legal proceedings and shall perform such other legal services as may be required by the Mayor, Council, City Manager, this Charter, law or ordinance. Council may procure such additional legal services as it may deem to be required. The City Solicitor shall serve at the pleasure of the Mayor and three (3) members of Council or four (4) members of Council.

Sec. 7-02. Assessor

The Mayor shall appoint, with the approval of a majority of all members of Council, an assessor who shall be a legally qualified voter of the City. The assessor shall be appointed at the first regular Council meeting in January for a term of two years and prior to entering upon the duties of the office, as set forth in Article IV, shall be duly qualified by oath or affirmation to perform the duties of the office to the best of his/her ability and knowledge, without favor or partiality.

Sec. 7-03. City Secretary

The Mayor shall appoint with the advice and consent of a majority of all members of Council an officer of the City who shall have the title City Secretary. The City Secretary shall be appointed at the first regular Council meeting in April or the organizational meeting for a term of two years. The City Secretary shall give notice of Council meetings to its members and the public, keep minutes of Council meetings and hearings and all official proceedings, file and keep in a safe place the Seal of the City, attest the same when authorized by Council, keep all papers and documents relative to the affairs of the City which shall be deemed appropriate to be kept in his/her office, and perform such other duties as may be designated by the Mayor and Council, City Manager, this Charter or ordinance. The responsibilities and duties of the City Secretary may be assigned to or combined with another office or department of the City government upon approval of the Mayor and Council.

Sec. 7-04. City Treasurer

The Mayor shall appoint with the advice and consent of a majority of all members of Council an officer of the City who shall have the title City Treasurer. The City Treasurer shall be appointed at the first regular Council meeting in April or organizational meeting for a term of two years. The City Treasurer shall keep a true, accurate and detailed account of all monies received and all monies paid out by the City in all its activities and for all its departments, offices and agencies; shall preserve all vouchers



and financial records, but under a records disposal program and schedule approved by the Mayor and Council, may periodically destroy such records and vouchers. The City Treasurer shall make such reports at such time as the Mayor and Council and City Manager shall direct and which shall keep the City Government and the public informed of the financial condition of the City. The City Treasurer shall have such other duties as may be prescribed by this Charter, by law or by ordinance. The City Treasurer shall be custodian of all funds of the City, and shall deposit them on a regular basis in banking institutions located in the City, as designated by the Mayor and Council. The books, records and accounts of the City Treasurer shall be open at all times to inspection by the members of the Mayor and Council and the public under such regulations as the Mayor and Council may prescribe.

Sec. 7-05. Members of Boards, Bureaus and Commissions

Except as expressly otherwise provided and subject to the limitations set forth in this Charter, the Mayor shall appoint with the advice and consent of a majority of all members of Council, all members of Boards, Bureaus and Commissions created by this Charter, by law or by ordinance.

Sec. 7-06. Alderman

The Mayor may appoint with the advice and consent of four (4) members of Council an officer of the City who shall have the title Alderman. The Alderman may be removed from office by the Mayor subject to the approval of four (4) members of Council. Any Magistrate or Justice of the Peace serving the State of Delaware may be designated to also serve as Alderman for the City, but he/she shall not be a member of Council or the City Solicitor.

Before appointment of any person to the position of Alderman, his/her ability and qualifications to act in this capacity must be approved by the Resident Judge of the Superior Court for New Castle County. All costs attributable to certification shall be borne by the City. In the event that there is no certified Alderman within the City, the members of the Delaware City Police Department are directed to take all violators to the nearest available Magistrate who is authorized to serve in the capacity of Alderman.

The compensation of the Alderman shall be fixed by ordinance, and unless otherwise provided by the Mayor and Council by ordinance, the Alderman shall not retain any fines levied by the Court, but must pay such fines into the City Treasury within fifteen (15) days of collection. Before

entering upon the duties of his/her office, he/she shall be sworn or affirmed by the Mayor or by any one of the Councilpersons or by any Justice of the Peace, to perform the duties honestly, faithfully, and diligently. The Alderman shall have jurisdiction of all violations of ordinances of the City and of all misdemeanors prescribed by any law of the State of Delaware committed within the boundaries of the City. The Alderman shall have power and authority to hold for bail, fine or imprison offenders, compel the attendance of persons accused of violation of City ordinances by service of process either within or without the limits of the City, compel the attendance of witnesses, and hold or punish for contempt; provided that in the case of a violation of an ordinance, he shall impose no fine or penalty in excess of that fixed by the ordinance, and shall not commit to prison for a longer term than thirty (30) days in default of the payment of a fine imposed by him. He/she shall keep a book to be called "Alderman's Docket," in which shall be entered at large all his/her official acts. If any vacancy shall occur in the office of the Alderman by death, resignation, removal from office, or otherwise, such vacancy may be filled by Council at any meeting thereafter for the residue of the term. If any Alderman shall be removed from office by the Council as herein provided, he/she shall deliver to his/her successor in office within two days after the election of his/her successor, all books and papers belonging to his/her office, and shall pay over to the Treasurer of the City all monies belonging to the said City within five days after removal; upon neglect or failure to deliver to his/her successor in office, within the time aforesaid, all the books and papers belonging to office, or upon neglect or failure to pay over to the Treasurer of the City, within the time aforesaid, all monies belonging to the City, he/she shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than One Hundred (\$100) nor more than Five Hundred (\$500) Dollars.

The Alderman, at every stated meeting of the Council, shall report to it all fines and penalties imposed by him/her since their last meeting, and to pay to the Treasurer of the City all such fines and penalties received by him/her during the said time, and in default of making such report or paying such fines and penalties for a period of thirty (30) days after such report should be made and such fines and penalties should be paid aforesaid, he/she shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than Twenty (\$20) Dollars nor more than One Hundred (\$100) Dollars.

## ARTICLE VII -- ELECTION RULES AND PROCEDURE

Sec. 8-01. The General Municipal Election

The general municipal election shall be held in the City Hall or some other suitable building within the City limits designated by the Mayor and Council on the first Tuesday in April of each and every year. The City Secretary shall, at least 15 days before any election or referendum, give notice of such election, together with the officers to be elected thereat, the referenda to be considered and any other matter to be voted on, by posting notices in five (5) or more public places in the City of Delaware City.

Sec. 8-02. Filing for the Office of Mayor and Councilperson

Filing for the office of Mayor and Councilperson shall be by letter signed by the candidate and there shall be no party designation on any such letter beside the name of any candidate or on any ballot in any municipal election.

All persons desiring to be candidates at any municipal election shall file with the City Secretary of the City of Delaware City a written and signed statement of their candidacy at the City Hall during normal business hours; for Councilperson, not later than thirty (30) days before the election; and for Mayor, not later than sixty (60) days before the election. The City Secretary is authorized to accept a notice of withdrawal signed by the candidate up until twenty (20) days before the election. If a candidate for Mayor is a Councilperson, he/she must resign that office effective the first regular meeting in April and prior to the installation of the new officials, and a notice of withdrawal shall not rescind such resignation.

Sec. 8-03. The Election Board of Delaware City

All municipal elections shall be held by an Election Board consisting of not less than three (3) nor more than five (5) qualified voters, not Councilpersons, appointed by the Mayor, with the advice and consent of four (4) members of Council.

The Election Board shall consist of:

(1) A chairperson, who shall oversee elections generally;

(2) At least one inspector, who shall be responsible for compliance with proper procedures; and

(3) At least one judge who shall be responsible for the determination of the legality of the votes offered. When the polls have been closed, the Election Board shall publicly count and/or tabulate the ballots, certify the results of the election to each of the persons elected and to the Mayor and Council by giving them "Certificates of Election" and enter the results of the election, by name, office and ballot count, as a minute of such election in a book designated for that purpose.

Sec. 8-04. Voter Qualifications

Every person domiciled in the City of Delaware City who shall have reached the age of eighteen (18) years of age, who is a citizen of the United States and who can prove the foregoing by proper identification, shall be entitled to vote at all regular and special municipal elections and referenda, except as otherwise provided in the Charter. Domicile in any area annexed to the City by virtue of any action taken under this Charter or The Laws of the State of Delaware shall constitute, for the purpose of this Section, domicile is the City.

The Council by 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 voters 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 five (5) registration days in each year, the last one of which shall be the day of the election or referendum. Hours of registration shall be determined by ordinance. The ordinance may provide for permanent registration lists.

The Mayor and Council may provide by ordinance for the appeal of anyone who seeks to register as a qualified voter, but who has been denied such registration by the Election Board. The appellate body shall be designated as the Registration Appeal Board and shall consist of three (3) members, not Councilmen or members of the Election Board, appointed by the Mayor with the advice and consent of four (4) members of Council.

Sec. 8-05. Absentee Voting

The Mayor and Council may prescribe by ordinance for absentee registration and for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.

Sec. 8-06. Polling Places and Regulations

The Mayor and Council shall designate the polling places which shall be open from 12 o'clock noon to 8 o'clock p.m. on all municipal election and referendum days. The Mayor and Council shall, by ordinance, make all necessary regulations not inconsistent with this Charter or with State laws, for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud.

Sec. 8-07. Voting Machines

Voting machines shall be used at all municipal elections in which a contest exists and shall be so constructed as to permit the voter to vote for the candidates duly nominated pursuant to the provisions of this Charter or to write in the name of any candidate of his choice for any office. The official ballots provided for municipal elections shall contain the names of all nominees for the office of Mayor, listed alphabetically under a heading reading "CANDIDATES FOR MAYOR -- VOTE FOR ONLY ONE". The ballots for Councilpersons shall contain the names of all nominees for the office of Councilperson, listed alphabetically under a heading reading "CANDIDATES FOR COUNCIL"; thereunder shall be a designation of the number of Council seats open and an instruction to vote for only that number of nominees for Council; i.e., "3 COUNCIL SEATS --VOTE FOR ONLY 3". A plurality of all votes cast shall make the choice. If a one-year seat is open for election a separate designation shall be made for that one-year term on the ballot.

Sec. 8-08. Failure to Hold Election, Uncontested Election

A failure to hold an election, or the omission to execute any authority conferred by this act, shall not dissolve the corporation, but the authority of each officer shall continue until their successors are chosen. Any qualified voter under this Charter can bring an action in any competent court in the State of Delaware to compel the Mayor and Council to cause such an election to be held, at which election the Mayor and all Members of Council shall be elected; those receiving the highest number of votes receiving the longer terms and those receiving a lesser number of votes receiving the shorter term, until all offices are filled.

In the event an election is not contested, it shall and may be lawful to open the polls at one o'clock P.M. and close them at two o'clock P.M. The requirement for a voting machine shall be dispensed with in the event the entire election is uncontested.

#### ARTICLE IX -- CITY MANAGER

##### Sec. 9-01. Appointment; Qualifications; Compensation

The Mayor shall appoint a City Manager for an indefinite term and fix his compensation subject to confirmation and approval of a majority of all members of Council. The City Manager should be appointed on the basis of his executive and administrative qualifications. In the performance of his duties and the exercise of his powers, the City Manager shall not be influenced by any matters whatsoever of a political or factional nature. He need not be a resident of the City or State at the time of his appointment, but may reside outside the City while in office only with the approval of the Mayor and Council.

##### Sec. 9-02. Removal

A. The City Manager may be removed by the Mayor with the consent of a majority of all members of Council or by four members of Council without the Mayor's consent. Before such removal shall become effective, the Mayor and/or Council shall, by the Mayor and majority vote of all members of Council or by four members of Council without the consent of the Mayor, adopt a preliminary resolution stating the reasons for removal and may suspend the City Manager from duty without pay and for a period that the Mayor and Council deem appropriate.

B. Within five (5) days after a copy of the resolution is delivered to the City Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The City Manager may file with the Council a written reply not later than five (5) days before the hearing.

C. The Mayor and Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of the Mayor and a majority vote of Council or by four members of Council without consent of the Mayor at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the City Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The City Manager, if suspended without pay, shall receive compensation for the period of suspension if he is not ultimately removed, unless otherwise modified by Contract. The action of the Mayor and/or Council in suspending or removing the City Manager shall not be subject to review by any court or agency.

Sec. 9-03. Absence of City Manager

In case of the temporary absence or disability of the City Manager, the City Manager with the advice and consent of a majority of all the Council shall designate some qualified person, who may be an elected or appointed official of the City of Delaware City, to perform the duties of such office during such absence or disability.

During such temporary absence or disability, the Council may revoke such designation by majority vote at any time and appoint another qualified person to serve until the City Manager shall return or until such disability shall cease. In the case of the permanent absence of a City Manager, the Mayor with the advice and consent of a majority of all of the Council shall designate a qualified person to serve until a new City Manager is hired.

Sec. 9-04. Powers and Duties of the City Manager

The City Manager shall be the chief administrative officer of the city. He shall be responsible to the Mayor and Council of Delaware City for the proper administration of the affairs of the City placed in his charge by or under this Charter. He shall have the following powers and duties:

A. Personnel. The City Manager shall have the power to make such appointments and to hire employees at such compensations as the Mayor and Council, by Resolution, shall determine, subject to such rules and regulations as may be adopted by the Mayor and Council. All employees shall be hired for an indefinite term and may be removed by the City Manager at any time unless otherwise provided by Resolution of the Mayor and Council. The City Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him. However, the Mayor and Council shall sit as a Board of Appeal for the protection of City employees at those times when a majority of the Mayor and Council are agreed that a review of the action of the City Manager would be in the best interests of the City of Delaware City. An aggrieved employee of the City shall have the right to petition for a hearing before such Board of Appeal; provided that the petition is received by the Mayor and Council within ten (10) days of receipt of written

notice of termination or suspension. The decision of a majority of the Mayor and Council shall be final and conclusive.

B. The City Manager shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter, or by ordinance, resolution or other law.

C. The City Manager shall attend all Council Meetings and shall have the right to take part in the discussion, but shall not vote.

D. The City Manager shall see that all laws, ordinances, provisions of this Charter and acts of the Mayor and Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

E. The City Manager shall prepare and submit the annual operating budget, capital plan and capital budget to the Mayor and Council according the requirements of this Charter.

F. The City Manager shall submit to the Mayor and Council and make available to the public a complete report on the financial and administrative activities of the City as of the end of each fiscal year.

G. The City Manager shall keep the Mayor and Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Mayor and Council concerning the affairs of the City as he deems desirable.

H. The City Manager shall prepare and submit such reports or special assignments as may be required by the Mayor and Council. He shall perform such other duties as may be prescribed by this Charter or required of him by Ordinance or Resolution of the Mayor and Council.

I. The City Manager shall have charge and supervision of the streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks and other administrative affairs of the City and all work relating thereto.

J. The City Manager shall have charge of and shall collect all taxes, assessments, rentals, license fees, and other charges due the City. He shall pay over to the City Treasurer at least weekly and more often if required by the Mayor and Council, all moneys received or collected by him and by any employee under his supervision. 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 Mayor and Council.

K. The City Manager shall execute on behalf of the City, when authorized by the Council, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed. The City Manager shall countersign all orders, drafts and checks authorized by the Council and drawn on the City Treasury for payment of money.

#### ARTICLE X -- CITY ADMINISTRATION

##### Sec. 10-01. Police Department

A. There shall be a Police Department which shall be directed and supervised by a police officer of the City who shall have the title of Chief of Police. The Mayor and Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the Police Department. The Police Department shall preserve peace and order and shall compel obedience within the City limits to the Ordinances of the City and the laws of the State of Delaware. The Police Department shall have such other duties as the Mayor and Council shall, from time to time, prescribe. The Chief of Police and the members of the Police Department shall be subject to the direction of the City Manager, acting on behalf of the Mayor and Council.

B. Each member of the Police Department shall be vested, within the City limits and within one (1) mile outside the City limits, with all powers and authority of a constable of New Castle County, and may carry firearms, and in the case of pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

##### Sec. 10-02. Board of Health

A. The Board of Health shall consist of five (5) members, who must be residents of Delaware City, one of whom shall be a practicing physician, if available, and one of whom may be a Councilperson, who is assigned to the Board of Health. The Board shall be appointed by the Mayor of the City of Delaware City with the advice and consent of a majority of the City Council. Members shall serve at the pleasure of the Mayor and Council for a period of two (2) years and shall be appointed at the first regular meeting of the Mayor and Council in May in the odd numbered years or until their successors are duly appointed and qualified.

B. The Board of Health shall have cognizance of and interest in the life and health of the people of Delaware City and shall report to the Mayor and Council in writing whatever in its judgement is injurious to the health and safety of the citizens and shall make recommendations to the Mayor and Council concerning whatever may contribute to the health and sanitation of the citizens of the City of Delaware City. The Board shall have all powers now or hereafter vested by the laws of the State of Delaware in Boards of Health generally, and also such additional powers as may be conferred by ordinance.

C. The Board of Health shall organize by the election of a Chairperson and Secretary within ten (10) days after notice of their appointment and shall keep a record of their proceedings and acts.

D. The Board of Health, at a regular or special meeting may authorize any of its members, agents or employees of the City to make an inspection of private property, upon presenting official identification, and where there is good cause shown that a violation of the health and sanitation code or related health ordinances exists on such property and provided that the owner is advised at least three (3) days in advance of such inspection, and that the inspection is made at a reasonable hour; except that such requirements shall not apply in the case of an emergency.

E. The Board of Health shall have the power to recommend the adoption of ordinances relating to the health of the citizens or to prevent the introduction or spread of infectious or contagious diseases or nuisances affecting the same and such ordinances, when adopted by the Mayor and Council, shall extend to an area outside the City limits for a distance of one (1) mile.

#### Sec. 10-03. Creation of Departments

The Mayor and Council may establish City departments, offices or agencies in addition to those created by this Charter, and may prescribe the functions of all departments, offices or agencies; provided however, that the number of departments, offices or agencies shall not be excessive, and each of which shall be headed by or under the direction of the City Manager or a single person appointed by the City Manager; provided however, that special offices, commission, committees and boards appointed or selected by the Mayor, with the advice and consent of the Council may not be included in the above-referenced limitation or under the direction of the City Manager.

Sec. 10-04. Purchases and Contracts

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, as required by ordinance.

Sec. 10-05. Administrative Policy

A. The administrative policies of the City of Delaware City shall be prepared by the City Manager and shall be adopted by the Mayor and Council by ordinance with or without amendment. However, all appointments and promotions of City employees under the direction of the City Manager shall be made solely on the basis of merit and fitness for the position concerned.

B. The Mayor and Council shall establish, by ordinance, a code of ethics which shall apply to all employees and officials of the City including, but not limited to, appointed, elected, part-time, full-time employees and officials and members of Boards, committees and commissions.

ARTICLE XI -- PLANNING

Sec. 11-01. Planning Commission

The Mayor, with the advice and consent of a majority of all members of Council, shall appoint a Planning Commission consisting of seven members at large. Appointments shall be made at the first Council meeting in September. All appointments shall be for terms of three years. Appointments during the transition period shall be fixed by ordinance, but terms shall not exceed three years. The compensation of the Planning Commission, reimbursement for actual and necessary expenses incurred in traveling on official business approved by the Mayor and Council.

The powers, duties and scope of activities of the Planning Commission shall be determined by ordinance. The Commission shall advise the Mayor and Council on zoning and land subdivision matters, on the comprehensive development plan, on flood plain regulation, on the official map of the City, and on such other matters as shall be contained in said ordinance.

The Planning Commission shall elect annually, from among its members, a Chairperson and Secretary. The Commission shall have no authority to employ persons, disburse monies, make contracts, or to exercise administrative authority in any manner whatsoever, but all such employees engaged in

planning matters, and all disbursements, contracts and administrative duties shall be under the direct supervision of the City Manager.

Sec. 11-02. Comprehensive Development Plan

A. Development. The Mayor and Council shall adopt, and may from time to time modify, a comprehensive development plan setting forth in graphic and textual form policies to govern the future physical development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas. Such comprehensive development plan shall show, among other things, existing and proposed public ways, streets, bridges, tunnels, viaducts, parks, parkways, playgrounds, sites for public buildings and structures, pierhead and bulkhead lines, waterways, routes of railroads and buses, locations of sewers, water mains, and other public utilities, and other appurtenances of such a plan including certain private ways. Such plan shall be adopted and have the effect as set out herein.

B. Adoption of the Development Plan. Upon receipt from the City Manager of the proposed comprehensive plan, portions thereof, or proposed modifications thereto, the Mayor and Council shall refer such proposal to the Planning Commission, which shall, within a time specified by the Mayor and Council, report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Mayor and Council shall hold a public hearing on the proposed comprehensive plan or modification thereof, and may thereafter adopt it by ordinance with or without amendment. The comprehensive development plan shall serve as a guide to all future action of the Mayor and Council concerning land use and development regulations, urban renewal programs, and expenditures for capital improvements.

C. Implementation of the Development Plan. The Mayor and Council may, by ordinance, adopt land use and development regulations including, but not limited to zoning and subdivision regulations. The Mayor and Council may, by ordinance, provide for redevelopment, rehabilitation, conservation and renewal programs for the alleviation or prevention of slums, obsolescence, blight, or other conditions of deterioration, and the achievement of the most appropriate use of land.

Before acting on any proposed ordinance concerning land use and development regulations, urban renewal, or expenditures for capital improvements, where such ordinance refers to a matter covered by the comprehensive development plan or the official map, the Mayor and Council shall refer the proposal to the Planning Commission, which shall, within a time

specified by the Mayor and Council and prior to the public hearing on the proposed ordinance, report its recommendations thereon. Upon adopting any such ordinance, the Mayor and Council shall make findings and report on the relationship between the ordinance and the comprehensive plan, and in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

Sec. 11-03. Official Map

A. Adoption of Official Map. The Mayor and Council shall have the authority to adopt an official map showing the public ways and parks within the City as therefore laid out and established by law and the private ways then existing and used in common by more than two owners. Such official map is hereby declared to be established to conserve and promote the public health, safety and general welfare. Upon the adoption of such an official map, and upon any change therein or addition thereto made, as hereinafter provided, the City Secretary shall forthwith file with the Recorder of Deeds in and for New Castle County a certificate of such action and a copy of such official map as adopted or as changed or added to.

B. Changes in Official Map. The Mayor and Council may, whenever and as often as it may deem it for the public interest, change or add to such official map so as to place thereon lines and notations showing existing or proposed locations not theretofore mapped of new or widened public ways and new or enlarged parks and proposed discontinuances in whole or in part of existing or mapped public ways and parks. No such change or addition shall become effective until after a public hearing in relation thereto before the Mayor and Council, at which parties in interest shall have an opportunity to be heard. At least ten days' notice of such a public hearing shall be given by advertisement in a newspaper of general circulation in the City.

After the Mayor and Council has adopted an official map as herein provided, no public way shall be laid out, altered, relocated or discontinued if such laying out, alteration, relocation or discontinuance is not in accordance with such official map as it then appears. After such adoption, no person shall open a way for public use, except as provided under this Charter, unless the location of such way is in accordance with the official map as it then appears, and the grading, surfacing and draining of such way have been approved by the Mayor and Council or the City Manager.

Upon final action by the proper authorities in laying out, altering or relocating a proper way, or in the

discontinuing the whole or any part thereof, or in establishing or enlarging a public park or closing thereof in whole or in part, the lines and notations showing such improvement, discontinuance or closing as so established or effected shall, without further action by the Mayor and Council, be made a part of the official map.

C. Enforcement of Official Map. Officers and employees of the City may, so far as they deem it necessary in carrying out the provisions of the preceding Section, enter upon any lands and there make examinations and surveys, and place and maintain monuments and marks.

The Mayor and Council may petition the Court of Chancery for the State of Delaware to enforce any of the provisions of the preceding two Sections, and any ordinance made thereunder, by restraining by injunction violations thereof.

Sec. 11-04. Limitations on Planning

The provisions of the preceding three Sections shall not be construed to authorize the taking of land nor the authorization of the City to lay out or construct any way which may be indicated on any plan or plot until such way has been laid out as a public way in the manner prescribed by law; nor shall any of the provisions of the preceding three Sections be construed to render the City liable for damages except as may be sustained by reason of changes in the official map.

ARTICLE XII -- GENERAL PROVISIONS

Sec. 12-01. Personal Financial Interest

Any City officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a City officer or employee in making of such sale or in the making or performance of such contract. Any City officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City Manager or the Mayor and Council.

Sec. 12-02. Performance Bonds

The Mayor, City Manager, City Secretary and City Treasurer, and such other officers and employees of the City as the Mayor and Council may require, shall give bonds for the faithful performance of their duties in such amounts and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the City.

Sec. 12-03. Actions or Suits; Notice of Claim

No action, suit or proceeding shall be brought or maintained against the City of Delaware City for damages, either compensatory or punitive, on account of any physical injury or injuries, death or injury to property by reason of negligence, simple, gross, or willful or wanton of the said City of Delaware City, or any of its departments, officers, 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 City of Delaware City in writing of the time, place, cause, circumstances of the occurrence, character and extent of the injury sustained or damages suffered, name and residence of person or persons on whose behalf the claim is made, names of witnesses to the occurrence, and that the person on whose behalf the claim is made will claim damages therefor from the City. Such notice shall be directed to the Mayor of the City of Delaware City by certified mail with return receipt requested and postage prepaid.

Sec. 12-04. Oath of Office

Every member of the Mayor and Council, the City Manager, the City Treasurer, the City Secretary, the Alderman, the heads of all departments, and such other officers or employees as Council may by ordinance require, shall, before entering upon the duties of their office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Secretary:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Delaware, that I will uphold the Charter and ordinances of Delaware City, and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability."

The Mayor, members of Council, Alderman, and City Secretary shall have the power to administer oaths required by this Charter.

Sec. 12-05. Charter Amendments

The Mayor and Council may, by ordinance, provide a procedure by which it may propose to the voters an amendment to this Charter, but said procedure shall, in all respects, comply with applicable State law. Referendum on such amendments proposed may be held at regular or special election, as determined by the Mayor and Council by resolution. Amendments to this Charter to be voted on at referendum shall be presented for voting by ballot title. The ballot title may differ from its legal title and shall be a clear, concise statement describing the substance of the proposed amendment without argument or prejudice. Below the ballot title shall appear the following question: "Shall the Above-described Amendment be Adopted?". Immediately below such question shall appear in the following order the words, "YES" and "NO", and to the left of each, a square in which, by making a mark, the voter may cast his vote. Votes shall be counted and results determined in the same manner as for Council elections. Amendments receiving a majority of the votes cast on the question shall be processed and adopted in accordance with State law.

Sec. 12-06. General Prohibitions

A. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of sex, age, race or political or religious opinions or affiliations.

B. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter, or the regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions and regulations.

C. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for, or in connection with, his test, appointment, proposed appointment, promotion or proposed promotion.



D. No officer or employee of the City, whether elected or appointed, shall promise an appointment to any City position as a reward for any political activity.

E. Any person who, by himself or with others, willfully violates any of the provisions of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than three hundred (\$300) dollars, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment, and shall further be ineligible for a period of five years thereafter, to hold any City office or position, and if an officer or employee of the City, shall immediately forfeit his office or position.

The City Solicitor and/or other retained counsel shall undertake the representation or defense, without charge, of any City official, employee, including the Mayor and Council, the City Manager, committee members, advisory board members and all other employees, with respect to any claim or cause of action arising out of or related to the performance by said official or employee of his public duties, provided that such activities:

- (1) were done in good faith; and
- (2) were done in the reasonable belief that such activities were in the best interest of the City and in the furtherance of the official practices and policies of the City; and
- (3) were within the scope of authority of the person so acting; and
- (4) were within the course of employment of the person so acting; and
- (5) were not willful, malicious or wanton, as determined by the City Solicitor, subject to the approval of the Mayor and Council.

Sec. 12-08. Transfer of Powers

If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter, or if said Charter makes no provision, then as designated by the Council. All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue, except as modified pursuant to the provisions of this Charter,

and in each case, shall be maintained, carried on, or dealt with by the City department, office or agency appropriate under this Charter and Charter amendments.

Sec. 12-09. Severability

If any provision of this Charter and Charter amendments, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any provisions or applications of this Charter which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Charter are declared to be severable.

ARTICLE XIII -- INITIATIVE AND REFERENDUM

Sec. 13-01. General Authority

A. Initiative. The qualified voters of the City shall have power to propose ordinances to the Mayor and Council and, if the Mayor and Council fail to adopt an ordinance so proposed without any change in substance, other than those changes recommended by the City Solicitor for reasons of legality, to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

B. Referendum. The qualified voters of the City shall have power to require reconsideration by the Mayor and Council of any adopted ordinance and, if the Mayor and Council fail to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital plan or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Sec. 13-02. Commencement of Proceedings; Petitioners' Committee; Affidavit

Any five qualified voters may commence initiative or referendum proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed the City Secretary shall issue the appropriate petition blanks to the petitioners' committee.

Sec. 13-03. Petitions

A. Number of Signatures. Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least 25 per cent of the total number of qualified voters registered to vote at the last regular municipal election, or 30 per cent of the total number of voters who voted in the last regular municipal election.

B. Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

C. Affidavit of Circulator. Each paper of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

D. Time for Filing Referendum Petitions. Referendum petitions must be filed within 30 days after adoption by the Mayor and Council of the ordinance sought to be reconsidered.

Sec. 13-04. Procedure After Filing

A. Certificate of City Secretary; Amendment. Within twenty days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Secretary within two days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections B and C of Section 13-03, and within five days after it is filed the City Secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy

of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under subsection B of this Section within the time required, the City Secretary shall promptly present his certificate to the Mayor and Council and the certificate shall then be a final determination as to the sufficiency of the petition.

B. Mayor and Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the Mayor and Council. The Mayor and Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as the sufficiency of the petition.

C. Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Sec. 13-05. Referendum Petitions; Suspension of Effect of Ordinance.

When a referendum petition is filed with the City Secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition, or
- (2) The petitioners' committee withdraws the petition, or
- (3) The Mayor and Council repeal the ordinance, or
- (4) Five days have elapsed after a vote of the City on the ordinance.

Sec. 13-06. Action on Petitions

A. Action by Mayor and Council. When an initiative or referendum petition has been finally determined sufficient, the Mayor and Council shall promptly consider the proposed initiative ordinance in the manner provided in Article IV or

reconsider the referred ordinance by voting its repeal. If the Mayor and Council fail to adopt a proposed initiative ordinance without any change in substance within 60 days or fail to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

B. Submission to Voters. The vote of the City on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final Mayor and Council vote thereon. If no regular City election is to be held within the period prescribed in this subsection, the Mayor and Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Mayor and Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

C. Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the City Secretary a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

#### Sec. 13-07. Results of Election

A. Initiative. If two-thirds of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Mayor and Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

B. Referendum. If two-thirds of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

### ARTICLE XIV -- TRANSITIONAL PROVISIONS

#### Sec. 14-01. Former Government in Force

All ordinances, resolutions, orders, rules or regulations in force in the City of Delaware City, made or enacted by the Mayor and Council of Delaware City at the time this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect until the Mayor

and Council otherwise provide by ordinance, resolution, order, rule or regulation whichever may be appropriate, notwithstanding any change in organization effected by this Charter.

All acts and doings of the "Mayor and Council of Delaware City", or any officer of said City, lawfully performed under the provisions of any Law of this State, or any ordinance of said City are hereby ratified and confirmed and continue in force. All debts, fines, penalties or forfeitures due said City, and all debts due from said City to any person or persons or to any corporation are declared to be unaffected and unimpaired, and all the Laws of this State for the collection and enforcement of taxes in said City, heretofore assessed and uncollected shall continue in full force until the same shall be lawfully paid.

Sec. 14-02. Continuance in Office

All persons holding any non-elective office or employment with the Mayor and Council of Delaware City at the time this Charter takes effect shall continue in such office or employment and shall draw the same rate of compensation as during the month preceding the adoption of this Charter until removed or until the compensation is changed.

Sec. 14-03. Repeal of Prior Charters; Severability

This Act shall operate to amend, revise and consolidate Chapter 209, Volume 57, Laws of Delaware and Chapter 588, Volume 58, Laws of Delaware, and the several amendments and supplements thereto, and to repeal such parts thereof only as may be inconsistent herewith. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act."

Approved April 26, 1978.

## CHAPTER 252

## FORMERLY HOUSE BILL NO. 656

AN ACT TO AMEND CHAPTER 55, TITLE 15, DELAWARE CODE TO PERMIT PERSONS ON VACATION TO VOTE ABSENTEE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §5502, Chapter 55, Title 15, Delaware Code by striking subsection (4) and inserting in lieu thereof the following:

"(4) Sick or physically disabled; or

(5) because of his absence from the district while on vacation."

Approved April 26, 1978.

## CHAPTER 253

## FORMERLY SENATE BILL NO. 370

AN ACT AUTHORIZING THE STATE BOARD OF EDUCATION TO INCREASE THE REIMBURSEMENT FOR SCHOOL BUS AIDES FOR FY 77 FOR CONTRACTORS REIMBURSED UNDER THE STATE BOARD OF EDUCATION SCHOOL BUS CONTRACTOR FORMULA.

WHEREAS, the reimbursement formula adopted by the State Board of Education on January 15, 1976, provided a wage allowance of \$2.74 per hour for school bus aides which was computed on the basis of the salary schedule provided for in the Budget Act for FY 76; and

WHEREAS, the reimbursement formula adjusted and adopted by the State Board of Education on July 15, 1976, provided a wage allowance of \$3.50 per hour for school bus aides which was computed on the basis of the salary schedule provided for in the Budget Act for FY 77; and

WHEREAS, a supplemental appropriation was made to increase the compensation for school bus contractors based on the January 15, 1976 formula, which made the hourly allowance for aides less because it was based on the wage allowance of \$2.74 per hour rather than the wage allowance of \$3.50 per hour as provided for in the Budget Act for FY 77.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The State Board of Education is authorized to reimburse the school bus contractors the hourly rate for school bus aides for the 1976-77 school year at the same rate as provided for in the July 15, 1976 formula which was based on the salary schedule for aides and attendants contained in the Budget Act for FY 77.

Section 2. Funds for this purpose are to be taken from the public school transportation funds appropriated to the State Board of Education for FY 78.

Approved April 26, 1978.



## CHAPTER 254

FORMERLY SENATE BILL NO. 142

AS AMENDED BY

SENATE AMENDMENT NO. 2

AND

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER I, SUBCHAPTER III, TITLE 26, DELAWARE CODE  
RELATING TO RATE CHANGES OF PUBLIC UTILITIES.

WHEREAS, public utilities who file for a rate increase are permitted to place fifteen percent (15%) of such rate increase in effect by filing with the Commission a reasonable bond, the amount of which must be approved by the Commission until the Commission finally approves of the request; and

WHEREAS, the public utility is required to refund with interest any rate placed in effect by a public utility which is not approved by the Commission; and

WHEREAS, it seems most unfair to the customers to have a rate increase arbitrarily imposed upon them prior to the Commission finally approving or denying such rate increase, notwithstanding the fact that such fees are reimbursed with interest; and

WHEREAS, public utilities of this State should be able to project their needs sufficiently in advance so as not to warrant the need for revenue prior to the date which their request is scheduled to go into effect, assuming it is approved by the Commission; and

WHEREAS, it would appear that any rate request placed in effect prior to the Commission's approval warrants additional administrative costs.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §306 (a)(1) of Chapter I, Subchapter III, Title 26, Delaware Code by striking said subsection 1 in its entirety and inserting a new subsection 1 to read as follows:

"(1) Suspend the operation of such rate change for a period not to exceed 7 months after said filing; provided, however, that if the Commission has not reached its decision within said 7 months after filing, the public utility may place their rate into effect under bond in accordance with subsection (b) of this section."

Section 2. Amend §306 (b) of Chapter I, Subchapter III, Title 26, Delaware Code by striking said subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) Upon termination of the 7 months as set forth in subsection (a)(1) of this section the proposed rate change shall automatically become effective if the public utility files with the Commission a bond in a reasonable amount approved by the Commission with sureties approved by the Commission, conditioned upon the refund, in a manner to be prescribed by order of the Commission, to the persons entitled thereto of the amount of the excess, if the rate so put into effect is finally determined to be excessive; or there may be substituted for such bond other arrangements satisfactory to the Commission for the protection of the parties interested. In no event shall a public utility put a rate into effect under bond as authorized in this subsection that would constitute an increase in excess of 15 percent of the public utility's gross intrastate operating revenues."

Section 3. Amend §306, Chapter 1, Subchapter III, Title 26, Delaware Code, by adding thereto a new subsection (c) to read as follows:

"(c) Notwithstanding subsections (a) and (b) of this section, 60 days after said filing, a public utility may put a rate into effect under bond as authorized in subsection (b) of this section, provided that the increase does not constitute an increase in excess of fifteen percent (15%) of the public utility's annual gross intrastate operating revenues of \$1,000,000 annually, whichever is less."

Approved April 28, 1978.

## CHAPTER 255

## FORMERLY HOUSE BILL NO. 45

AN ACT AUTHORIZING AND DIRECTING THE BOARD OF PENSION TRUSTEES TO ACCEPT THE APPLICATION FOR A SURVIVOR'S PENSION FROM MRS. EVELYN WIDZGOWSKI, WIDOW OF THE LATE JOSEPH WIDZGOWSKI, A FORMER EMPLOYEE OF THE STATE BOARD OF EDUCATION; AND PROVIDING A SUPPLEMENTARY APPROPRIATION THEREFOR.

WHEREAS, the late Joseph Widzowski was employed by the State Board of Education for a period of fourteen years and one month until his death on December 13, 1975; and

WHEREAS, the State Employees Pension Plan, as it existed at that time, required fifteen years for pension eligibility; and

WHEREAS, following the death of Mr. Widzowski, his widow, Mrs. Evelyn Widzowski, applied for a survivor's pension and was informed by the Board of Pension Trustees that her late husband had not accumulated sufficient time to make her eligible for such payments; and

WHEREAS, Joseph Widzowski served the State of Delaware with fidelity and distinction; and

WHEREAS, his widow, Mrs. Evelyn Widzowski, should receive widow's pension benefits for the long and dedicated services rendered to the State by her deceased husband.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Board of Pension Trustees is hereby directed to accept the application of Mrs. Evelyn Widzowski for a survivor's pension from her late husband, Joseph Widzowski, in accordance with the provisions of Chapter 55, Title 29 of the Delaware Code; and the Board is further directed to determine the said Mrs. Joseph Widzowski to be eligible for a survivor's pension, any provision of Chapter 55, Title 29 of the Delaware Code to the contrary notwithstanding.

Section 2. The sum of ten thousand five hundred dollars (\$10,500.00) is hereby appropriated to the State Employees' Retirement Fund for the purposes of financing the provisions of this Act. In the event of the decease of Mrs. Widzowski prior to the complete expenditure of the funds herein appropriated, the remainder shall be returned to the General Fund of the State of Delaware.

Section 3. This Act is a supplementary appropriation, and the money herein appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Approved April 28, 1978.

services with another or to set or fish any commercial eel fishing gear as defined herein.

§1802. Commercial eel fishing license requirements; restrictions

a. It shall be unlawful for any person to initially sell or offer for sale twenty-five (25) or more eels per day unless the person selling or offering such eels for sale has a valid commercial eel fishing license issued by the Department.

b. It shall be unlawful for any person to fish for eels with commercial eel fishing gear in the tidal waters of this State unless the person has a valid commercial eel fishing license on board the vessel used to fish issued by the Department.

c. It shall be unlawful to fish for eels for the purpose of initially selling such eels in non-tidal waters within the State unless authorized to do so by the Department.

d. A commercial eel fishing license shall be valid from January 1 through December 31 next ensuing.

e. Application for a commercial eel fishing license shall be made on the forms provided by the Department.

f. The fee for a commercial eel fishing license to take eels shall be \$100 for residents and \$1,000 for non-residents.

g. A licensee may designate a resident of such licensee's state as an alternate on his license application who shall be approved by the Department to fish for eels with the licensee's commercial eel fishing gear in the event that said licensee is unable to fish his commercial eel fishing gear already in the water and capable of catching eels.

h. It shall be unlawful for an alternate to any commercial eel fishing licensee to sell or offer for sale any eels without the written consent of the licensee and without prior notification to the Department.

§1803. Use of funds derived from sale of commercial eel fishing licenses

a. All funds derived from the issuances of commercial eel fishing licenses shall be deposited by the Department in the General Fund.

§1804. Reciprocity for commercial eel fishing, non-resident licenses

a. When by or pursuant to the laws or regulations of any other state, should any other state impose any tax, other fee, or restrictions on non-residents for the privilege of commercially eel fishing within its boundaries, which tax, or other fee is in

- g. Spear, arrow or gigs;
- h. A minnow trap when less than two are being fished by an person;
- i. Hooks and lines when an individual places, sets or tends three (3) or less separate lines with any one line having no more than three (3) hooks attached. (Double and treble hooks counted as one (1) hook); and
- 3. 'Initially sold' shall mean the first transaction of eel exchange between the person catching the eels and another person for monetary, material or services exchange.
- 4. 'Eels' shall mean American eels, Anguilla rostrata.
- 5. 'Department' shall mean the Department of Natural Resources and Environmental Control.
- 6. 'Person' shall mean any human being.
- 7. 'Resident' shall mean a person who has resided in this State continuously for one year.
- 8. 'Tidal waters' shall mean those waters where the tide regularly rises and falls.
- 9. 'Secretary' shall mean the Secretary of the Department of Natural Resources and Environmental Control or his duly authorized designee.
- 10. 'Delaware Bay' shall mean all those waters and submerged lands under the jurisdiction of the State located within an area bordered on the North by a straight line drawn between Liston Point, Delaware and Hope Creek, New Jersey and bordered on the South by a line drawn from Cape May Light to Harbor of Refuge Light; thence to the northernmost extremity of Cape Henlopen, but not including any tributaries thereto.
- 11. 'Delaware River' shall mean all those waters and submerged lands under the jurisdiction of the State located within an area to the North of a straight line connecting Liston Point, Delaware and Hope Creek, New Jersey, but not including any tributaries thereto.
- 12. 'Non-tidal waters' shall mean those waters where the tide does not regularly rise and fall.
- 13. 'To fish' shall mean to attempt to take, take, catch, kill or reduce to possession any eel by any means whatsoever.
- 14. 'Commercially fish' shall mean for any person to attempt to take, take, catch, kill or reduce to possession any eel for the purpose of selling, trading or exchanging for money, materials or

the aggregate greater or restriction is greater, to include the non-availability of a license for non-residents, the same taxes, other fees, license requirements, and restrictions shall be imposed by the Department upon residents of the State who seek to apply for a license to commercially fish for eels within the boundaries of this State.

§1805. Commercial eel fishing license number

a. The Department shall assign a number to all commercial eel fishing licensees.

b. It shall be unlawful for a commercial eel fishing licensee to fish with commercial eel fishing gear without fixing his assigned number in two inch (2") block numbers prefixed by 'E' to each piece of gear in a conspicuous place on the floats, markers, stakes or flags observable above the surface of the waters at all times.

§1806. Prohibited fishing devices and substances

a. It shall be unlawful for any person to make use of any net, trap, catching device, contrivance, explosive, chemical or substance whatsoever, except commercial eel fishing gear or non-commercial eel fishing gear as defined in §1801 for the purpose of taking or attempting to take eels for any reason whatsoever in any waters of this State. Said devices and/or substances when found unlawfully in use may be confiscated by the Department. Said devices and/or substances shall be destroyed or 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.

b. It shall be legal for the Department and its authorized agents to use chemicals, electrofishing apparatus and other devices deemed appropriate for use in eel management, research and other scientific purposes; provided consent is obtained from owners of privately owned waters, or in the event such owners cannot be located after a reasonable search, a notice will be posted on those waters and surrounding shores of the intended use of these devices, chemicals or devices five (5) days prior to their use.

§1807. Illegal use or destruction of eel fishing gear; penalty

a. It shall be unlawful for any person to fish, lift, remove or willfully damage or destroy any commercial or non-commercial eel fishing gear owned by another person, except that employees of the Department may inspect commercial eel fishing gear to insure compliance with this Chapter.

§1808. Penalties

Any person who violates any of the provisions of this Chapter shall be fined not less than \$25.00 nor more than \$500.00. Justice

of the Peace Court shall have jurisdiction over offenses under this Chapter."

Section 2. Amend §902, Chapter 9, Title 7, Delaware Code by adding thereto a new sub-paragraph (c) to read as follows:

"(c) The provisions of Chapter 18 of this Title shall govern eel fishing, anything in this section to the contrary notwithstanding."

Section 3. Amend §904, Chapter 9, Title 7, Delaware Code by inserting after the word "fish" and before the word "other" as the same appear in sub-paragraph (3) thereof the words "except eels".

Section 4. Amend §908, Chapter 9, Title 7, Delaware Code by striking the words "an eel pot" in their entirety as the same appear in the first sentence thereof.

Section 5. Amend §910, Chapter 9, Title 7, Delaware Code by inserting at the end of the first paragraph thereof the following:

"The provisions of Chapter 18 of this Title shall govern eel fishing, anything in this section to the contrary notwithstanding."

Section 6. Amend §917, Chapter 9, Title 7, Delaware Code by inserting at the end of the first paragraph thereof the following:

"The provisions of Chapter 18 of this Title shall govern eel fishing, anything in this section to the contrary notwithstanding."

Section 7. Amend §1101, Chapter 1, Title 7, Delaware Code by striking the period "." at the end thereof in its entirety and substituting in lieu thereof the following:

"and Chapter 18 of this Title."

Section 8. Amend §1105, Chapter 11, Title 7, Delaware Code by striking the words "any eel under the length of 12 inches" as the same appear in the first sentence thereof in their entirety.

Section 9. Amend §1115, Chapter 11, Title 7, Delaware Code by inserting at the end of the first paragraph thereof the following:

"The provisions of Chapter 18 of this Title shall govern eel fishing, anything in this section to the contrary notwithstanding."

Approved May 1, 1978.

## CHAPTER 256

## FORMERLY SENATE BILL NO. 543

## AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO COMMERCIAL EEL FISHING.

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 1, Title 7 of the Delaware Code by adding thereto a new Chapter 18 to read as follows:

## "CHAPTER 18. EEL FISHING

§1801. Definitions

1. 'Commercial eel fishing gear' shall include the following items:

- a. A fyke net or hoop net of a diameter not exceeding thirty (30) inches when more than one such net is being fished by a person;
- b. Eel pots when more than two such pots are being fished by a person;
- c. Any seine net with a mesh size of less than one (1) inches and greater than one hundred (100) feet in total length; and
- d. A minnow trap when more than two such traps are being fished by any person.

2. 'Non-commercial eel fishing gear' shall include the following items:

- a. A fyke net or hoop net of a diameter not exceeding thirty (30) inches when only one is in use by a person;
- b. Eel pots when two or less pots are being fished by a person;
- c. A seine net less than or equal to 100' in length;
- d. A cast net;
- e. A lift net or umbrella net less than or equal to 5' in diameter;
- f. A dip net less than or equal to 3' in diameter;



## CHAPTER 257

FORMERLY HOUSE BILL NO. 763  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 29, DELAWARE CODE, RELATING TO PRINTING OF SESSION LAWS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. §906, Title 29, Delaware Code, is hereby amended by striking the first two sentences and by substituting in lieu thereof the following:

"(a) The Director of Research of the Legislative Council or his designee shall as soon as practicable after the adjournment of the General Assembly have printed accurately in volume form, with an index thereto, copies of all bills enacted, all resolutions enacted requiring the approval of the Governor, executive orders and proclamations of the Governor, other than proclamations directing the repeal of corporate charters which are promulgated pursuant to legislative enactment, municipal charters or amendments to municipal charters adopted pursuant to a referendum and filed with the Secretary of State pursuant to Chapter 8 of Title 22, and other legislative and executive papers as may be required by Legislative Council."

Section 2. §906, Title 29, Delaware Code, is further amended by adding at the end thereof the following:

"(b) The Secretary of State shall maintain and annually promulgate in such manner as the Secretary of State shall determine an Executive Register containing copies or abstracts of all official acts of the Governor and an index thereto, excepting therefrom acts and resolutions of the General Assembly."

Approved May 1, 1978.

CHAPTER 258

FORMERLY HOUSE BILL NO. 443

AN ACT TO AMEND SECTION 3125 (a), TITLE 19, DELAWARE CODE, RELATING TO OBTAINING INFORMATION FROM THE DEPARTMENT OF LABOR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 3125 (a), Title 19, Delaware Code, by striking the phrase enclosed by parentheses and substituting in lieu thereof the following:

"other than to members or employees of the Department of Labor, the Department of Health and Social Services, the Department of Finance, or of the Secretary of Labor of the United States in the performance of their public duties."

Approved May 1, 1978.

## CHAPTER 259

## FORMERLY HOUSE BILL NO. 687

AN ACT TO AMEND AN ACT BEING CHAPTER 42, VOLUME 53, LAWS OF DELAWARE, AS AMENDED ENTITLED "AN ACT AMENDING, REVISING AND CONSOLIDATING THE CHARTER OF THE CITY OF SEAFORD" TO CHANGE THE VOTING PROCEDURE IN ANNEXATION ELECTIONS, TO CHANGE THE TIME WHEN TAX APPEALS ARE HEARD, AND TO CHANGE THE VOTING PROCEDURE IN ELECTIONS AUTHORIZING THE ISSUING OF 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 (e), Section 2, Chapter 42, Volume 53, Laws of Delaware, as amended, is further amended by striking all of said subsection and substituting a new subsection (e) to read as follows:

"(e) At the Special Election, every property owner, whether individual, partnership or corporation both in The City of Seaford and in the territory proposed to be annexed shall have one vote. Every citizen of The City of Seaford or of the territory proposed to be annexed over the age of eighteen years who is not a property owner shall have one vote. In the case of property owned by husband and wife jointly, the husband and wife shall each have one vote. In the event that a person owns property both in The City of Seaford 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 in The City of Seaford and in the territory proposed to be annexed but does not reside in either place, he may vote only in The City of Seaford and not in the territory proposed to be annexed. The books and records of The City of Seaford in the case of property owners and citizens of The City and the books and records of the Board of Assessment of Sussex County in the case of property 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."

Section 2. Subsection (f), Section 25, Chapter 42, Volume 53, Laws of Delaware, as amended, is further amended by striking the first sentence of said subsection and substituting a new first sentence as follows:

"At the first regular meeting following the expiration of the ten-day period required for posting, the City Council, between the hours of eight o'clock in the evening, prevailing time, and ten o'clock in the evening, prevailing time, on said day, shall sit and determine any appeals from the assessment as determined by the Tax Assessor and shall make any corrections, alterations or additions in and to any assessment so made."

Section 3. Subsection (e), Section 35, Chapter 42, Volume 53, Laws of Delaware, as amended, is further amended by striking all of said subsection and substituting a new subsection as follows:

"(e) At the Special Election, every owner 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 Seaford, but who is not an owner of property within the corporate limits of The City of Seaford shall have one vote. All votes may be cast either in person or by proxy. Any Special Election held pursuant to the provisions of this Section may be conducted by paper ballot and without the use of voting machines."

Approved May 1, 1978.

## CHAPTER 260

## FORMERLY SENATE BILL NO. 527

AN ACT TO AMEND THE LAWS OF DELAWARE AS THEY RELATE TO STUDENTS VOLUNTARILY TRANSFERRING FROM ONE PUBLIC SCHOOL DISTRICT TO ANOTHER.

WHEREAS, the eleven (11) school districts directly affected by the case of Evans v. Buchanan are subject to a Court Order which will cause them to be replaced by a single school district for the school year beginning September 1978 unless the outstanding Order of the United States District Court for the District of Delaware in the case of Evans v. Buchanan is reversed or stayed; and

WHEREAS, while the General Assembly will abide by and comply with all applicable Opinions, Orders, Judgments and Decrees of all courts of competent jurisdiction on questions involving public education as well as on all other questions, including all applicable Opinions, Judgments, Orders and Decrees entered in the legal proceeding known as Evans v. Buchanan, nevertheless the General Assembly does not believe that there is any unconstitutional segregation of students of any race in the public schools in the State of Delaware; and

WHEREAS, the General Assembly therefore most respectfully disagrees with the January 9, 1978 Opinion and Order of the United States District Court for the District of Delaware in the case of Evans v. Buchanan; and

WHEREAS, the said Judgment in Evans v. Buchanan is presently on appeal and the General Assembly wholeheartedly supports the appeal which has been taken by the State Board of Education but recognizes that the aforesaid Judgment has the force of law until and unless it is stayed or reversed; and

WHEREAS, the General Assembly of the State of Delaware supports the appeals of the State Board of Education in the case of Evans v. Buchanan and enacts this legislation with recognition of the fact that the legislation will have effect only if the aforesaid Court Order is reversed or stayed to permit the aforesaid eleven (11) school districts to continue to exist; and

WHEREAS, although the General Assembly does not believe that any desegregation should be required by Court Order, Judgment or Decree because the General Assembly does not believe there is any unconstitutional segregation of students in the public schools of Delaware as recited above, nevertheless for as long as there shall remain outstanding and not reversed, modified or stayed applicable Court Orders, Judgments and Decrees which direct desegregation of students in or among any of the public schools of the State of Delaware, the General Assembly will in good faith attempt to comply with them; and

WHEREAS, whenever there is reference herein to desegregation, it is to be understood that such reference does not in any way imply or

suggest that the General Assembly concurs or agrees with the rulings and holdings of the Opinions, Orders, Judgments and Decrees of the Courts in Evans v. Buchanan, but rather such reference is only to the requirement of desegregatory actions imposed by the Court in Evans v. Buchanan and such reference is without prejudice to the views of the General Assembly as set forth above; and

WHEREAS, the General Assembly desires to permit the desegregation required by the Courts by voluntary means to the greatest extent possible so that students and their parents or guardians or other persons who legally stand in place of their parents will have the greatest possible opportunity to make their own individual and informed decisions as to the school districts said students will attend when the students are moved on account of Evans v. Buchanan; and

WHEREAS, the General Assembly believes that the students and citizens of the State of Delaware, as well as the public school system of the State of Delaware, will all be best served if the desegregation required by Court Order occurs by voluntary means and with no compulsory, mandated or forced transfers of students among the eleven (11) school districts involved; and

WHEREAS, for the 1977-1978 school year the State Superintendent of Public Instruction and the eleven (11) school districts administered a successful voluntary transfer program involving students attending school in the aforesaid eleven (11) school districts; and

WHEREAS, the General Assembly is informed that each of the said eleven (11) public school districts will have varying amounts of empty available "seats" or classroom space in various grades for the school year commencing September 1978; and

WHEREAS, the General Assembly is informed that at the present time an application for student transfer may be given preference on racial grounds because Court Opinions and Orders in Evans v. Buchanan have placed northern New Castle County in a "remedy" situation, and the General Assembly is further informed that under the current state of judicial decisions, it is not clear whether, if there were no judicial ruling which put northern New Castle County in a "remedy" situation, an application for student transfer could constitutionally be given preference by the "receiving" district because of the race of the applicant; and

WHEREAS, the General Assembly believes that voluntary desegregation may be best encouraged (1) if the local School Boards accept all applications for transfers by applicants who are members of the race which is in the majority for the 1977-1978 school year among the students attending school in the public school district in which they reside and which is in the minority for the 1977-1978 school year among students attending school in the public school district in which they reside and which is in the majority for the 1977-1978 school year among students attending school in the school district to which they have applied for transfers.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. (a) After any decision or order of the United States Court of Appeals for the Third Circuit or the United States District Court for the District of Delaware permitting the eleven (11) public school districts directly affected by the case of Evans v. Buchanan to continue to exist, the State Superintendent of Public Instruction shall promptly collect and compile informational data describing and explaining the various educational programs offered in grades 1 through 12, inclusive, in each of the following eleven (11) public school districts located in New Castle County:

1. Alexis I. duPont School District
2. Alfred I. duPont School District
3. Claymont School District
4. Conrad Area School District
5. De La Warr School District
6. Marshallton-McKean School District
7. Mount Pleasant School District
8. New Castle-Gunning Bedford School District
9. Newark School District
10. Stanton School District
11. Wilmington Public Schools

and shall, with the cooperation of the School Boards and professional staffs of said districts, prepare a description indicating which programs offered by each of said districts are considered by such district or by the State Superintendent of Public Instruction to be unique, specialized, of particularly high quality, or to have special or peculiar advantages for all or for certain students, and containing such other information as the State Superintendent of Public Instruction shall have determined to be appropriate to give each student a full understanding of the opportunities presently available in all eleven (11) school districts, and the State Superintendent of Public Instruction shall have such information prepared in written form for distribution to students in grades kindergarten through 11, inclusive, in each of said eleven (11) school districts. In preparing the descriptions and explanations the State Superintendent of Public Instruction may set forth guidelines for the preparation of said descriptions and explanations and permit the School Boards of the eleven (11) districts to prepare as much of the final descriptions and explanation as he deems appropriate.

(b) After any decision or order of the United States Court of Appeals for the Third Circuit or the United States District Court for the District of Delaware permitting the eleven (11) public school districts directly affected by the case of Evans v. Buchanan to continue to exist, the State Superintendent of Public Instruction shall promptly determine the best and most accurate estimates as are available of the number of available "seats" or amount of classroom space each of the aforesaid eleven (11) districts is expected to have for each of the grades 1 through 12, inclusive, for the school year commencing September 1978, assuming that the aforesaid eleven (11) districts are permitted to exist for the school year commencing September 1978.

(c) After any decision or order of the United States Court of Appeals for the Third Circuit or the United States District Court for the District of Delaware permitting the eleven (11) public school districts directly affected by the case of Evans v. Buchanan to continue to exist, the State Superintendent of Public Instruction shall promptly determine and compile data that will indicate the racial mixture of students in each of the grades kindergarten through 11, inclusive, in each of the schools in each of the eleven (11) school districts for the current school year of 1977-1978.

(d) After any decision or order of the United States Court of Appeals for the Third Circuit or the United States District Court for the District of Delaware permitting the eleven (11) public school districts directly affected by the case of Evans v. Buchanan to continue to exist, the State Superintendent of Public Instruction shall promptly determine and compile the numbers of students in each of grades kindergarten through 11, inclusive, in each of the eleven (11) said districts during the current school year of 1977-1978, and shall also promptly determine and compile the most accurate estimates as are available of the expected number of students in each of the grades 1 through 12, inclusive, in each of the eleven (11) said districts for the school year commencing September 1978, assuming that the aforesaid eleven (11) districts continue to exist for the school year commencing September 1978.

(e) After any decision or order of the United States Court of Appeals for the Third Circuit or the United States District Court for the District of Delaware permitting the eleven (11) public school districts directly affected by the case of Evans v. Buchanan to continue to exist, the State Superintendent of Public Instruction shall promptly compile such other information and data as he believes will be relevant and material for students and their parents or guardians or other persons who stand legally in the place of their parents, or for the various School Boards, in deciding on the advisability of making or accepting applications for student transfers among the eleven (11) said districts for the school year commencing September 1978.

(f) Immediately after any decision or order of the United States Court of Appeals for the Third Circuit or the United States District Court for the District of Delaware permitting the eleven (11) public school districts directly affected by the case of Evans v. Buchanan to continue to exist, the State Superintendent of Public Instruction shall



establish the Calendar of Voluntary Transfer Dates referred to herein and shall promptly submit the Calendar to the General Assembly. The Calendar of Voluntary Transfer Dates shall include an application closing date which shall be no later than August 15, 1978. Notwithstanding the provisions of 14 Del. C., §603, the instructions prepared by the State Superintendent of Public Instruction for completing and filing applications may provide that the applications are to be filed by the date included in the Calendar of Voluntary Transfer Dates as the application closing date.

(g) The State Superintendent of Public Instruction shall collect all of the data and information required by this Act by a date which he shall have determined and included on the Calendar of Voluntary Transfer Dates and shall complete the printed compilation and preparation of the information and data which he is to determine, compile and prepare pursuant to this Act by a date which he shall have determined and included on a Calendar of Voluntary Transfer Dates. The data compiled pursuant to this Section 1 shall be computed separately (i) with the assumption that the students who are attending school for the 1977-1978 school year in districts other than their district of residence in accordance with the provisions of Laws of Delaware, Volume 61, Chapter 32 will be attending schools in the school districts in which they attend school for the 1977-1978 and (ii) with the assumption that such students will be attending school in their district of residence.

(h) The State Superintendent of Public Instruction shall prepare and have a supply of printed forms of application for student transfer among the eleven (11) said districts for grades 1 through 12, inclusive, for the school year commencing September 1978, in such form as he shall determine and in such numbers that there will be a copy available for each student in grades kindergarten through 11, inclusive, in each of the eleven (11) said districts by a date which he shall have determined and included on the Calendar of Voluntary Transfer Dates. The State Superintendent may prepare the application in a form that will permit an applicant to apply to more than one district by means of a single application and that will require an applicant to state an order of preference among districts.

(i) By a date determined by the State Superintendent of Public Instruction and included on a Calendar of Voluntary Transfer Dates, he or such representatives as he designates from his own staff and the staffs of the local school districts shall visit with all teachers and all students in each of the grades kindergarten through 11, inclusive, in each school in each of the eleven (11) said districts during regularly scheduled school hours provided, however, that if the court order or decision permitting the eleven (11) districts to continue to exist is issued at a date which makes this impossible the State Superintendent may call special voluntary meetings of teachers and students for this purpose. During and for the purpose of these visits the students and teachers shall be assembled into such groups as the State Superintendent of Public Instruction or his representatives deem appropriate, and the State Superintendent of Public Instruction or his representatives shall spend a period of time not less than that determined by the State Superintendent of Public Instruction to be adequate

with each such group, explaining and describing the voluntary transfer system as authorized by this Act and by 14 Del. C., §§ 602 and 603, as amended at that time, and shall distribute to each student present a copy of as much of the printed material compiled and prepared by the State Superintendent of Public Instruction pursuant to this Act as the State Superintendent of Public Instruction shall have determined to be appropriate to give each student a full understanding of the opportunities available in all school districts to which he or she is eligible to transfer to among the aforesaid eleven (11) school districts, and also shall distribute a copy of the form of application for student transfer, giving appropriate instructions for the completion and signing of such applications and the timing for and location for filing and submitting such applications, all of which shall have been determined by the State Board of Education.

(j) By a date which he shall have determined and included on a Calendar of Voluntary Transfer Dates, the State Superintendent of Public Instruction shall distribute by such means as he shall determine to each student's home (i) such printed material as he shall have determined to be appropriate to give each student and parent, guardian or person who legally stands in the place of a parent, a full understanding of the opportunities available in all school districts to which he or she is eligible to transfer among the aforesaid eleven (11) school districts and (ii) a copy of the form of application for student transfer, giving appropriate instructions for the completion and signing of such applications and the timing for and location for filing and submitting such applications, all of which shall have been determined by the State Board of Education.

(k) The State Superintendent of Public Instruction shall compile data indicating, by race, and by school district of residence, the number of voluntary transfer applicants for each school district and the number of applicants accepted by each school district and such other information as he deems appropriate, and shall submit said information to the General Assembly by a date included on the Calendar of Voluntary Transfer Dates.

(l) The State Superintendent of Public Instruction shall take such action as he deems appropriate to coordinate the acceptances of voluntary transfer applications in order to minimize unnecessary transportation expense and to eliminate duplication of acceptances.

Section 2. In accordance with the following provisions, the School Boards of the aforesaid eleven (11) school districts shall be required to accept all applications for transfers for the 1978-1979 school year by applicants who are members of the race which is in the majority among the students attending school in the public school district in which they reside and which is in the minority for the 1977-1978 school year among the students attending school in the school district to which they apply, unless the school district to which they apply can document that it is not expected to have an available "seat" or available classroom space for such applicant in the grade he would be attending for the school year commencing in 1978:

(a) To be eligible for transfer under this Section 2 a student must, on or before the application closing date determined by the State Superintendent of Public Instruction and included on the Calendar of Voluntary Transfer Dates established in accordance with Section 1 of this Act, and in accordance with a procedure to be established by the State Superintendent of Public Instruction, have submitted a written application to the school district in which he or she desires to attend school or its representative designated by the State Superintendent of Public Instruction and, simultaneously with submitting said application to such school district, must have submitted a copy thereof to the school board of the school district in which he or she resides or its representative designated by the State Superintendent of Public Instruction.

(b) The school district to which application has been made shall endeavor to notify each applicant of its decision, in writing, on or before a date determined by the State Superintendent of Public Instruction and included on the Calendar of Voluntary Transfer Dates and shall simultaneously send a copy of its written notification to the school board of the district in which the student resides or has last attended school.

(c) Subject to the provisions of this Section 2, the receiving district shall receive transfers under the provisions of this Section on a first come, first served, space available basis. The capacity of any school building shall be the capacity determined by the State Board of Education.

(d) Approval for transfer is not required by the sending district.

(e) Unless otherwise ordered by a Court of proper jurisdiction or by statutory definition, "majority" shall mean at least 51 percent.

(f) Racial groups shall be identified in accordance with the standard identifications used for research purposes by the State Board of Education.

(g) The provisions for the computing, billing, collecting and paying of tuition shall be followed as described in Chapter 6, Title 14, Delaware Code, as amended, and tuition shall be paid by the sending district.

(h) Transportation for students transferred under provisions of this Section may be provided by rules and regulations of the State Board of Education.

Section 3. (a) Notwithstanding the provisions of Section 2, any pupil who has transferred between any of the aforesaid eleven (11) school districts for the school year 1977-1978 in accordance with the provisions of Laws of Delaware, Volume 61, Chapter 32, and is enrolled on May 1, 1978 in the district to which he or she had transferred shall, at the request of his parents, guardian or other person legally in charge of his or her person, be permitted to remain in such district for the school year 1978-1979 whether or not an application form has been filed in accordance with this Act, provided that the pupil's

parents, guardian or other person legally in charge of his or her person, in accordance with a procedure to be established by the State Superintendent of Public Instruction, and by a date determined by the State Superintendent of Public Instruction and included on the Calendar of Voluntary Transfer Dates established in accordance with Section 1 of this Act, request that such pupil be permitted to remain in the district, and further provided that a court order or decision permits the aforesaid eleven (11) districts to exist for the school year commencing September 1978. After any decision or order of the United States Court of Appeals for the Third Circuit or the United States District Court for the District of Delaware permitting the eleven (11) public school districts directly affected by the case of Evans v. Buchanan to continue to exist, the State Superintendent of Public Instruction shall promptly establish a procedure for determining, with regard to each such pupil, whether his parents, guardian or other person legally in charge of his person desire that he or she be permitted to remain in the district to which he or she had transferred.

(b) Each school district to which students have transferred for the 1977-1978 school year in accordance with the provisions of Laws of Delaware, Volume 61, Chapter 32, shall, on or before a date determined by the State Superintendent of Public Instruction and included on the Calendar of Voluntary Transfer Dates inform the school district of residence of each such pupil whether said pupil will be returning to his district of residence or will be remaining in the receiving district.

Section 4. Notwithstanding anything in the Laws of Delaware to the contrary, the school boards in the aforesaid eleven (11) school districts shall not accept the voluntary transfer applications filed for the 1978-1979 school year by applicants who are members of the race which is in the minority for the 1977-1978 school year among the students attending school in the public school district in which they reside and which is in the majority for the 1977-1978 school year among the students attending school in the school district to which they apply.

Section 5. Amend Section 603 (c), Chapter 6, Title 14, Delaware Code, as heretofore amended, by striking the words "July 1 of any subsequent calendar year" as they appear in said subsection and by substituting in lieu thereof the following words:

"August 15 of 1978 or May 1 of any subsequent calendar year".

Section 6. Amend Section 603 (c), Chapter 6, Title 14, Delaware Code, as heretofore amended, by striking the words "on or before August 1 of the same calendar year in which the application is made" as they appear in said subsection and by substituting in lieu thereof the following words:

"on or before August 31 of 1978, in the case of an application made on or before August 15 of 1978, or on or before June 1 of the same calendar year in which the application is made, in the case of any calendar year subsequent to 1978."

Section 7. The term "to continue to exist" as used throughout this Act in reference to the eleven (11) public school districts directly affected by the case of Evans v. Buchanan and any decision or order of the United States Court of Appeals for the Third Circuit or the United States District Court for the District of Delaware, shall mean to continue to exist as separate public school districts conducting and operating their own respective public school programs, properties and systems as they have in the past.

Approved May 5, 1978.

CHAPTER 261  
FORMERLY SENATE BILL NO. 291  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, PART IV, TITLE 16 OF THE DELAWARE CODE RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AND PROVIDING FOR JURISDICTION OF POSSESSION OF MARIJUANA (AND ALLIED DRUGS) CASES TO BE IN THE COURT OF COMMON PLEAS.

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 (d), Section 4714, Chapter 47, Title 16 of the Delaware Code by striking sub-paragraphs (10) and (17) and re-designating each succeeding sub-paragraph accordingly.

Section 2. Amend §4714, Chapter 47, Part IV, Title 16 of the Delaware Code by adding thereto a new subsection, designated as subsection (e), which new subsection shall read as follows:

"(e) Any material, compound, combination, mixture, synthetic substitute or preparation which contains any quantity of marijuana or any tetrahydracannabinols, their salts, isomers or salts of isomers."

Section 3. Amend §4754, Chapter 47, Part IV, Title 16 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§4754. Prohibited acts D; penalties

(a) It is unlawful for any person knowingly or intentionally to possess, use or consume any controlled substance or counterfeit substance classified in Schedule I, (except Schedule I controlled substances classified in §4714 (e) of this Chapter), II, III, IV or V, not a narcotic drug unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this Chapter. Any person who violates this subsection shall, upon conviction, be fined not more than five hundred dollars (\$500.00), be imprisoned not more than two years, or both.

(b) It is unlawful for any person knowingly or intentionally to possess, use, or consume any Schedule I controlled substance or counterfeit substance classified in §4714 (e) of this Chapter, except as otherwise authorized by this Chapter. Any person who violates this subsection, upon conviction, shall be fined not

more than five hundred dollars (\$500.00), be imprisoned not more than two years, or both."

Section 4. Amend §4777, Chapter 47, Title 16 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§4777. Jurisdiction

(a) The Superior Court shall have original and exclusive jurisdiction over any violation of this Chapter by persons 18 years of age or older, except that the Court of Common Pleas shall have original jurisdiction over any violation of §4754 (b) of this Chapter by persons 18 years of age or older and further except that for violations of §4754 (b) of this Chapter by persons 18 years of age or older occurring within the City of Wilmington the Municipal Court for the City of Wilmington shall have original jurisdiction concurrent with the Court of Common Pleas.

(b) The Family Court shall have original and exclusive jurisdiction over violations of this Chapter by persons under age 18."

Approved May 5, 1978.

## CHAPTER 262

SENATE SUBSTITUTE NO. 1  
FOR  
FORMERLY SENATE BILL NO. 253  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 17, DELAWARE CODE, PROVIDING FOR CHANGES TO BRING DELAWARE LAW INTO CONFORMANCE WITH FEDERAL GUIDELINES RELATIVE TO REGULATION OF OUTDOOR ADVERTISING.

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 §1102 (b)(1), Chapter 11, Title 17, Delaware Code by placing a comma "," at the end of the sentence in lieu of the "." and adding thereto the following:

"which is within 660 feet and visible or beyond 660 feet and visible and erected with the purpose of being read from the main traveled way of any State highway."

Section 2. Amend §1102 (b)(4), Chapter 11, Title 17, Delaware Code by striking paragraph (4) and inserting in lieu thereof a new paragraph (4) to read as follows:

"(4) 'Controlled areas' means and includes any area inside the boundaries of this State which is adjacent to the right of way of a highway of the Interstate or Primary Systems, except that areas beyond 660 feet of the right of way inside urban areas shall be excluded from the provisions of this Chapter."

Section 3. Amend §1102 (b)(6), Chapter 11, Title 17, Delaware Code by deleting the word "Safety" and capitalizing the word "West".

Section 4. Amend §1102 (b)(7), Chapter 11, Title 17, Delaware Code by deleting the word "Safety" wherever it appears.

Section 5. Amend §1102 (b)(11), Chapter 11, Title 17, Delaware Code by deleting the period "." and in its place insert ", except that those areas beyond 660 feet outside urban areas shall not be recognized as commercial, industrial, unzoned commercial or unzoned industrial in the application of the provisions of this Chapter."

Section 6. Amend §1102 (b), Chapter 11, Title 17, Delaware Code by adding the following new definitions:

"(13) 'Department' means the Department of Transportation.

(14) 'Urban areas' means and includes those areas designated



as such by the Bureau of the Census and whose boundaries have been approved by the Secretary of the United States Department of Transportation.

(15) 'Maintain' means to allow to exist in accordance with State law."

Section 7. Amend §1103, Chapter 11, Title 17, Delaware Code by deleting existing "(c)" in its entirety and relettering existing (d) to (c).

Section 8. Amend §1104 (b), Chapter 11, Title 17, Delaware Code by inserting the following after the first sentence:

"For the purpose of this subsection, each single sign panel or face shall be interpreted as constituting an outdoor advertising sign, display, or device."

Section 9. Amend §1104 (d), Chapter 11, Title 17, Delaware Code by inserting the word "thereof." immediately after "renewals".

Section 10. Amend §1104 (e), Chapter 11, Title 17, Delaware Code by inserting the word "thereof" immediately after "renewal".

Section 11. Amend §1105, Chapter 11, Title 17, Delaware Code by deleting all sentences therefrom except for the first sentence.

Section 12. Amend §1107 (b), Chapter 11, Title 17, Delaware Code by deleting the words "an advertisement" and substituting therefor the following words "any outdoor advertising, outdoor advertising signs, displays or devices".

Section 13. Amend §1108 (a), Chapter 11, Title 17, Delaware Code by inserting the words ", official sign or notice" immediately after the words "warning sign" as it appears in this subsection.

Section 14. Amend §1108 (b), Chapter 11, Title 17, Delaware Code by inserting the words ", official sign or notice" immediately after the words "warning sign" as it appears in this subsection.

Section 15. Amend §1108 (c), Chapter 11, Title 17, Delaware Code by deleting all wording after "Instruction" and placing a "." after "Instruction".

Section 16. Amend §1110 (b)(2), Chapter 11, Title 17, Delaware Code by deleting the word "safety" wherever it may appear therein.

Section 17. Amend §1114, Chapter 11, Title 17, Delaware Code by inserting "§1103 (a)(2)" in lieu of "§1104 (a)(2)".

Section 18. Amend §1114 (1), Chapter 11, Title 17, Delaware Code by inserting "§1108 and §1109" in lieu of "§1109".

Section 19. Amend §1121 (7), Chapter 11, Title 17, Delaware Code

by taking the second sentence from its present location and making it a separate and second paragraph of this subsection.

Section 20. Amend §1121 (7), Chapter 11, Title 17, Delaware Code by inserting "§1103" in place of "§1104".

Section 21. Amend §1121 (7), Chapter 11, Title 17, Delaware Code by deleting the figure "30" as it appears therein and substituting the figure "32" in its place.

Section 22. Amend §1123, Chapter 11, Title 17, Delaware Code by deleting the word "safety" wherever it appears in this section.

Section 23. Amend §1125 by adding a new paragraph to read as follows:

"The Department may accept allotment of funds by the United States, or any department or agency thereof, authorized by the Federal-Aid Highway Act of 1958, or any subsequent legislation supplementary to or amending such act, in connection with any agreement entered into by the Department and the Secretary of Transportation of the United States relating to the control of outdoor advertising in controlled areas adjacent to the Interstate and/or Primary System."

Section 24. Amend Chapter 11, Title 17, Delaware Code by adding a new Section 1126 to read as follows:

"§1126. Relationship of this Subchapter to other provisions of this Chapter

The provisions of this Subchapter relating to the regulation of outdoor advertising in controlled areas are in addition to, and not in lieu of, the provisions of Subchapter I of this Chapter."

Section 25. Amend Chapter 11, Title 17, Delaware Code by adding a new Section 1127 to read as follows:

"§1127. Separability

The provisions of this Chapter are declared to be separable; and should any word, phrase, sentence, section or particular application thereof be declared unconstitutional or otherwise invalid, the remainder of such provisions and the other applications thereof shall not thereby be affected, but shall remain in full force and effect."

Approved May 5, 1978.

## CHAPTER 263

FORMERLY HOUSE BILL NO. 860  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE DEPARTMENT OF AGRICULTURE AND AN AD HOC COMMITTEE HEREIN ESTABLISHED TO CONDUCT A THREE-MONTH PILOT PROJECT ON THE CONCEPTS OF DYNAMIC SEEDING (WEATHER MODIFICATION); AND FURTHER PROVIDING A SUPPLEMENTARY APPROPRIATION THEREFOR.

WHEREAS, the United States Department of Interior, Bureau of Reclamation, Division of Atmospheric Water Resources Management, is convinced that weather modification does work and produces significant results; and

WHEREAS, the boost in natural precipitation ranges from 10 to 30 percent; and

WHEREAS, cloud seeding does not have a negative effect on weather downwind from the area seeded, and the notion that taking moisture from the atmosphere in one area decreases the amount available to areas further down the line - the idea that seeding is robbing Peter to pay Paul - is false; and

WHEREAS, there is persuasive statistical evidence that dynamic seeding is effective in increasing the size and rain production of individual convective clouds, promoting cloud mergers, and increasing the rainfall from groups of convective clouds; and

WHEREAS, an analysis by the University of Delaware Agricultural Experimental Station for the years 1972 through 1976 provides encouraging results; and

WHEREAS, the study indicated that the environment appears favorable about half the time in May through August for successful cloud seeding to increase rain in Delaware, provided that suitable clouds are present; and

WHEREAS, positive results achieved in other parts of the country are encouraging and all facts, statistics and data seem to point to real economic advantages to be gained from dynamic seeding; and

WHEREAS, hail suppression operations have demonstrated that crop damage from hail storms can be significantly reduced, the result being a decrease in the size of hail stones, thus minimizing the damage -- hail stones fall as slushy stones or completely dissipate into rain.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Department of Agriculture in cooperation with an ad hoc committee herein established is hereby authorized and directed to conduct a Pilot Project of Dynamic Seeding during the summer of 1978, the results of which shall be reported to the Governor and members of the General Assembly, as soon thereafter as practicable.

Section 2. There is hereby established an ad hoc committee to assist, advise, and consult with the Department of Agriculture in this pilot project of dynamic seeding. The committee shall be comprised of seven members to be appointed by the Delaware Weather Modification Association Steering Committee. Representation shall be as follows: two members from New Castle County; two members from Kent County; and three members from Sussex County. The Secretary of the Department of Agriculture and the Director of the Agricultural Experimental Station in Georgetown or their designees shall be ex-officio members of the committee.

Section 3. The sum of \$172,000 is hereby appropriated to the Department of Agriculture for the purpose of instituting and implementing the Pilot Program to be expended in the following manner:

3-month project	\$120,000
Rain Gauge Network & cooperation with the University of Delaware in the evaluation	15,000
Airborne instrumentation and radar system for evaluation	<u>37,000</u>
TOTAL:	\$172,000

Section 4. 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 5. The funds herein appropriated remaining unexpended or unencumbered on January 1, 1979, shall revert to the General Fund of the State of Delaware.

Section 6. In the interest of expediting the pilot project herein authorized, the provisions of Chapter 69, Title 29 of the Delaware Code are hereby waived.

Approved May 5, 1978.

## CHAPTER 264

## FORMERLY HOUSE BILL NO. 462

AN ACT TO AMEND CHAPTER 60, TITLE 7 OF THE DELAWARE CODE AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO REQUIRE CERTIFICATION AND INSURANCE FOR CONDUCTING PERCOLATION TESTS FOR SEPTIC TANK SYSTEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 60, Title 7, Delaware Code by adding thereto a new §6031 to read as follows:

"§6031. Certification and insurance requirements for percolation tests

(a) Any person who conducts a percolation test and/or draws plans to be used in connection with the installation of septic tank sewage disposal systems or for the obtaining of any permits for any septic tank sewage disposal system shall be certified by the Secretary except that a person performing a test for use in installing a septic tank sewage disposal system for his own residence shall be exempt from this section. As a prerequisite for certification, the Secretary may require the person to demonstrate familiarity with test procedures and the regulations, and to sign a statement under penalty of perjury that he will abide by all statutes and regulations governing the installation of septic tank sewage disposal systems. In addition, the Secretary shall require each such person to show proof of insurance or other surety to cover all liability claims arising out of the use of the results of the percolation test. The minimum acceptable level of insurance or surety shall be \$250,000.

(b) Any certification by the Secretary shall be for a fixed term not to exceed three years and shall be renewable upon application.

(c) The Secretary shall adopt any necessary regulation after public notice and hearing in accordance with §6006. The Secretary may increase the level of insurance or other surety from time to time after public notice and hearing.

(d) The certification requirements shall not apply in a county which has been delegated authority to issue septic tank permits pursuant to §6003 (d)."

Approved May 5, 1978.

CHAPTER 265

FORMERLY HOUSE BILL NO. 394

AN ACT TO AMEND CHAPTER 39, TITLE 18 OF THE DELAWARE CODE RELATING TO UNINSURED VEHICLE COVERAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §3902 (b), Chapter 39, Title 18, Delaware Code by striking the word "maximum" as the same appears before the word "limits" on the second line of said subsection and by substituting in lieu thereof the word "minimum".

Approved May 5, 1978.

## CHAPTER 266

FORMERLY HOUSE BILL NO. 333

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 29, PART II, TITLE 9 OF THE DELAWARE CODE RELATING TO THE PUBLIC HEALTH AND WELFARE; AND PROVIDING FOR THE PHYSICALLY HANDICAPPED ACCESS TO COMMERCIAL AREAS UNDER CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 29, Part II, Title 9 of the Delaware Code by striking the title to said Chapter, and substituting in lieu thereof the following:

"CHAPTER 29. PUBLIC HEALTH AND WELFARE"

Section 2. Amend Chapter 29, Part II, Title 9 of the Delaware Code by adding thereto a new section, designated as §2903, which new section shall read as follows:

"§2903. Access by handicapped

No commercial establishment open to the general public shall erect, build or construct any fence, post or barricade not used for structural support which would prevent access to the entrance or exits of such store or establishment by physically handicapped persons; provided, however, the provisions of this section shall not apply to any group of posts or railings which contain an opening which is five feet or more in width."

Section 3. All existing fences, posts and barricades in areas affected by this Act which are not used for structural support, or which have been placed at common or emergency entrances and exits of stores and establishments presently existing, under construction or under permit for construction shall be removed within 30 days from the effective date of this Act if such barriers would prevent a physically handicapped person from using the said entrances or exits.

Approved May 5, 1978.

## CHAPTER 267

## FORMERLY HOUSE BILL NO. 708

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE SEAFORD SCHOOL SYSTEM TO COMPENSATE CERTAIN TEACHERS FOR PREVIOUS UNDERPAYMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of one thousand nine hundred four dollars and sixty-three cents (\$1,904.63) is hereby appropriated to the Seaford school system to compensate the following teachers in the following amounts:

(a) Sally H. Higgins	\$954.61
(b) Ina J. Upshur	<u>950.02</u>
TOTAL:	\$1,904.63

Section 2. Sally H. Higgins holds an M.A. plus 30 additional hours of study, but her compensation was paid solely on the basis of an M.A. degree. The amount to be paid her represents the additional compensation due her, together with F.I.C.A. and pension payments. Ina J. Upshur holds a B.A. degree plus 30 additional hours of study, but was paid solely on the basis of a B.A. degree. The amount to be paid to her represents the additional compensation due her, together with F.I.C.A. and pension payments.

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. The funds so appropriated shall be used only for the purposes herein specified, and any funds appropriated but unexpended by July 1, 1978, shall thereupon revert to the General Fund of the State Treasury.

Approved May 9, 1978.



## CHAPTER 268

FORMERLY HOUSE BILL NO. 660  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND CHAPTER 13, TITLE 10, DELAWARE CODE, RELATING TO  
CERTAIN FEES RECEIVED BY THE COURT OF COMMON PLEAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1308, Chapter 13, Title 10, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"§1308. Disposition of money

(a) The fees, fines and costs received by the Court shall be paid to the State Treasurer, except as otherwise provided by subsection (b) hereof.

(b) All sheriff's costs and fees collected by the Court, including those specified in Title 10, Sections 8702 and 2112, shall, at the conclusion of each case, be paid to the county treasurer or department of finance for the county of which the sheriff who has rendered the service is an officer, for distribution to the sheriff upon presentation of an itemized and verified account, in accordance with the procedures set forth in Title 10, §2112."

Section 2. This bill shall become law with the signature of the Governor.

Approved May 9, 1978.

CHAPTER 269

FORMERLY HOUSE BILL NO. 818

AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES TO  
TRANSFER FUNDS BETWEEN ALL LINES AND DIVISIONS.

WHEREAS, the Department of Health and Social Services has insufficient general fund appropriations in certain lines and divisions; and

WHEREAS, the Department of Health and Social Services' total general fund appropriation is sufficient to cover all anticipated expenses through the balance of the fiscal year 1978; and

WHEREAS, the authority to make transfers between all lines and divisions would eliminate the need for any supplementary appropriation.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Department of Health and Social Services is hereby authorized, with the approval of the Budget Director, to transfer funds between all lines and divisions, as depicted in the FY 1978 Budget Act, as needed to meet all financial requirements for the remainder of fiscal year 1978 and prior fiscal years. This authority expires on June 30, 1978.

Section 2. This Act does not authorize transfer of funds to any line or division which has not previously been authorized by the General Assembly.

Section 3. The Secretary of the Department of Health and Social Services shall provide the Controller General with a written report summarizing all transfers of funds made under the aegis of this bill. Such report must be submitted not later than July 31, 1978.

Approved May 9, 1978.

CHAPTER 270  
FORMERLY SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 566

AN ACT TO AMEND CHAPTER 55, PART V, TITLE 16 OF THE DELAWARE CODE RELATING TO THE MENTALLY RETARDED; AND PROVIDING FOR A BILL OF RIGHTS.

WHEREAS, the universal declaration of human rights, adopted by the United Nations, proclaims that all of the human family, without distinction of any kind, have equal and inalienable rights of human dignity and freedom; and

WHEREAS, the declaration of the rights of the child, adopted by the United Nations, proclaims the rights of the physically, mentally or socially handicapped child to special treatment, education and care required by his particular condition; and

WHEREAS, the International League of Societies for the Mentally Handicapped and similar groups have expressed the general and special rights of mentally retarded persons, especially the right to respect.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 55, Part V, Title 16 of the Delaware Code by striking the title of Subchapter II, and substituting in lieu thereof the following:

"SUBCHAPTER II. HOSPITAL FOR THE MENTALLY RETARDED  
AT STOCKLEY"

Section 2. Amend Chapter 55, Part V, Title 16 of the Delaware Code by re-designating present §5501 as new §5520 within Subchapter II of said Chapter 55.

Section 3. Amend Chapter 55, Part V, Title 16 of the Delaware Code by adding thereto the following:

"SUBCHAPTER I. DECLARATION OF GENERAL AND SPECIAL  
RIGHTS OF THE MENTALLY RETARDED

§5501. Basic rights

Mentally retarded persons have the same basic rights as other citizens.

§5502. Development of abilities

Mentally retarded persons have the right to proper medical care

and physical restoration and to such education, training, habilitation and guidance as will enable them to develop their abilities and potentials to the fullest possible extent, no matter how severe their disability may be.

\$5503. Economic security and meaningful occupations

Mentally retarded persons have a right to strive for productive work in meaningful occupations, economic security, and a decent standard of living.

\$5504. Normal living arrangements

Mentally retarded persons have a right to live with their families or with foster parents; to participate in all aspects of community life; and to have access to appropriate leisure time activities. If care in an institution becomes necessary, it should be in surroundings and under circumstances as close to normal living as possible.

\$5505. Qualified guardians

Mentally retarded persons have a right to a qualified guardian when this is required to protect their personal wellbeing and interests. No person or agency rendering direct services to a mentally retarded person shall also serve as such person's guardian.

\$5506. Protection from exploitation and abuse

Mentally retarded persons have a right to protection from exploitation, abuse and degrading treatment. If accused, the mentally retarded person has a right to a fair trial with full recognition being given to his degree of responsibility.

\$5507. Due process

Some mentally retarded persons may be unable, due to the severity of their handicap, to exercise for themselves all of their rights in a meaningful way. For others, modification of some or all of these rights is appropriate. The procedure used for modification or denial of rights must contain proper legal safeguards against every form of abuse; must be based on an evaluation of the social capability of the mentally retarded person by qualified experts; and must be subject to periodic reviews, and to the right of appeal to higher authorities."

Approved May 9, 1978.

## CHAPTER 271

FORMERLY HOUSE BILL NO. 605  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 31, TITLE 14, DELAWARE CODE, RELATING TO THE  
TRANSPORTATION OF HANDICAPPED PERSONS RECEIVING PRIVATE PLACEMENT  
TUITION ASSISTANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §3124, Title 14 of the Delaware Code by striking subsection (c)(2) thereof in its entirety and substituting in lieu thereof the following:

"(2) 'transportation' or the reimbursement for transportation provided by the State for an eligible handicapped person will be by the most economically feasible means compatible with the person's handicapping condition and approved under rules and regulations of the State Board of Education and according to the following:

1. When the legal residence of a person receiving tuition assistance for private placement is within sixty miles (one way) of the school or institution, the person shall be eligible for round trip transportation or a reimbursement for that transportation on a daily basis.

2. When the legal residence of a person receiving tuition assistance for private placement is in excess of sixty (60) miles but less than one hundred (100) miles from the school or institution, the person shall be eligible for transportation or a reimbursement for that transportation from his or her residence to the school or institution and return on a one round trip per week basis and on such other occasions as may be required because the school is not in session due to scheduled vacations or holidays of the school or institution.

3. When the legal residence of a person receiving tuition assistance for private placement is in excess of one hundred (100) miles from the school or institution, the person shall be eligible for transportation or a reimbursement for that transportation on the basis of one round trip per year from his or her residence to the school or institution and return and at such other times when care and maintenance of the person is unavailable due to the closing of the residential facility provided in conjunction with the school or institution."

Section 2. Costs of such transportation shall be provided from funds appropriated in Senate Bill 353, as amended, First Session, 129th

General Assembly (Vol. 61, Laws of Delaware, Ch. 190).

Section 3. The provisions of this Act shall be effective from September 1, 1977.

Approved May 12, 1978.

## CHAPTER 272

FORMERLY HOUSE BILL NO. 690  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1  
&  
SENATE AMENDMENT NO. 1

## AN ACT TO REINCORPORATE THE TOWN OF BETHEL.

WHEREAS, it is deemed advisable that the Charter of the Town of Bethel, contained in Chapter 282, Volume 46, Laws of Delaware, entitled "An Act Changing the Corporate Name of 'Commissioners of the Town of Bethel' to 'The Town of Bethel' and Establishing a Charter Therefor," as amended, be consolidated into one Act and in certain respects be amended and revised.

NOW, THEREFORE:

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. INCORPORATION. The Municipal Corporation of the State of Delaware heretofore known as "Town of Bethel" shall be continued as a municipal body corporate of the State of Delaware.

Section 2. BOUNDARIES. The boundaries of the Town of Bethel are hereby established and declared to be the same boundaries and limits that have been heretofore determined and as are designated and delineated on a plot of the Town of Bethel of record in the Office of the Recorder of Deeds in and for Sussex County, Delaware, in Deed Book 8, Page 718.

The Town Council of Bethel may, at any time hereafter, cause a survey and plot to be made of the said boundaries and the said plot, when made and approved by the Council, may be recorded in the Office of the Recorder of Deeds in and for Sussex County, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record, shall be evidence in all Courts of Law and Equity in this State.

Section 3. ANNEXATION. If and when a majority of the property owners in territory contiguous to the Town of Bethel shall sign a petition seeking to have the area in which said property owners reside annexed to the Town of Bethel and submit the petition together with a survey of the area proposed for annexation to the Town of Bethel, the said Council shall submit the question of annexation to the voters of the Town of Bethel and the question shall be determined by a majority of said voters voting at an election to be held for that purpose in such manner by such persons and with such notice as the Town Council of Bethel shall determine by resolution.

Section 4. STRUCTURE AND POWERS OF GOVERNMENT. The Government of the Town of Bethel and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in five Councilmen (one of whom shall be by them chosen President).

Section 5. ELECTIONS. An election shall be held in said Town for elective officers on the last Saturday of February in each year from one to four o'clock in the afternoon, and at such place as shall be determined and fixed by the Town Council. At least ten days previous thereto, due notice thereof shall be given by said Town Council. At such election the votes shall be received by the State's Justice of the Peace residing in said Town, or by such other person as said Town Council may select, and the result of the balloting for said officers shall be ascertained by him and two competent citizens, qualified as voters of said Town, selected by said Town Council to assist in holding such election. At such election every citizen of the said Town of the age of eighteen years, or upward, shall have the right to vote. The persons who shall conduct such election as in this Act provide, shall be the judges thereof and shall decide on the legality of the votes offered. Immediately after the election is closed, the votes shall be read and counted. The candidates or candidate for Council for the three-year term who have the highest and next highest number of votes for such office and term shall be declared elected. Immediately after such election, said persons under whose superintendence the election is held shall enter in a book to be provided for that purpose, a minute of such election containing the names of all persons who were candidates for office, designating the office for which they were candidates and showing the number of votes received by each and shall subscribe to the same and deliver said book to said Council at their organization meeting. They shall also give to the persons so elected a certificate of their election. The book containing such minutes shall be preserved by the Council and shall be evidence in all courts in this State or elsewhere. No person shall be voted upon as a candidate for any of such offices unless at least one week before the date set for said election, he or she shall have filed with the Secretary of said Town Council a letter or other certificate setting forth that he will be candidate for a certain designated office for a like designated term, he or she being at that time a non-delinquent taxable. Immediately after the expiration of the time for filing names of candidates, said Town Council shall cause the election ballots to be printed. Upon such ballots the names of the candidates for the offices to be filled, arranged alphabetically under each office, shall be placed, and immediately below each group of names, instructions as to how many to vote for; for instance, "vote for one" or "vote for two", or as many as the voter shall be entitled to vote for in any particular case. The voters shall designate their choice of candidates to be voted for, for each particular office, at such elections, by drawing a line through the names of all persons who are candidates for each particular office except those candidates in each group desired to be voted for; provided, however, that no Elector at any such elections shall be allowed to vote for more candidates (but may vote for less) than the number to be elected at said election. Defective designation of a voter's choice under the head of one or more of such groups of candidates shall not invalidate such ballot so far as there shall appear to be a proper



designation of choice in any other of said groups of candidates. The form of ballot shall be substantially as follows:

OFFICIAL BALLOT  
CANDIDATES FOR ELECTION TO ELECTIVE OFFICES  
IN THE TOWN OF BETHEL  
For Town Council for the Term  
of Three Years

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(vote for one)

For Town Council for the Term  
of Three Years

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(vote for two)

The method of voting shall be by striking out the names of those not voted for so that the eligible number of candidates for any particular office shall remain on the ballot.

At the Town Election so as aforesaid held and at the elections held annually thereafter the voters of the Town of Bethel shall vote for two or one Councilmen to serve for a term of three years.

The Councilmen who shall be in office on the effective date of this Charter shall hold office until the expiration of their terms, and shall from the effective date of this Charter be known and designated respectively as the Councilmen of the Town of Bethel.

Section 5 (a). VOTING MACHINES. The Council shall provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

Section 6. POWERS OF THE TOWN. The Town Council of Bethel shall have all the powers granted to municipal corporations and to cities by the Constitution and general laws of the State of Delaware, together with all the implied powers necessary to carry into execution all the powers granted. The Town Council of Bethel shall continue to enjoy all powers which have been granted to it by special acts of the General Assembly of the State of Delaware, except insofar as they may be repealed by the enactment of this Charter. The Councilmen of Bethel, as a body politic and corporate, shall succeed to, own or possess all property whether real, personal, or mixed, and all the rights, privileges, franchises, powers and immunities now belonging to, possessed by,

or enjoyed by the former corporation known as "The Town of Bethel."

The Council of Bethel may have and use a corporate seal, may sue and be sued, may acquire property within or without its corporate limits by purchase, gift, devise, lease or condemnation, for the purpose of providing sites for public buildings, parks, sewer system, sewage treatment plant, water system, water plant, gas system, or other municipal purposes, but not for a gas manufacturing or generation plant, and may sell, lease, mortgage, hold, manage and control such property or utility as its interest may require; and except as prohibited by the Constitution of the State of Delaware or restricted by this Charter, the Council of Bethel shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby, or appropriated to the exercise thereof, it is intended that the Council of Bethel shall have and may exercise all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the Town, whether expressed or implied, shall be exercised in the manner provided by ordinance or resolution of the Council.

Section 7. QUALIFICATIONS OF ELECTED OFFICERS. No person shall be eligible to the office of the Council who is not at the time of his election a citizen of the State of Delaware and a resident of the Town of Bethel above the age of eighteen years.

Section 8. MEETINGS OF TOWN COUNCIL. The Council of Bethel shall hold an organization meeting in the evening of the month following their election and shall meet regularly on the first Tuesday of each and every month thereafter at such place as the Council by resolution provide. Special meetings may be called by the President or by written request of any three Councilmen. All meetings shall be open to attendance by the public.

Section 9. PRESIDENT'S RELATIONSHIP TO COUNCIL MEMBERS. The President shall be the executive of the Town of Bethel. He shall preside at meetings of the Council, and shall have vote therein. He shall execute on behalf of the Town, when authorized by the Council, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed. He shall appoint all committees. He shall countersign all orders, checks or warrants authorized by the Council and drawn on the Treasurer for the payment of money; and he shall have all and every power conferred and perform all duties imposed upon him by this Charter and the ordinances of the Town of Bethel. In case of the temporary absence or inability to act of the President, the Council shall elect a President Pro Tempore from among the Council to act during such temporary absence or inability of the President.

Section 10. POWERS OF COUNCIL. The Council shall constitute the legislative body of the Town of Bethel and together shall be designated as the Town Council. The Council shall have power to adopt 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 Town, which power shall extend to the area inside the Town limits and within one mile from said limits. The Councilmen may also pass ordinances to ascertain and fix boundaries of streets, squares, lanes and alleys; or repair and amend the same, and provide for the paving thereof, or to close, alter, extend, or widen any street, square, lane, or alley, or open and lay out new ones subject to the provisions in that behalf hereinafter contained; to regulate the ascent and descent of all streets, lanes and alleys; to fix the building lines upon the same; to direct the paving of footways and to prescribe the width thereof; to direct the laying out of gutters and to prescribe the depth thereof; to prescribe the extent of steps, porches, cellar doors, and other inlets to yards and buildings; to provide police and the lighting of streets at the expense of the Town, and generally to prescribe and regulate the use of the streets, lanes, and alleys of the Town and to have and exercise control over the same; subject to the provisions in that behalf thereafter contained, and to the general supervision and control of the General Assembly, to provide for the regulations of auctions and auctioneers, also to regulate public amusements, to fix and declare and regulate the width of party walls, to provide for the safety of the citizens and for that purpose may prescribe the heights, thickness of walls and materials of buildings and the mode of erecting the same within said Town; and for providing for and securing the safety of the inmates thereof, and make provisions for the enforcement of such regulations; to regulate by ordinance or otherwise the sale of goods, wares and merchandise on the streets and sidewalks within the Town of Bethel, and fix the license fee thereof and the penalty for not paying said fee or the breach of any other provision of such ordinance or regulation and in all other respects regulate the markets within the said Town of Bethel. Provided, that no license fee shall be charged the local producer who vends meats, fruits, vegetables or other farm products; to provide against the adulteration of milk and cream sold or sought to be sold in the said Town, and to provide for the proper inspection of the same; and in its discretion to provide for the payment of the expenses thereof; to provide for the measuring or weighing of coal, lime, grain, or other matter sold in the said Town; to regulate the storage of gunpowder or any other dangerous matter. They shall have power to lay and collect fines on the owners of any horse, cow, dog, or other animal which may be found at large in any of the streets, squares, lanes, or alleys aforesaid, and in general shall have power to do all those matters and things for the well-being of the said Town, which shall not be in contravention of any existing laws of this State or the Constitution thereof. The Council shall not have power to exempt any individual from the operation of any general ordinance or municipal regulations. The Council shall have power to require all persons owning or keeping any male or female dog or dogs within the limits of the said Town to have the same registered annually and collect a fee from such keeper, owner or owners for such registration, and shall have power to fix the time and manner of registering, the amount of the annual fee thereof, and the penalty for not registering by ordinance.

Section 11. JUDGE OF QUALIFICATIONS OF COUNCILMEN. The Council

shall be the judge of the election and the qualifications of its members and for such purpose shall have the power to subpoena witnesses and require the production of records, but the decision of the Council shall be subject to review by the courts.

Section 12. RULES OF PROCEDURE; RECORD. The Council shall determine its own rules of procedure and order of business. It shall keep a record of its proceedings and the records shall be open to public inspection. Election of appointive officers shall be by a majority vote of the Council and the results shall be entered on the record of the Council.

Section 13. QUORUM AND MAJORITY REQUIREMENT. A majority of the members elected to the Council shall constitute a quorum to do business but a smaller 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. No ordinance shall be valid unless it shall have the affirmative vote of a majority of the members elected to the Council. Resolutions, orders and motions shall be valid upon the affirmative vote of a majority of the members of the Council present. No member shall be excused from voting on ordinances, resolutions, orders or motions.

Section 14. ORDINANCES. In addition to such acts of the Council as are required by this Charter or by other State law to be by ordinance, every act of the Council establishing a fine or other penalty shall be by ordinance. The enacting clause of all ordinances shall be "The Town of Bethel hereby ordain".

Section 15. PROCEDURE FOR ENACTING ORDINANCES. Every ordinance shall be introduced in writing and no ordinance shall be passed unless it shall have the concurrence of a majority of the members elected to the Council and unless it shall have been read in its entirety at least one time prior to the taking of the vote thereon. All ordinances passed after the effective date of this Charter shall be copied into the records of the Council and an index of such ordinances shall be kept by the Secretary.

Section 16. ORGANIZATION CHANGES BY THE COUNCIL. The enumeration of certain officials in this Charter to be appointed by the Council is not to be construed as a limitation on the power of the Council to create such new offices as may be deemed essential to accomplish the objectives of the Town of Bethel, and to provide for the selection of suitable persons to fill any positions or offices.

Section 17. THE SECRETARY. The Secretary shall record all the proceedings of the Council and keep a correct record of the same in a book to be provided for the purpose and shall file and keep in a safe place the Seal of the Town and all papers and documents relative to the affairs of the Town; and deliver the same to his successor in office. The Secretary shall attest the Seal of the Town when authorized by the Council and shall perform such duties and have such other powers as may be prescribed by the Council. All records, books, papers, and documents in the custody of the Secretary shall be always open for

the inspection of the Council and the public under such regulations as Council may prescribe. The Secretary may be a member of the Council. He shall be elected by ballot at the annual organization meeting for a period of one year or until his successor is duly elected and qualified.

Section 18. THE SOLICITOR. At the annual organization meeting the Council may elect by ballot a Town Solicitor for a term of one year or until his successor shall have been duly elected and qualified. The Town Solicitor shall be a member of the Bar of the State of Delaware. It shall be his duty to give legal advice to the Council and other officers of the Town, and to perform other legal services as may be required of him by the Council.

Section 19. THE ALDERMAN. At the annual organization meeting or as soon thereafter as practicable, the Commissioners may elect by ballot some suitable person to be Alderman of the Town of Bethel to serve as such for the term of one year, or until his successor shall be duly elected and qualified; subject, however, to be removed from office at any time by a vote of two-thirds of all the members comprising the Council. He may or may not be a Justice of the Peace but he shall not be a member of the Council. Before entering upon the duties of his office he shall be sworn or affirmed by the President or by any one of the Council, or by any Justice of the Peace, to perform the duties honestly, faithfully, and diligently. He shall have jurisdiction and cognizance of all breaches of the peace and other offenses in the said Town so far as to arrest and hold for bail, or fine and imprison offenders, and he shall also have jurisdiction and cognizance of forfeitures, and penalties which may be prescribed by any law of this State, or by any ordinance of the Town Council regularly passed and established for the government of the Town. Provided, that in the case of a violation of an ordinance, he shall impose no fine or penalty in excess of that fixed by the ordinance, and shall not commit to prison for a longer term than 60 days in default of the payment of a fine imposed by him. He shall keep a book to be called "Alderman's Docket," in which shall be entered at large all his official acts. His fees for any service under this section shall be established by ordinance. If any vacancy shall occur in the office of the Alderman by death, resignation, removal from office, or otherwise, such vacancy may be filled by the Council at any meeting thereafter for the residue of the term. If any Alderman shall be removed from his office by the Council as herein provided, he shall deliver to his successor in office within two days after the election of his successor, all books and papers belonging to his office, and shall pay over to the Treasurer of the Town all moneys in his hand belonging to the said Town within five days after his removal; upon his neglect or failure to deliver to his successor in office, within the time aforesaid, all the books and papers belonging to his office, or upon neglect or failure to pay over to the Treasurer of the Town, within the time aforesaid, all moneys belonging to the Town, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars. The Alderman at every stated meeting of the Council shall report to it all fines and penalties imposed by him since their last meeting, and pay to the Treasurer of the Town all such fines and penalties received by him during the said

time, and in default of making such report or paying such fines and penalties for a period of twenty days after such report should be made and such fines and penalties should be paid as aforesaid, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than one hundred dollars.

Section 20. TREASURER. At the annual organization meeting the Council shall elect by ballot a Treasurer for a term of one year, or until his successor shall have been duly elected and qualified. He shall be custodian of all funds of the Town of Bethel and shall deposit them, daily, in banking institutions as designated by the Council. He shall not pay out any money except upon check or warrant countersigned by the President and authorized by the Council; shall keep a true, accurate and detailed account of all monies received and of all monies paid out by him; shall preserve all vouchers for monies paid by him; and his books and accounts shall at all times be open to inspection by the President or the members of the Town Council, and by the general public during reasonable hours; and he shall make such reports and at such times as the Council may direct. He may be a member of the Council. The Treasurer, before entering upon the duties of his office, shall give bond to the Town Council of Bethel at the expense of the Council of Bethel in such manner as shall by them be determined, with surety to be approved by said Council conditioned for the faithful performance of the duties of his office.

Section 21. THE ASSESSOR. The Assessor may be elected by ballot at the annual organization meeting for a period of one year or until his successor has been duly elected and qualified. His duties shall be as hereinafter provided.

Section 22. POLICE. It shall be the duty of the Council to appoint a police force consisting of a Chief and such number of subordinates as the Council may deem wise; and the Council shall from time to time make 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 directions of the Council, through Chairman of Public Safety, and may be removed by the Council subject to the provisions of Section 23. They shall preserve peace and order, and shall compel obedience, within the Town limits, of the ordinances of the Town and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. Each member of the police force shall be vested, within the Town limits and within one mile outside of said limits with all the powers and authority of a Constable of Sussex County, and may carry firearms, and in case of pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

Section 23. COMPENSATION OF OFFICERS AND EMPLOYEES. The Council shall have power to fix the compensation of all officers elected by ballot at the annual organization meeting, and such other officers, employees and agents of the Town, which by it may be deemed proper and necessary for the proper conduct and management of the Town. Any officer or employee may be removed by the Council for sufficient cause; however, after five years' service removal may not be made without a

public hearing.

Section 24. FISCAL YEAR. The fiscal year of the Town of Bethel shall begin on the first day of March of each year and shall end on the last day of February. Such fiscal year shall also constitute the budget and accounting year.

Section 25. BUDGET. Annually each year, and not later than the first Tuesday in February, the Council shall cause to be submitted a budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year. The budget shall contain the following information:

1. A detailed estimate of 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 any machinery or other implements and the condition thereof.
3. The amount of the debt of the Town, together with a schedule of maturities of bond issues.
4. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year, the amount required for the sinking fund.
5. An estimate of the amount of money to be received from taxes, and all other anticipated income of the Town from any source or sources.
6. Council shall allow adequate reserve for depreciation.

The budget shall be used as a guide in determining Town expenditures but shall not be a limitation upon the power of the Council to appropriate funds in excess of the amounts set forth in the budget, if in its discretion it seems advisable to do so.

Section 26. INDEPENDENT ANNUAL AUDIT. Each year in the month of February the Council shall designate a certified public accountant or firm of certified public accountants, who as of the end of the fiscal year, shall make an independent audit of accounts and other evidence of fiscal transaction of the Town government and shall submit their report to the Council. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the Town government or of any of its officers. They shall not maintain any accounts of the Town business, but shall, within specifications approved by the Council, audit the books and documents of the Treasurer or other appropriate officer and any separate or subordinate accounts kept by any other office, department, or an agency of the Town government. When received, the report of the auditors shall become part of the minutes of the Council.

Section 27. POWER TO RAISE REVENUE. The Council shall have the

power to levy and collect taxes on real property within the limits of the Town, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than \$40,000 in any one year clear of all delinquencies and expenses of collection. The Council shall have the right to grant or refuse, and to charge fees for licenses, or permits for businesses of any description carried on within the limits of the Town as well as for transient businesses and shown except as otherwise provided herein. The Council shall likewise have the power to levy and collect taxes commonly known as "head tax." The Council shall also have the power to levy and collect franchise taxes and to impose sewer rentals and water rentals.

All business establishments employing ten or more employees hereafter established with the Town of Bethel or brought within its boundaries by virtue of the adoption of this Charter, or by virtue of any future extension of said boundaries shall be exempt from Town taxation for the term of ten years from the time said plants are established or brought within the boundaries of said Town.

The Council shall have the power by ordinance to allow discounts for early payment of taxes, to impose reasonable penalties and forfeitures for tax delinquencies, and to review and determine proper and appropriate properties to be exempt from taxation; provided, however, that no such exemption shall be in favor of a free enterprise profit making organization unless it shall come within the terms of the exemption for any established manufacturing plants as hereinbefore provided.

The Council shall have the power to fix the rates for general utility services operated by the Town and to collect and utilize revenues from such utility services for the benefit of the Town.

Section 28. THE TOWN MAY ENGAGE IN BUSINESS. The Town of Bethel shall have the right to engage in any business or enterprise in which a person, firm or corporation might engage by virtue of a franchise, except the provision of telephone or telegraph service and except the generation or distribution and sale of electric light and power; and shall have the right and power to acquire, own and maintain, within the corporate limits of such Town, all real estate for municipal purposes for sites and rights-of-way for public utility and general welfare purposes and for the location, erection and maintenance thereon of municipal utility plants and public facilities.

In any case where the Council may deem it to be to the best interests of the people of the Town of Bethel to acquire the properties of any privately owned utility except a telephone or telegraph corporation and except electric generation or distribution within the present or future boundaries of the Town, the question shall be submitted to a vote of the freeholders of the Town of Bethel. The Commissioners may at any time call a special election for such purposes upon thirty (30) days' notice. In acquiring said utility property, the Town of Bethel shall respect the franchise rights of the owners and shall in all respects adhere to the general laws of the State of Delaware insofar as they relate to the purchase of utility properties by municipalities. The



Town Council shall be authorized to negotiate the aforementioned purchase only upon the approval of a majority of the freeholders of the Town of Bethel.

Section 29. POWER TO BORROW MONEY. The Town of Bethel may incur indebtedness by issuing either general obligation bonds or certificates of indebtedness secured by the full faith and credit of the Town of Bethel or revenue bonds, either in whole or in part of the total amount necessary to provide funds for the erection, extension, enlargement or repair of any plant, machinery, appliances or equipment for the supply and distribution, but not for the manufacture or generation, of gas for light, heat or power purposes; for the furnishing of water to the public, for the construction, repair or improvement of highways, streets or lanes, or the paving, curbing, or erection of gutters along the same; for the construction or repair of sewers or sewage disposal equipment; or to defray the cost of the share of the Town of Bethel in the costs of any permanent municipal improvement. If general obligation bonds are issued, the total outstanding debt secured by such bonds shall not exceed \$25,000 at any one time.

If revenue bonds are issued, each such bond shall recite in substance that said bond, including interest thereon, is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the Town of Bethel within the meaning of the bonded indebtedness limitation; provided, however, that in the event of some emergency, the Town of Bethel may temporarily borrow, advance or loan such amount as is necessary to meet current interest on outstanding bonds, such advance or loan to be repaid to the Town of Bethel out of revenue subsequently received from the undertaking. If revenue bonds are issued, the Council shall prescribe and collect reasonable rates, fees or charges for the service, facilities and accommodations of said undertaking and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will procure revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation and maintenance of such undertaking, including reserves therefor.

Before the Town of Bethel may incur indebtedness by the issuance of bonds as aforesaid, the borrowing of money shall have been authorized by the Council and shall have been approved in the following manner:

1. The Council shall by resolution propose to the freeholders of the Town of Bethel the purpose or purposes for which the stated amount of money shall be borrowed. 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, including data on total related debt and the debt limitations established by this Charter; shall fix a time and place for hearing on the resolution; and shall provide for publication of an announcement of the hearing in a newspaper of general circulation in

Sussex County nearest to the Town of Bethel at least one week prior to the hearing date.

2. A public hearing shall be held at which time all persons interested wishing to be heard shall be given an opportunity to express their views. Their testimony shall be considered in evidence by the Council.

3. If the Council desires to continue with the bond proceedings, it shall then, by resolution, direct that the question be submitted to a referendum. An election shall be held not less than 30 days nor more than 60 days after the day of such resolution.

4. The notice of the time and place for holding the said special election shall be printed in a newspaper of general circulation in Sussex County nearest to the Town of Bethel once a week for 3 successive weeks prior to the election. The special election shall be conducted by the Election Board as herein provided for annual elections.

5. The Council shall cause the Election Board to prepare, print and have available for distribution a sufficient number of ballots not less than five days prior to the day of the special election. At said referendum all freeholders of the Town of Bethel shall be entitled to one vote for each dollar or fractional part thereof of Town Tax that shall have been assessed to said freeholder and which at the time of said referendum shall not be delinquent. Corporations shall be considered as freeholders. If a freeholder whose Town Taxes are delinquent shall offer to vote, his vote shall be refused until such time as he can produce to the Election Board a receipt showing his Town Taxes to be paid in full.

6. The Election Board shall count the votes for and against the proposed loan and shall announce the result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed loan; and shall deliver the same to the Council which certificates shall be entered on the minutes of the Council and the original shall be filed with the papers of the Council. Provided, however, no bond issue shall be deemed approved unless a majority of those voting at such referendum shall vote for such bond issue.

7. The form of the bonds and certificates of indebtedness, the date of payment of interest, the classes, the dates of maturity, and the provisions pertaining to the registration shall be determined by the Council. The bonds shall be sold to the highest bidder after at least one month's notice published at least twice in a newspaper of general circulation in Sussex County nearest the Town of Bethel and at least once in a publication carrying municipal bond notices and devoted primarily to financial news. The Council shall provide, in its budget, for revenues sufficient to pay the interest and principal on the said bonds or certificates or indebtedness at the maturity or maturities therefor. The faith and credit of the Town of Bethel shall be deemed pledged for the due payment of the principal and interest of general obligation bonds issued within the prescribed debt limitation when the same have been properly executed and delivered for value.

Section 30. BORROWING, FOR CURRENT EXPENSES. Whenever the needs of the Town shall require more money than is, at the time, in the Town Treasury from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such amounts as are needed. Provided, however, the amount of such indebtedness shall not at any time exceed the sum of \$5,000.

To exercise the power aforesaid the Council shall adopt a resolution to that effect, which resolution shall require the affirmative vote of at least two-thirds of all the members of the Council. The indebtedness created under this provision shall be evidenced by notes of the Town, and the faith and credit of the Town shall be deemed to be pledged thereby. Such short-term debt shall not be considered as part of the bonded debt of the Town when limitations under indebtedness, as set forth elsewhere in this Charter, are computed.

Section 31. ELECTION OFFICERS. All elections shall be held by an Election Board consisting of one Councilman together with two other persons, not Councilmen, to be appointed by the President with the approval of the Council. Should the members of the Election Board be absent from any designated place of election at the time of said election, or fail or neglect to act in the conduct of such election, during all the time the polls are open, the voters present at the polls shall choose such number of persons as shall be necessary to fill the places vacant due to the absence of the proper officials.

When the polls shall have been closed, the election officers shall publicly count the ballots and shall certify the result of the election to each of the persons elected and to the Council.

Section 32. CONTRACTS. All contracts of whatever character involving an expenditure above an amount determined by resolution of the Council shall be written and shall be let and made by the Council and shall be based on specifications provided by the appropriate person designated by the Council.

Pending advertisement for bids, any plans, specifications, and profiles to be used in the proposed work or contract shall remain on file in the office of the Council and shall be subject to the inspection of any interested person. All contracts and purchases above an amount determined by resolution of the Council shall be entered into and made only after advertising not less than two times in a newspaper of general circulation in Sussex County nearest the Town of Bethel, inviting competitive bids. Each such bid shall be sealed and filed with the person designated by the Council. All bids shall be opened in the presence of the Council or a duly authorized committee of the Council and shall remain on file.

The Council shall consider all bids which have been properly filed and may enter into a contract with the party offering the lowest and/or best bid, or they may reject all bids and re-advertise for bids, or they may have the work done under the supervision of the proper department of the Town. The awarding of a contract to the successful bidder shall give no right of action or claim against the Town upon such bid or contract until the same shall be reduced to writing and duly signed

by the contracting parties. The Council shall have the power to require all bidders to post bonds to secure the performance of the contract and all claims for labor and material used in the work. The Council may reject any supplies as well as any other public work and buy supplies on the open market at a price less than the lowest bid received, or, if no bids are received, the Council may direct the purchase of supplies in the open market. Nothing in this Section shall be construed to apply to contracts for the provision of utility service at rates regularly on file with the Public Service Commission or Delaware or any federal regulatory body.

Section 33. ASSESSMENT PROCEDURE. The Assessor shall annually make a true, just and impartial valuation and assessment of all real estate with the Town except such real estate as is exempt from municipal assessment and taxation by virtue of any law of the State of Delaware and also of such personal property as is subject to County assessment and taxation; provided, however, that in no event shall household furnishings, bank accounts, stocks, bonds, or automobiles be assessed or taxed. He shall prepare and submit to the Council on or before March 1 two or more copies of the assessment showing the location of each parcel of real and personal property, by street and number or other suitable description. When the Council approves the roll as prepared or as modified by the Council it shall cause a full and complete transcript thereof to be posted in said Town on or before the 15th of March at that place designated by the Council; the said transcript to remain posted up to but not including the appeal day. Notice shall be advertised in a newspaper of general circulation in Sussex County nearest the Town of Bethel at least once and notice shall be given by posting such announcement in at least five public places throughout the Town. Such notice shall show the time and place where the assessment list may be viewed and the time and place of hearing appeals.

On the fourth Saturday of March, the Council shall hold a court of appeals, which may continue open from one o'clock p.m. to eight o'clock p.m. and on such successive Saturdays as may be necessary during which time the Council shall hear and determine appeals from the said assessment and shall make such corrections or additions as may be deemed necessary and proper. If the said appeal day shall fall on a holiday, the appeals shall be heard on the next day. The decision of a majority of the Council sitting on appeals shall be final and conclusive in respect to all appeals.

No members of the Council shall sit on his own appeal, but the same shall be heard and determined by the other members of the Council. After the said valuation and assessment shall be examined and adjusted by the Council all property taxes shall be levied on real and personal property thus assessed in just and equal proportions.

Section 34. COLLECTION OF TAXES AND SPECIAL ASSESSMENTS. As soon as practicable after the beginning of the new fiscal year, the Council shall deliver to the Treasurer a list containing the names of the taxables and opposite the name of each the amount of his real and personal property assessment, the rate of taxation per hundred dollars

of assessed valuation and the total amount of the tax. The list shall be certified by the Secretary of the Council. All taxes shall be paid to the Treasurer, subject to such discounts and penalties and rules as the Council may direct.

It shall be the duty of the Treasurer to proceed forthwith to collect all taxes in the calendar year in which assessed and in the collection of said taxes he shall have all the powers conferred upon or vested in the Receiver of Taxes and the County Treasurer for Sussex County.

The provisions of Title 25, Sections 2901 through 2905 of the Delaware Code Annotated, with reference to tax liens, shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter.

**Section 35. POWER OF THE COUNCIL OVER STREETS.** The several posts and mark stones now set and fixed or which may hereafter be established in the middle of the streets of said Town of Bethel, as well as all such other posts and mark stones as shall from time to time be set and fixed in the earth by the Town of Bethel shall in all cases and in all courts of law within the State, be deemed, taken and allowed as land marks. The said Town of Bethel by itself or by its servants or agents shall have the right to enter upon any land within the limits of the Town and thereon set and fix such posts and mark stones as in the judgment of the Council is necessary; and if any person shall willfully tamper with or remove any of said post or mark stones such persons shall, for each such offense, forfeit and pay a fine of one hundred dollars; and the Town of Bethel may reward the informer of such offense by allowing him a portion of said penalty not exceeding a one-half thereof.

The Council shall have the power and authority to lay out, locate and open new streets and to widen or to alter existing streets or parts thereof, and to vacate or abandon streets or parts thereof, whenever they shall deem it for the best interests of the Town; provided, however, that this power shall not be exercised with respect to property owned by the State of Delaware or any agency thereof without the approval of the State or State Agency. The procedure shall be as follows:

The Council shall, by a majority vote, adopt a resolution for the opening of a new street, or the widening or altering of a street, or the vacating or abandoning of a street, or any part thereof, as the case may be, the resolution giving a general description of the street to be opened, widened, altered, vacated or abandoned. The resolution shall also state the day, hour and place where and when the Council will sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property. A copy of such resolution shall be posted in five (5) or more public places in the Town at least five (5) days before the day fixed for the hearing aforesaid and shall be published in a newspaper of general circulation in Sussex County nearest the Town of Bethel at least five (5) days before said day. A copy of such resolution shall be sent to all persons who would be deprived of property in consequence thereof, and to all person or persons having or claiming any interest or lien therein, at least five (5) days before the day fixed for the hearing, by personal services or

by registered mail addressed to their last known post office address. At the time and place fixed in said resolution, said Council shall hear such residents of the Town, or owners of the property affected, as may attend, and shall at said meeting or at a subsequent day as they shall deem proper, adopt a resolution by a majority vote to proceed with or to abandon, as they shall deem for the best interests of the Town, the opening of a new street or the widening, altering, vacating or abandoning of an existing street, or part thereof, as the case may be, as contemplated in their prior resolution. In case the determination of the Council shall be to proceed with the plan contemplated by said first resolution, they shall also award just and reasonable compensation to any who will be deprived of property in consequence thereof.

Such compensation as may be awarded shall be paid by the Treasurer of the Town on a warrant drawn on him by the authority of the Council. Any land owner, or person having or claiming any interest or lien therein, who may be dissatisfied with the compensation awarded by the Council may within five (5) days after notice of the award of the Council, appeal therefrom by serving written notice to that effect on the President. In order to prosecute said appeal, such appellant shall within five (5) days after the expiration of the five (5) days allowed for the appeal apply to the Resident Judge of the Superior Court of the State, in Sussex County, for the appointment of freeholders to hear and determine the matter of compensation to such appellant, and thereupon the said Judge shall issue a commission under his hand, directed to five (5) impartial freeholders of the County, two of whom shall be residents in the Town of Bethel, commanding them to determine and fix the damages which the appellant will sustain by reason of being deprived of any property as aforesaid, taking into consideration the benefit or advantages which will insure to the appellant, and to make return of their findings to the said Judge at the time therein appointed. The freeholders shall give notice of the day, hour and place when and where they will meet to view the premises and to affix the damages, if any, as aforesaid. Such notice shall be served upon the appellant personally, or sent by registered mail to his last known address, and if not served personally by posting a copy on the premises affected at least fifteen (15) days before the day when the freeholders are to view the premises, and a copy of such notice should also be served on the President at least fifteen (15) days before the day of such meeting. The freeholders named in such commission, being first sworn or affirmed on the day and at the hour and place stated in the notice shall view the premises and hear the witnesses, and shall without delay, determine and fix the damages, if any, which said appellant will sustain by reason of being deprived of any property as aforesaid. Thereupon the said freeholders shall make return in writing of their proceedings to the said Resident Judge, who shall cause a copy of said return to be delivered to the President, and such return shall be final and conclusive. The said Judge shall have the power to fill any vacancies among the freeholders. On application within twenty (20) days after the award the said Judge may set aside a grossly improper award and appoint a new Commission. The amount of damages being ascertained, the Town may pay or tender the same to the person entitled thereto within one (1) month after the same shall be finally ascertained, or may deposit the same in any Bank in the Town to

the credit of the person entitled thereto, within the said period of one (1) month, and thereupon the Town may carry into effect the plan contemplated in the resolution aforesaid. The return of freeholders shall be filed in the Office of the Prothonotary of Sussex County.

In the ascertainment and assessment of damages by the freeholders, if the damages shall be increased, the costs of the appeal shall be paid by the Treasurer of the Town of Bethel, but if said damages shall not be increased, the said costs shall be paid by the appellant. The fees to the freeholders shall be Five Dollars (\$5.00) per day to each, which shall be taxed as a part of the costs.

Section 36. SEWER AND WATER MAIN IMPROVEMENTS. The Council shall have the entire jurisdiction and control within the limits of said Town of the drainage thereof, and the right to alter and change the course and direction of any of the natural water courses, runs or rivulets within the limits of said Town, and may pass ordinances for the construction of water mains and the opening of gutters, drains and sewers within the limits thereof. And the regulating and maintaining, cleansing and keeping the same and the natural water courses, runs and rivulets within the said limits open, clean, and unobstructed; and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same in the same way and under the same rules and procedure as hereinbefore provided in case of streets, etc., and by general regulations prescribe the mode in which they shall be altered, changed, opened, maintained, cleansed, and kept open and unobstructed, and shall bear the expenses thereof and may in its discretion assess the costs of sanitary sewers upon the property particularly benefited thereby, except such real estate as is exempt from municipal assessment and taxation by virtue of any law of the State of Delaware, and prescribe the mode of collection thereof; provided, that nothing herein contained shall be construed to authorize the taking of private property for public use without just compensation.

Whenever the Council of the Town of Bethel shall determine, either on petition by a majority in numbers or in interest of the property holders abutting a proposed sanitary sewer construction, improvement, alteration, or repair or on its own initiative, that such construction, improvement, alteration, or repair of sanitary sewers is required, it shall proceed in accordance with law to undertake work and surveys necessary to make a report estimating cost and apportioning assessments. The Council shall then proceed as hereinbefore described for street improvements. The Council may perform such construction, improvement, alteration, or repair by contract or municipal agency. Provided, that assessment for the construction, improvement, alteration, repair and operation of sanitary sewers may be made upon the property abutting upon that portion of the street in which any sanitary sewer may be constructed under the provisions of this Charter, and shall be based upon the lineal feet of such property abutting on such street, each such lineal foot being assessed alike. In the case of property situated at the corner of two such streets or otherwise so situated as to be assessed for the costs of building a sanitary sewer in one of such streets, only the front of such property shall be liable for such assessments. The Commissioners on individual appeals according to rules established by

them, shall in all cases decide what portion of the corner property shall be considered frontage and what portion side frontage. Provided that in all corner properties the side frontage shall not exceed one hundred and twenty-five (125) feet and side frontage thus determined shall be exempt from the payment of any sanitary sewer assessment, unless the owner thereof should, after the side frontage is fixed as aforesaid, decide to make such side frontage the front of said property, in which case the owner shall pay such additional assessment as the Council may determine. No property shall be assessed for the cost of constructing the sanitary sewer and connecting the same with the disposal plant, unless such property shall abut and be bounded by that portion of the street in which a sanitary sewer has been built, or unless such property has the right of access to such street or desires to use such sanitary sewer and the sanitary sewer is constructed upon the street upon which the property abuts, in either of which cases such property shall be liable for the same assessment as though a sanitary sewer was constructed in the portion of the street on which such property abuts, and the property shall not be liable for any further assessment for sanitary sewer purposes. Where any such assessments shall be made upon any land for the cost of constructing a sanitary sewer and connecting it with the disposal plant, the Council shall have the right to compel the owner to connect any building or structure erected as may be prescribed by the Commissioners from time to time. The word street shall be deemed and held to comprehend and include highways, lanes and alleys.

Section 37. SIDEWALKS AND GUTTERS. Whenever the Town of Bethel shall have determined that any paving, graveling or guttering of the sidewalks or any or either or all of them, shall be done it shall notify the owner or owners of land 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 said owner or owners, to cause such paving, graveling or guttering to be done in conformity with said notice. In the event of any owner neglecting to comply with said notice for the space of thirty days, the Council may proceed to have the same done, and when done the Treasurer of the Town of Bethel shall as soon as convenient thereafter present to the said owner or owners of such lands, a bill showing the expense of paving, graveling or guttering. If such owner or owners be not resident in the Town of Bethel, such bill may be presented to the occupier or tenant of said land or if there be no occupier or tenant resident in the Town of Bethel, such bill may be sent by mail to such owner or owners, directed to him or them at the post office nearest his or their residence. If such bill be not paid by the owner or owners of such lands within thirty days after the presentation, then it shall be the duty of the Council to issue an order in the name of "Town of Bethel" under the hand of the President, and the seal of the said corporation, directed to the Treasurer of the Town of Bethel, commanding him to proceed to collect said delinquent assessment as levied in accordance with the authority granted under Section 34 "Collection of Taxes and Special Assessments" of this Act. The claim for paving, graveling or guttering shall be a lien on the premises in front of which the said work was done, and shall have the same priority and be collectible in the same manner as municipal property taxes. If any new paving is ordered by the Council as aforesaid, in front of lot or lots held or owned by a widow or widows as and for her or their dower,



such expense incurred as aforesaid shall be paid by the owner or owners of the reversion in fee simple. All subsequent repairs named in this Act are to be kept up at the expense of such tenant in dower. Any notice required by this section to one co-owner, shall be notice to all; and in case no owner shall reside in the Town, notice may be served upon the occupier or tenant of said premises resident in the Town, and if there be no such occupier or tenant, it shall be sufficient to send said notice by mail to any owner of said premises, directed to him or her at the post office nearest his or her residence. The provisions hereinbefore contained in this section, shall apply to any order made by the Council in respect to any such paving, graveling, or guttering heretofore done, which the Council may deem insufficient or to need repairing. The Council in addition to the provisions of this section hereinbefore shall have power and authority to enforce by ordinance, all the requirements of this section by imposing such fines and penalties as shall be in the judgment of the Council necessary and proper.

The paving and guttering outside of said curbing shall be done by the Council at the expense of the Town, except in case of property exempt from taxation, in which case the owner or owners of said exempt property shall pay for the paving and guttering outside of said curbing, and in case said owners refuse so to pave and gutter, the Council may proceed to have the same done and collect the expense thereof in the same manner and by the same proceedings as are hereinbefore provided, in case of paving, graveling and guttering sidewalks, footways, etc., where the owners of property refuse to pave, gravel and gutter sidewalks and footways in front of their property.

Section 38. PROCEEDINGS MAY BE ABANDONED. The Council may by resolution, abandon in whole or in part at any time during the pendency thereof or within sixty days after the final order of any court upon appeal from an award or assessment. When proceedings are abandoned by resolution of the Council, as provided by this Section, the Council may not begin new proceedings involving the same work, service, improvement, or action within six months after abandonment. If prior to the resolution of abandonment, possession of condemned property has been taken, the owner shall have a right of action to recover damages for the use and occupation with interest thereon from the date when possession was taken.

Section 39. LEVYING OF SPECIAL ASSESSMENTS. The Town of Bethel is hereby authorized and empowered to levy and collect special assessments upon property in a limited and determinable area for special benefits accruing to such property as a consequence of any municipal public work or improvement; and to provide for the payment of all or any part of the cost of the work, service, or improvement out of the proceeds of such special assessments.

Section 40. ASSESSMENTS PAYABLE IN INSTALLMENTS. The Council may provide for the payment of special assessments, for whatever purpose levied, by installments, but assessments for permanent improvements shall be within ten years in annual or more frequent installments, and assessments for current services shall be payable within one year.

Section 41. ASSESSMENTS NOT TO EXCEED VALUE OF BENEFIT. The amount assessed against any property for any work or improvement shall not exceed the value of the benefits accruing to the property therefrom.

Section 42. NEW DEVELOPMENTS AND SUBDIVISIONS. Whenever it is contemplated that a new real estate development shall be undertaken, the Council shall require the developer to submit plans and supporting documents to the Council or Planning Commission for approval prior to the actual construction and/or installation of improvements and utilities.

Whenever the installation of new facilities is contemplated in a partially developed area, the Council shall make a careful determination of the ability of the area to support the cost of the projected improvement before approving it. Also, the developer shall provide evidence to the Council that he has complied with all State and County regulations.

Section 43. SEVERABILITY OF CHARTER PROVISIONS. If any provision of this Charter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Charter which can be given effect without the invalid provisions or applications, and to this end the provisions of this Charter are declared to be severable.

Section 44. FORMER GOVERNMENT IN FORCE. All ordinances, resolutions, orders, rules, or regulations in force in the Town of Bethel at the time this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect until the Council otherwise provided by ordinance, notwithstanding any change in organization effected by this Charter.

Section 45. CONTINUANCE IN OFFICE. All persons holding any non-elective office or employment under the Town of Bethel at the time this Charter goes into effect shall continue in such office or employment and shall draw the same rate of compensation as during the month preceding the adoption of this Charter until removed or until the compensation is changed.

The President of the Council of Bethel shall continue as the President of the Town and shall continue as Town Councilman until his successor is elected and qualify as previously provided for in this Charter.

Section 46. APPOINTMENT AND REMOVAL OF A TOWN MANAGER. The Council may by ordinance provide for and establish a Town Manager. It may state his qualifications and duties and shall fix his salary. The Town Manager shall be responsible to the Council and may be removed by the Council upon a vote of two-thirds of the members thereof. The duties of other officers may be eliminated and combined with the duties of the Town Manager if the ordinance so provides. Neither the President nor any member of the Town Council may be appointed Town Manager during his term of office or within one year thereafter, except in the event of a national emergency.

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Structure and Powers of Government . . . . .	Section 4
The Alderman . . . . .	Section 19
The Assessor . . . . .	Section 21
The Secretary. . . . .	Section 17
The Solicitor. . . . .	Section 18
The Town May Engage in Business. . . . .	Section 28
The Treasurer. . . . .	Section 20

CHAPTER 273

FORMERLY HOUSE BILL NO. 783

AN ACT TO AMEND CHAPTER 578, VOLUME 58, AS AMENDED BY VOLUME 59, CHAPTER 76, LAWS OF DELAWARE, TO EXTEND THE TIME DURING WHICH THE STATE MAY BORROW MONEY UNDER SUCH ACT AS AMENDED FOR PROJECTS OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

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. Chapter 578, Volume 58, Laws of Delaware, is hereby amended by deleting §26 in its entirety and substituting in lieu thereof a new §26 to read as follows:

"§26. No bonds or notes shall be issued or monies borrowed on behalf of this State, pursuant to this Act, as amended, after June 30, 1978, except (i) as provided in Chapter 75, Title 29, Delaware Code, as amended, or (ii) for projects of the Department of Natural Resources and Environmental Control authorized pursuant to Volume 59, Chapter 76, Laws of Delaware, provided, further that no bonds or notes shall be issued or monies borrowed for such purposes after June 30, 1980."

Section 2. This Act shall take effect in the manner provided by law.

Approved May 12, 1978.

## CHAPTER 274

FORMERLY HOUSE BILL NO. 750

AN ACT TO AMEND SUBCHAPTER I, CHAPTER 79, TITLE 29, DELAWARE CODE  
RELATING TO THE QUALIFICATIONS OF THE DIRECTOR OF THE DIVISION  
OF MENTAL HEALTH.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §7903(2)(b) of Subchapter I, Chapter 79, Title 29, Delaware Code by striking said paragraph (b) in its entirety and substituting in lieu thereof a new paragraph (b) to read as follows:

"(b) A Director of the Division of Mental Health, who shall be known as the Director of Mental Health and who shall be qualified by appropriate formal education in a field such as psychiatric medicine, psychiatric nursing, clinical psychology, or psychiatric social work directly related to the care and treatment of the mentally ill or emotionally disturbed, by direct experience in the care and treatment of mentally ill or emotionally disturbed persons, and by demonstrated administrative competence."

Approved May 12, 1978.

## CHAPTER 275

FORMERLY SENATE BILL NO. 441  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER IV, CHAPTER 1, TITLE 23, DELAWARE CODE,  
RELATING TO PILOTAGE RATES, BY CHANGING THE METHOD OF COMPUTATION  
AND BY INCREASING THE RATES FOR THE PILOTAGE OF CERTAIN VESSELS.

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 all of said section and inserting in lieu thereof the following:

"§131. Pilotage rates

(a) For services rendered on and after the effective date of this act, 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 charge resulting from the following computation:

(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 outside 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	

(2) The charges per unit shall be as follows:

(a) One dollar and seventy cents from the effective date of this act through December 31, 1978.

(b) One dollar and eighty-two cents from January 1, 1979, through December 31, 1979.

(c) One dollar and ninety-five cents thereafter.

(3) There shall be a minimum charge of 200 units and a maximum charge of 1000 units.

(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 outwardbound 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 Bay or River Delaware, she shall make the usual signal for a pilot, and continue to make such signal until 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 the effective date of this act, 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 charge resulting from the following computation:

(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 outside 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	

(2) The charges per unit shall be as follows:

(a) One dollar and seventy cents from the effective date of this act through December 31, 1978.

(b) One dollar and eighty-two cents from January 1, 1979, through December 31, 1979.

(c) One dollar and ninety-five cents thereafter.

(3) There shall be a minimum charge of 200 units and a maximum charge of 1000 units."

Approved May 12, 1978.



## CHAPTER 276

FORMERLY HOUSE BILL NO. 397  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 51, PART III, TITLE 25 OF THE DELAWARE CODE RELATING TO THE LANDLORD-TENANT CODE; AND PROHIBITING ANY DEMAND BY LANDLORDS FOR EXTRA MONEY PAYMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 51, Part III, Title 25 of the Delaware Code by adding thereto a new section, designated as §5113, which new section shall read as follows:

"§5113. 'Assurance money' prohibited

In every transaction wherein an application is made by a prospective tenant to lease a dwelling unit, the prospective landlord or owner of the dwelling unit shall not ask for nor receive any 'assurance money' or other payment which is not an investigation fee, security deposit or similar deposit reserving the dwelling unit for the prospective tenant for a time certain. The prospective landlord shall not charge the prospective tenant, as the fee for any credit or other type of investigation, more than the specific cost of such investigation. For purposes of this section, 'assurance money' shall mean any payment to the prospective landlord by a prospective tenant, except a payment in the way of a security deposit or similar deposit reserving the dwelling unit for the prospective tenant for a time certain, or the reimbursing of the specific sums expended by the landlord in credit or other investigations.

Each landlord shall retain, for a period of six months, the records of each application made by any prospective tenant. Upon any complaint of a violation of this section, the Division of Consumer Affairs shall investigate the same, shall interview tenants of the landlord, and, under appropriate search warrant, have the right to investigate all records of the landlord pertaining to applications made within the preceding six months. If such investigation reveals good cause for the Director of the Division of Consumer Affairs to believe there has been a violation of this section, the Director may issue such cease and desist orders in accordance with §8612, Title 29 of the Delaware Code, as are required to the violation."

Approved May 15, 1978.

## CHAPTER 277

## FORMERLY SENATE BILL NO. 591

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF PUBLIC SAFETY TO PROVIDE SUPPLIES AND MATERIALS FOR THE DELAWARE STATE POLICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of thirty-six thousand seven hundred dollars (\$36,700) is hereby appropriated to the Department of Public Safety, which funds shall be expended in the following manner:

(45-00-000) Department of Public Safety  
(45-06-000) Division of State Police

Supplies and Materials

\$36,700

Section 2. This Act is a supplemental appropriation and shall be paid by the State Treasurer from funds not otherwise appropriated. All funds unexpended as of June 30, 1978, shall revert to the General Fund of the State Treasury.

Approved May 15, 1978.

## CHAPTER 278

## FORMERLY SENATE BILL NO. 423

AN ACT TO AMEND CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, AS AMENDED,  
ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE" BY  
INCREASING THE POWER TO RAISE REVENUE.

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 27, Chapter 237, Volume 51, Laws of  
Delaware, as amended by striking the figures "\$40,000" as the same  
appears in the first sentence of said section and substituting in lieu  
thereof the figures "\$60,000".

Approved May 15, 1978.

## CHAPTER 279

## FORMERLY SENATE BILL NO. 424

AN ACT TO AMEND CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE" BY PROVIDING FOR THE REGISTRATION OF VOTERS.

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 of Chapter 237, Volume 51, Laws of Delaware by striking the fourth sentence in said section in its entirety commencing with the word "At" and ending with the word "vote".

Section 2. Amend Section 5 of Chapter 237, Volume 51, Laws of Delaware, as amended by adding thereto a new paragraph to read as follows:

"Every citizen of the said town of the age eighteen years or upwards, or persons arriving at the age of eighteen years since the last Town Assessment, shall have one vote provided he or she has registered on the "Books of Registered Voters" of the Town of Bridgeville. The Commissioners of Bridgeville shall provide two registers to be known as the "Books of Registered Voters" which shall be kept by the Secretary and shall be conclusive evidence of the right of any person to vote at the annual election. The "Books of Registered Voters" shall contain the names of those persons who have registered in alphabetical order and the following information for each registrant: the name and permanent address of the registrant, the local address of the registrant, the birth date of the registrant, the date the registrant became a resident of the State of Delaware, and the date the registrant became a resident of the Town of Bridgeville, and 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 election for the year in which he or she registers. A person shall be required to register one time; provided, however, that if a registered voter fails to vote in two consecutive annual elections in which there is a contest, his name shall be removed from the "Books of Registered Voters" and notice shall be sent to said registered voter at his last known address by registered mail with return receipt requested advising that his name has been removed from the list of registered voters and that it will be necessary to register again in order to be eligible to vote in the annual election. A person may register at the office of the Secretary during the regular office hours by completing such forms as may be provided by the Town; provided, however, that no person shall be registered after the close of business on the tenth day prior to the date of the annual election."

Approved May 15, 1978.

## CHAPTER 280

## FORMERLY HOUSE BILL NO. 856

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".

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 Section 8 (e)(2), Chapter 271, Volume 60, Laws of Delaware, by reducing the dollar amount as it appears for Corridor Projects by a reduction of \$380,000.

Section 2. Amend Section 8 (e)(10), Chapter 271, Volume 60, Laws of Delaware, by increasing the dollar amount as it appears for Engineering and Contingencies by an additional \$380,000.

Section 3. This Act shall become effective upon signature of the Governor.

Approved May 15, 1978.

CHAPTER 281

FORMERLY HOUSE BILL NO. 350

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, TO INCREASE THE PENALTY FOR FAILURE TO FILE TAX RETURNS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. §1194, Chapter 11, Title 30, Delaware Code, is amended by striking "5%" wherever it appears in subsection (a) and inserting in lieu thereof "10%".

Section 2. §1194, Chapter 11, Title 30, Delaware Code, is amended by striking "25%" as it appears in the seventh line of subsection (a) and inserting in lieu thereof "50%".

Section 3. This Act shall become effective upon the approval of the Governor.

Approved May 16, 1978.

## CHAPTER 282

## FORMERLY HOUSE BILL NO. 424

AN ACT TO AMEND CHAPTER 27, TITLE 21, DELAWARE CODE, RELATING TO ESTABLISHING A LATE FEE FOR DRIVER LICENSE RENEWALS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 2715, Chapter 27, Title 21, Delaware Code, by adding a new subsection (c) to read as follows:

"(c) A late fee of \$1.00 shall be assessed in addition to the renewal fee for every person whose driver's license has expired."

Section 2. Amend Section 2716, Chapter 27, Title 21, Delaware Code, by adding a new subsection (c) to read as follows:

"(c) A late fee of \$1.00 shall be assessed in addition to the renewal fee for every person whose driver's license has expired."

Approved May 16, 1978.

## CHAPTER 283

## FORMERLY HOUSE BILL NO. 551

## AN ACT TO AMEND CHAPTER 27, TITLE 25, DELAWARE CODE, RELATING TO MECHANICS' LIENS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 27, Title 25, Delaware Code by adding thereto a new Section to be designated as §2737 to read as follows:

"§2737. Discharge of lien on payment into court or entry of security

(a) Cash Deposit. Any claim filed hereunder shall, upon petition of the owner or any party in interest, be discharged as a lien against the property whenever a sum equal to the amount of the claim shall have been deposited with the court in said proceedings for application to the payment of the amount finally determined to be due. Said petition shall include an affidavit by the owner or party in interest setting forth which parts of the claim filed hereunder are disputed and which parts are not disputed. The non-disputed part of the claim shall be paid to the claimant before the lien against the property is discharged. If it is finally determined by the Court that the disputed portion of the claim has been grossly overstated by the affiant, the Court may, in its discretion, award damages to the claimant against the affiant in an amount up to twice the figure stated by the affiant to be disputed.

(b) Refund of Excess. Any excess of funds paid into court as aforesaid, over the amount of the claim or claims determined and paid therefrom, shall be refunded to the owner or party depositing same upon application.

(c) Security in Lieu of Cash. In lieu of the deposit of any such sum or sums in cash, approved security may be entered in such proceedings in an amount which the court shall approve, which, however, shall in no event be less than the full amount of such required deposit; and the entry of such security shall entitle the owner to have such liens discharged to the same effect as though the required sums have been deposited in court as aforesaid.

(d) Authority of Court. The Court, upon petition filed by any party, and after notice and hearing, may upon cause shown:

(1) require the increase or decrease of any deposit or security;

(2) strike off security improperly filed;

(3) permit the substitution of security and enter an exoneration of security already given."

Approved May 16, 1978.



## CHAPTER 284

## FORMERLY HOUSE BILL NO. 834

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT FOR RENTAL PAYMENTS FOR CERTAIN AGENCIES OF THE DEPARTMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of nine thousand one hundred seventeen dollars (\$9,117.00) is hereby appropriated to the Department of Community Affairs and Economic Development to pay rental charges for the following agencies through April, 1978:

Office of Administration	50-01-001	\$1,428.00
Office of Economic Opportunity	50-01-003	1,820.75
Office of Human Relations	50-06-000	1,170.00
Division of Economic Development	50-08-000	942.50
Division of Consumer Affairs	50-11-000	<u>3,755.75</u>

TOTAL AMOUNT

\$9,117.00

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, 1978, shall thereupon revert to the General Fund of the State Treasury.

Approved May 16, 1978.

CHAPTER 285

FORMERLY HOUSE BILL NO. 412

AN ACT TO AMEND CHAPTER 28, TITLE 21, DELAWARE CODE, RELATING TO HABITUAL OFFENDER DRIVERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 2802, Chapter 28, Title 21, Delaware Code, by adding new paragraphs (j) and (k) to subsection (1) thereof, which paragraphs shall read as follows:

"(j) Attempting to flee or elude a police officer after having received a visual or audible signal from him as provided in Section 4103 (b) of this Title.

(k) Driving any motor vehicle upon the highways of this State contrary to the restrictions placed upon an occupational license during the period of such occupational license as provided in Section 2733 (i)."

Section 2. Amend Section 2813, Chapter 28, Title 21, Delaware Code, by striking the period (".") immediately following "1972", and adding immediately thereafter the following:

", except that convictions for offenses designated in paragraphs (j) and (k) of subsection 1, Section 2802 of this Chapter shall only be computed if the offenses giving rise thereto occur subsequent to July 1, 1977."

Approved May 16, 1978.

## CHAPTER 286

## FORMERLY HOUSE BILL NO. 345

AN ACT TO AMEND CHAPTER 1, TITLE 1 OF THE DELAWARE CODE RELATING TO THE DISTRIBUTION OF THE DELAWARE CODE AND ITS SUPPLEMENTS TO THE STATE POLICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §108, Chapter 1, Title 1 of the Delaware Code by adding thereto a new subsection, designated as subsection (11), which new subsection shall read as follows:

"(11) In addition to any other sets of the Code or supplements pursuant to this section, fourteen (14) sets of the Code and supplements thereto to the Delaware State Police."

Approved May 16, 1978.

CHAPTER 287

FORMERLY SENATE BILL NO. 592

AN ACT DECLARING THE LAST MONDAY IN MAY AS MEMORIAL DAY FOR THE YEAR 1978.

WHEREAS, the provisions of Chapter 5, Title 29, Delaware Code stipulate that Memorial Day shall be a legal holiday on the 30th day of May; and

WHEREAS, the 30th day of May falls on a Tuesday which makes it difficult for many persons to travel to resort and recreational areas throughout Delaware; and

WHEREAS, the adoption of this Act will enable thousands of Delawareans to enjoy a three-day weekend which will be helpful to the economy of the resort and recreational areas as well as the coffers of the State Treasury.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Memorial Day for 1978 is officially declared as the last Monday in May for the year 1978, any provision of the Delaware Code to the contrary notwithstanding.

Approved May 18, 1978.

## CHAPTER 288

## FORMERLY HOUSE BILL NO. 688

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE OFFICE OF HIGHWAY SAFETY FOR THE PURPOSE OF REIMBURSING AN EMPLOYEE WHO OVERPAID HEALTH INSURANCE COVERAGE UNDER BLUE CROSS-BLUE SHIELD.

WHEREAS, as a result of an audit of the Office of Highway Safety, it was discovered in November of 1977 that Frank Fountain had not received credit under Blue Cross-Blue Shield for his wife who was also a state employee; and

WHEREAS, Frank Fountain overpaid health insurance premiums in the following amounts and during the following months herein shown:

June 1975 through May 1976 (\$19.94 per month)	\$239.28
June 1976 through May 1977 (\$24.78 per month)	297.36
June 1977 through November 1977 (\$30.98 per month)	185.88
TOTAL	<hr/> \$722.52

; and

WHEREAS, law prohibits an agency of State government from paying obligations incurred in a prior year without special act of the General Assembly.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$722.52 is hereby appropriated to the Office of Highway Safety for the purpose of reimbursing Mr. Fountain who overpaid his health insurance coverage with Blue Cross-Blue Shield of Delaware.

Section 2. This is a supplemental 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 herein appropriated remaining unexpended on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved May 19, 1978.

CHAPTER 289

FORMERLY HOUSE BILL NO. 780

AN ACT TO AMEND THE CHARTER OF SEAFORD, CHAPTER 42, VOLUME 53, LAWS OF DELAWARE, AS AMENDED, TO PERMIT ABSENTEE VOTING IN ANNUAL ELECTIONS.

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 7 (A), Chapter 42, Volume 53, Laws of Delaware, as amended, by adding the following sentence at the end of said Section 7 (A):

"The City Council may, by ordinance, provide for a qualified voter, duly registered, who shall be unable to appear to cast a ballot at any annual election either because of being in the public service of the United States or of this State, or because of the nature of his or her business or occupation, or because of illness or physican disability, to vote by absentee ballot."

Approved May 19, 1978.

## CHAPTER 290

## FORMERLY SENATE BILL NO. 411

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, BY INCREASING THE AMOUNT WHICH THE TOWN OF BETHANY BEACH MAY RAISE BY TAXATION OF ASSESSABLE REAL ESTATE.

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 §19, Chapter 212, Volume 25, Laws of Delaware, as amended by striking said section in its entirety and inserting in lieu thereof a new Section 19 to read as follows:

"Section 19. That for the purpose of raising money for the general purposes of said Town, the Commissioners of said Town are authorized and empowered to levy and collect by taxation an annual sum, not exceeding three hundred thousand dollars (\$300,000) on all assessable real estate within the limits of the said Town."

Approved May 19, 1978.

## CHAPTER 291

## FORMERLY SENATE BILL NO. 412

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, TO GIVE THE COMMISSIONERS OF THE TOWN OF BETHANY BEACH THE POWER TO BORROW UP TO \$200,000.

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 §15, Chapter 212, Volume 25, Laws of Delaware, as amended, by striking the last paragraph in said section and inserting in lieu thereof the following paragraph:

"The said Commissioners shall have the power to borrow money in anticipation of all revenues on the faith and credit of the Town, such sum or sums not exceeding two hundred thousand dollars (\$200,000), when, in the opinion of a majority of the Commissioners elected, the needs of the Town require it. Any sum so borrowed shall be secured by a promissory note or notes of the Commissioners duly authorized by Resolution of the Commissioners and signed by the President and attested by the Secretary of the Commissioners with the corporate seal affixed. No Commissioner shall be liable for the payment of any such note because it is signed by him as a Commissioner, provided he is so authorized by Resolution of the Commissioners. Any such sum of money borrowed on the faith and credit of the Town shall be paid from the general fund of the Town, and shall be completely paid at the end of ten (10) fiscal years following the first fiscal year when said money was borrowed, with interest thereon. At no time shall the amount of outstanding principal from any such borrowing or borrowings exceed the sum of two hundred thousand dollars (\$200,000)."

Approved May 19, 1978.



## CHAPTER 292

FORMERLY SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 297  
AS AMENDED BY  
SENATE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND CHAPTERS 21 AND 29, TITLE 21, DELAWARE CODE, RELATING TO MOTOR VEHICLES, FINANCIAL SECURITY AND PROVIDING FOR SELF-INSURANCE IN CERTAIN INSTANCES.

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 §2118 (a), Chapter 21, Title 21, of the Delaware Code, by striking the following language:

"(a) No owner of a motor vehicle required to be registered in this State, other than a self-insurer as defined in this title, and other than a vehicle registered in another state not requiring insurance, shall operate or authorize any other person to operate such vehicle unless the owner has insurance on such motor vehicle providing the following minimum insurance coverage:

(1) Indemnity from legal liability for bodily injury, death or property damage arising out of ownership, maintenance or use of the vehicle to the limit, exclusive of interest and costs, of at least \$10,000 for any person and \$20,000 for all persons injured in any 1 accident, and \$5,000 property damage for any 1 accident."

as the same appears in said subsection and substituting in lieu thereof the following:

"(a) No owner of a motor vehicle registered in this State, other than a self-insurer pursuant to §2904 of this title, shall operate or authorize any other person to operate such vehicle unless the owner has insurance on such motor vehicle providing the following minimum insurance coverage:

(1) Indemnity from legal liability for bodily injury, death or property damage arising out of ownership, maintenance or use of the vehicle to the limit, exclusive of interest and costs, of at least the limits prescribed by the Financial Responsibility Law of this State."

Section 2. Amend §2118 (j), Chapter 21, Title 21, Delaware Code, by striking said subsection in its entirety.

Section 3. Amend §2118 (k), Chapter 21, Title 21, Delaware Code,

by striking the words "subsection (j) of this section shall be fined not less than \$25 nor more than \$100, and whoever violates any other subsection of" as the same appear in lines 1 and 2 thereof and by adding thereto the following: "Solely for the purposes of criminal prosecution based upon an alleged violation of this section, the phrase 'a motor vehicle registered in this State' shall also include any motor vehicle required to be registered in this State.'"

Section 4. Amend §2120, Chapter 21, Title 21, Delaware Code, by striking said section in its entirety.

Section 5. Amend Chapter 29, Part II, Title 21, Delaware Code, by adding a new subchapter thereto to be designated as Subchapter I, and to read and include the following:

#### "SUBCHAPTER I. GENERAL PROVISIONS

##### §2901. Motor vehicles exempted

This chapter shall not apply with respect to any motor vehicle owned by the United States, this State or any political subdivision of this State, or any municipality therein or with respect to any motor vehicle which is subject to the requirements of §§6102 and 6103 of this title.

##### §2902. Motor vehicle liability policy

(a) A 'motor vehicle liability policy', as said term is used in this chapter, shall mean an owner's or an operator's policy of liability insurance, certified as provided in §2948 or §2949 of this title, as proof of financial responsibility, and issued, except as otherwise provided in §2949 of this title, by an insurance carrier duly authorized to transact business in this State, to or for the benefit of the person named therein as insured.

(b) Such owner's policy of liability insurance shall:

(1) Designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

(2) Insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: \$10,000, because of bodily injury to or death of 1 person in any 1 accident and, subject to said limit for 1 person, \$20,000, because of bodily injury to or death of 2 or more persons in any 1 accident, and \$5,000, because of injury to or destruction of property of others in any 1 acci-

dent.

(c) Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(e) Such motor vehicle liability policy need not insure any liability under any Workmen's Compensation Law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(1) The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; such policy may not be cancelled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of such policy shall defeat or void such policy;

(2) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;

(3) The insurance carrier shall have the right to settle any claim covered by the policy, and, if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in subdivision (2) of subsection (b) of this section.

(4) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the chapter shall constitute the

entire contract between the parties.

(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term 'motor vehicle liability policy' shall apply only to that part of the coverage which is required by this section.

(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(i) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of 1 or more insurance carriers which policies together meet such requirements.

(k) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

**§2903. Certain policies unaffected by chapter**

(a) This chapter shall not apply to or affect policies of automobile insurance against liability required by any other law of this State, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(b) This chapter shall not apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicles not owned by the insured.

**§2904. Self-insurers**

(a) Upon condition of providing the same benefits available under a required vehicle insurance policy, any person in whose name more than 15 motor vehicles are registered in this State may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the Secretary of Public Safety as provided in subsection (b) of this section.

(b) The Secretary of Public Safety may, in his discretion, approve an application for self-insurance from such a person provided the following is submitted in satisfactory form:

(1) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by §2118 of this title; and

(2) Evidence that appropriate provisions exist for prompt and efficient administration of all claims, benefits and obligations required by §2118 of this title; and

(3) Evidence that reliable financial arrangements, deposits or commitments exist providing assurance for payment of tort liabilities or basic reparation benefits, or both, and all other obligations imposed by this chapter substantially equivalent to those afforded by a policy of insurance complying with §2118 of this title.

(c) Upon not less than 5 days notice and a hearing pursuant to such notice, the Secretary of Public Safety may, upon reasonable grounds, withdraw this approval of self-insurance. Failure to pay any valid claim within 60 days of its submission or any judgment within 30 days after such judgment shall have become final shall constitute a reasonable ground for the immediate withdrawal of approval of self-insurance.

**§2905. Assigned risks**

(a) Any applicant for registration who in good faith has applied to 2 insurance companies for a policy of insurance or surety bond under the provisions of this chapter but who is unable to procure such insurance from said companies shall thereupon notify the Insurance Commissioner, in writing, and the Insurance Commissioner upon receipt of said notice shall thereupon assign said application to one of the insurance companies handling such insurance and doing business in this State. Such insurance company shall promptly issue a policy at the rate then prevailing for such policies, adding an automatic surcharge of 10 percent over and above such rate then in force and effect, for similar policies of insurance. Surcharges of 50 percent and 25 percent shall be added to the then prevailing rate for such policies under the following circumstances:

(1) Fifty percent surcharge - If the certificate is required for a conviction of:

- a. Driving a motor vehicle while intoxicated; or
- b. Failing to stop and report when involved in an accident; or
- c. Homicide or assault arising out of the operation of a motor vehicle.

(2) Twenty-five percent surcharge - If the certificate is required for a conviction of:

a. Driving a motor vehicle at an excessive rate of speed where an injury to person or damage to property actually results therefrom; or

b. Driving a motor vehicle in a reckless manner where an injury to person or damage to property actually results therefrom.

(b) All such assignments may carry an expense charge of 5 percent.

(c) The surcharge specified in this section shall be limited for 3 years. The Insurance Commissioner shall notify the Secretary of Public Safety of such assignments and the rate at which such assignments are made and the registration shall then be issued.

\$2906. Notice of cancellation or termination of insurance policy

(a) Any insurance company may cancel any motor vehicle liability policy or bond, except such risks as may be assigned to it as provided in \$2905 of this title, for any reason it may deem proper. Such insurance company shall refund to its insured the unearned portion of the premium paid by the insured.

(b) Any insurance company may cancel any motor vehicle liability policy or bond issued to any person under the provisions of \$2905 of this chapter by giving 30 days notice thereof to the Secretary of Public Safety provided the insured:

(1) Is not licensed to operate a motor vehicle under the laws of this State; or

(2) Is affected with mental or physical infirmities or disabilities rendering it unsafe for him to operate a motor vehicle upon the highways; or

(3) Is, in the opinion of the Secretary of Public Safety, an habitually reckless or negligent driver of a motor vehicle; or

(4) Is an habitual drunkard; or

(5) Is addicted to the use of narcotic drugs; or

(6) Is engaged in an unlawful or illegal occupation; or

(7) Has refused or failed to pay the premiums due on such motor vehicle policy or bond; or

(8) Has refused or failed to cooperate with the insurance company as stated in such insurance policy or bond.

\$2907. Proof of coverage; jurisdiction

(a) Every insurance company authorized to transact the

business of motor vehicle liability insurance in this State shall file with the Insurance Commissioner as a condition of continued transaction of such business with this State a form approved by the Insurance Commissioner stating that its motor vehicle liability policies issued in this State provide the insurance required by this section when the vehicle is operated in this State. A non-admitted insurer may file such a form.

(1) A motor vehicle registration shall not be issued or renewed for any vehicle not covered by a vehicle insurance policy meeting the requirements of this title.

(2) The Division of Motor Vehicles upon proof from its records or other sufficient evidence that the required insurance has not been provided or maintained for a motor vehicle shall immediately suspend the registration of such vehicle.

(3) Immediately upon notice of suspension of the registration of the vehicle, the owner shall return the registration certificate to the Division of Motor Vehicles. Notice is complete upon the expiration of 4 days after deposit of such notice in the United States mail. No person shall possess or display a registration certificate that has been suspended.

(4) Any person whose vehicle's registration has been suspended under this section shall pay a fee of \$15 at the end of such suspension for the return of the registration certificate.

(5) The Director of the Division of Motor Vehicles may adopt such rules and regulations, not inconsistent with this title, as are necessary to enforce the provisions of this section.

(b) Whoever violates this section shall be fined not less than \$25 nor more than \$100.

(c) The Justice of the Peace Courts shall have original jurisdiction of any violation of this section.

#### §2910. Administration and enforcement

The Secretary of Public Safety shall administer and enforce this chapter. The State Police shall assist the Secretary in enforcing this chapter.

#### §2911. Availability of other remedies

Nothing in this chapter shall prevent the plaintiff in any action at law from relying for relief upon the other processes provided by law.

#### §2912. Rights of bona fide transferees and lienors unaffected

This chapter shall not prevent the owner of a motor vehicle,

the registration of which has been suspended hereunder, from effecting a bona fide sale of such motor vehicle to another person whose rights or privileges are not suspended under this chapter or prevent the registration of such motor vehicle by such transferee. This chapter shall not in any way affect the rights of any conditional vendor, chattel mortgagee or lessor of a motor vehicle registered in the name of another as owner who becomes subject to this chapter.

**\$2913. Construction with other laws**

This chapter shall in no respect be considered as a repeal of the state motor vehicle laws but shall be construed as supplemental thereto.

**\$2914. Uniformity of interpretation**

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it."

Section 6. Amend Chapter 29, Part II, Title 21, Delaware Code, by adding a new section thereto to be designated as §2944 and to read as follows:

**"§2944. Satisfaction of judgments**

The judgments referred to in this subchapter shall, for the purposes of this chapter only, be deemed satisfied:

(1) When \$10,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of 1 person as the result of any 1 accident; or

(2) When, subject to such limit of \$10,000 because of bodily injury to or death of 1 person, the sum of \$20,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of 2 or more persons as the result of any 1 accident; or

(3) When \$5,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any 1 accident.

Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section."

Section 7. Amend §6102 (a), Chapter 21, Title 21, Delaware Code, by striking the figures "5,000", "10,000", and "1,000" as the same appear in lines 8, 9, and 11 respectively and inserting in lieu thereof the figures "10,000", "20,000" and "5,000" respectively.

Approved May 19, 1978.



## CHAPTER 293

## FORMERLY HOUSE BILL NO. 754

AN ACT TO AMEND AN ACT ENTITLED "AN ACT CHANGING THE CORPORATE NAME OF THE COMMISSIONERS OF WYOMING TO THE TOWN OF WYOMING AND ESTABLISHING A CHARTER THEREFOR," BEING CHAPTER 189, VOLUME 43, LAWS OF DELAWARE, AS AMENDED, BY INCREASING THE AMOUNT OF MONEY WHICH MAY BE USED EACH YEAR IN TAXES.

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 189, Volume 43, Laws of Delaware, as amended, by striking the figure "\$20,000" as the same appears in paragraph 13 of Section 15 of said Chapter and inserting in lieu thereof the figure "\$35,000".

Approved May 23, 1978.

CHAPTER 294

FORMERLY SENATE BILL NO. 484

AN ACT TO PERMIT THE STATE BOARD OF EDUCATION TO ADJUST THE ALLOCATION PROVIDED IN THE BUDGET ACT (HOUSE BILL 300 OF THE 129TH GENERAL ASSEMBLY) FOR NONPUBLIC SCHOOL TRANSPORTATION FOR FISCAL YEAR 1978 USING EXISTING FUNDS FROM THE PUBLIC SCHOOL TRANSPORTATION CONTINGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The State Board of Education is authorized to adjust the nonpublic school transportation allocation for the fiscal year ending June 30, 1978, by using the sum of one hundred ninety-three thousand dollars (\$193,000.00) from funds allocated to the public school transportation contingency.

Approved May 23, 1978.

## CHAPTER 295

## FORMERLY SENATE BILL NO. 596

AN ACT TO PERMIT THE CAPITAL SCHOOL DISTRICT TO TRANSFER CERTAIN FUNDS FROM ITS DEBT SERVICE ACCOUNT TO ITS OPERATING ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Board of Education of the Capital School District is authorized to transfer the sum of \$80,000 from its Debt Service Account to its Operating Account. The sum herein transferred shall be used for site improvements and renovations at the Central Middle School and William Henry Middle School.

Section 2. Any funds transferred as provided herein and not expended for the purposes herein specified shall be redeposited in the Debt Service Account.

Approved May 26, 1978.

## CHAPTER 296

## FORMERLY SENATE BILL NO. 487

AN ACT TO AMEND VOLUME 60, CHAPTER 691, LAWS OF DELAWARE, KNOWN AS  
THE CAPITAL IMPROVEMENTS ACT OF 1977.

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. (a) Amend Section 8, Chapter 691, Volume 60, Laws of  
Delaware, by striking subsection (d)(4) in its entirety as it appears  
in said Section 8 and substituting in lieu thereof the following:

"(d)(4) Miscellaneous Small Projects                    \$577,000"

(b) Of the amount originally authorized in said Section 8 (d)(4),  
authority to issue an additional \$30,000 in bonds is granted. The  
\$30,000 in additional bonds referred to in this subsection is shown as  
appropriated to the Department of Highways and Transportation in said  
Chapter 691, Volume 60, Laws of Delaware. The \$30,000 in bonds is for  
additional work on the Concord Pond Dam.

Section 2. Recalculate all totals and sub-totals affected by this  
Act.

Approved May 30, 1978.

## CHAPTER 297

## FORMERLY HOUSE BILL NO. 839

AN ACT TO AMEND SECTION 1903, CHAPTER 19, TITLE 30, DELAWARE CODE,  
RELATING TO THE COMPUTATION OF TAXABLE INCOME FOR PURPOSES OF THE  
CORPORATION INCOME TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 1903 (a), Title 30, Delaware Code, relating to the computation of taxable income, by adding to the end thereof a new paragraph six to read as follows:

"(6) an amount equal to the portion of the wages paid or incurred for the taxable year which is disallowed as a deduction for Federal purposes under Section 280 C, I.R.C., relating to the portion of wages for which the new jobs tax credit is claimed."

Section 2. Effective Date. This amendment shall apply to taxable years ending on or after December 31, 1977.

Approved June 1, 1978.

## CHAPTER 298

## FORMERLY HOUSE BILL NO. 840

AN ACT TO AMEND SECTION 1106, CHAPTER 11, TITLE 30, DELAWARE CODE,  
RELATING TO MODIFICATIONS TO FEDERAL ADJUSTED GROSS INCOME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 1106 (b), Chapter 11, Title 30, Delaware Code, relating to subtractions from Federal adjusted gross income, by adding to the end thereof a new paragraph (5) to read as follows:

"(5) an amount equal to the portion of the wages paid or incurred for the taxable year which is disallowed as a deduction for Federal tax purposes under Section 280 C, I.R.C., relating to portion of wages for which the new jobs tax credit is claimed."

Section 2. Effective Date. This amendment shall apply to taxable years ending on or after December 31, 1977.

Approved June 1, 1978.

## CHAPTER 299

FORMERLY HOUSE BILL NO. 701

AS AMENDED BY

HOUSE AMENDMENT NO. 1

&amp;

HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, TITLE 7, DELAWARE CODE, RELATING TO THE USE OF SNOWMOBILES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §4701, Chapter 47, Title 7, Delaware Code, by adding a new subparagraph (11) as follows:

"(11) The authority of the Department shall extend to the use of snowmobiles operated on property under the jurisdiction of the Department. For the purpose of this Act a 'snowmobile' means (1) a motor vehicle designed to travel over ice or snow supported in whole or in part by skis, belts, or cleats, or (2) an engine-driven vehicle of a type which uses sled-type runners or skis or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated. The term does not include any farm tractor, highway or other construction equipment or any military or law-enforcement vehicle. For the registration of a snowmobile the fee shall be \$10 for two years and first registration shall be required before November 1 after the bill is approved by the Governor. All the fees collected under the authority of this section shall be deposited in the General Fund of this State and designated solely for snowmobile trail construction, maintenance and administration."

Section 2. This bill will become law with the approval of the Governor.

Approved June 1, 1978.

CHAPTER 300

FORMERLY HOUSE BILL NO. 736  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 52, TITLE 30, DELAWARE CODE RELATING TO THE  
DEFINITION OF MOTOR VEHICLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 5202 (3), Title 30, of the Delaware  
Code by adding after the word "fuel" in the last line thereof the fol-  
lowing sentence:

"The number of axles pertaining to a truck, for purposes of this  
Chapter, shall be only those axles pertaining to the single-unit  
vehicle propelled by motor fuel irrespective of the number of  
axles pertaining to any trailer or trailing unit."

Approved June 1, 1978.

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## CHAPTER 301

## FORMERLY HOUSE BILL NO. 737

AN ACT TO AMEND CHAPTER 69, TITLE 16, DELAWARE CODE RELATING TO  
PUBLIC DISPLAY OF FIREWORKS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §6903(a), Chapter 69, Title 16, Delaware Code, by striking the words "Department of Public Safety" as they appear in said subsection (a) and inserting in lieu thereof the words "Office of the State Fire Marshal".

Section 2. Amend §6903(d), Chapter 69, Title 16, Delaware Code, by striking the words "Secretary of the Department of Public Safety" as they appear in the first sentence of said subsection (d) and inserting in lieu thereof the words "State Fire Marshal".

Section 3. Amend §6903(d), Chapter 69, Title 16, Delaware Code, by striking the word "Secretary" as it appears in the last sentence of said subsection and inserting in lieu thereof the words "State Fire Marshal".

Section 4. Amend §6904, Title 16, Delaware Code, by striking the words "Department of Public Safety" as they appear in said section and inserting in lieu thereof the words "State Fire Marshal".

Approved June 1, 1978.

## CHAPTER 302

## FORMERLY HOUSE BILL NO. 776

AN ACT AUTHORIZING THE PUBLIC SERVICE COMMISSION TO EXPEND FUNDS FROM THE PUBLIC SERVICE COMMISSION REGULATORY REVOLVING FUND TO EMPLOY CONSULTANTS TO PERFORM A MANAGEMENT AUDIT.

WHEREAS, the Public Utilities Act of 1974, enacted June 28, 1974, provides for the funding of the operations of the Public Service Commission from a Regulatory Revolving Fund which is funded by assessments against regulated public utilities; and

WHEREAS, such assessments are required by law to be paid into said fund on or before the first day of April in each year or within thirty days after the determination of any special assessment; and

WHEREAS, the Regulatory Revolving Fund is to be used by the Public Service Commission in the performance of its various functions and duties as provided by law; subject always to annual appropriations by the General Assembly for salaries and other routine operating expenses of the Commission; and

WHEREAS, the Public Service Commission requires additional funds to initially pay for the Management Audit directed to be performed on Delmarva Power and Light Company the costs of which will subsequently be assessed back to the utility and deposited in the Regulatory Revolving Fund.

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 \$120,000 in addition to those funds authorized in the approved Budget for its operations to June 30, 1978, 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 the line item as follows:

30-11-000 Public Service Commission

<u>Category</u>	<u>Amount</u>
Personal Services:	
(1) Management Audit - Consultant	
Services	\$120,000

(1) The \$120,000 figure represents half of the contractual cost of the Management Audit. The balance is anticipated to be billed and paid in Fiscal Year 1979.

Approved June 1, 1978.

CHAPTER 303

FORMERLY HOUSE BILL NO. 809

AN ACT TO AMEND CHAPTER 21, TITLE 23, DELAWARE CODE, RELATING TO  
NONSTATE AGENCY LOCATIONS FOR THE REGISTRATION OF MOTORBOATS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §2113, Chapter 21, Title 23, Delaware Code  
by striking the last sentence in subparagraph (d) and inserting  
in lieu thereof the following:

"Nonstate agency locations for the registration of  
motorboats shall not exceed 3 for each county, except that  
4 shall be permitted in Sussex County, one of which shall  
be located on the westerly side of the county."

Approved June 1, 1978.

## CHAPTER 304

FORMERLY HOUSE BILL NO. 845  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 4 AND 5

AN ACT TO AMEND CHAPTER 1, TITLE 14, DELAWARE CODE, BY PROVIDING FOR A STATEWIDE EDUCATIONAL TESTING PROGRAM IN THE PUBLIC ELEMENTARY AND SECONDARY SCHOOLS AND MAKING A SUPPLEMENTAL APPROPRIATIONS THEREFOR.

WHEREAS, the State Legislature presently provides approximately sixty-eight (68) percent of the educational costs for public elementary and secondary schools; and

WHEREAS, the State Legislature has need of objective data on which to base decisions concerning the financing of public education; and

WHEREAS, legislators, parents and taxpayers should annually be kept informed of the educational status of our public schools; and

WHEREAS, the Governor's Commission on the Future of Education in Delaware in the report of January, 1978, has recommended that a statewide testing program be conducted for all grades; and

WHEREAS, the State Board of Education has initiated planning for establishing a performance-based educational program; and

WHEREAS, the current (1977-78) statewide testing program of the State Board of Education is limited to three grade levels; and

WHEREAS, local school district teachers and administrators require testing information to assist them in providing relevant and effective educational programs for Delaware pupils.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Delaware Code, Title 14, §122(b), by adding a new paragraph (17) as follows:

"(17) To establish and maintain, with consultation from representatives of local districts, an annual statewide educational testing program to assess progress toward meeting the Educational Goals and Objectives of Delaware public elementary and secondary schools. Such testing shall include,

but need not be limited to, annually administered, nationally normed, standardized achievement tests for all regular pupils in Grades 1 through 8, and grade 11, in such basic skill competency areas as reading, language arts and mathematics. The educational testing program shall begin in the Fall of 1978 and be conducted annually on a statewide basis for a period of at least ten years. Tests are to be selected, administered, and analyzed with results presented in such a way as to insure that comparisons can be made from year to year without use of procedures for handicapping, weighting, or adjusting.

Composite results of the statewide testing program administered under the provisions of this section shall be presented to the Delaware General Assembly by the State Superintendent of Public Instruction on or before December 31 each year. Reports will include, but need not be limited to, test results categorized by school, district and statewide levels; results will also be presented by grade level tested, together with applicable interpretive information as determined essential by the State Superintendent of Public Instruction. The State Superintendent's report shall also contain a narrative report from each school district regarding the analysis of local district scores and district plans to remedy weaknesses identified.

A reporting system shall be provided so that the parents of each child will receive written indication of the child's achievement scores in the tests administered."

Section 2. Beginning with the State budget for the fiscal year ending June 30, 1980, the State Board of Education shall annually include in its budget an amount appropriate for the support of the contracted services, materials and the supervisor and specialist necessary to carry out the testing program herein described.

Section 3. The provisions of this Act shall become effective on July 1, 1978.

Approved June 5, 1978.

## CHAPTER 305

## FORMERLY HOUSE BILL NO. 474

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF INSTALLING TRAFFIC SIGNAL CONTROL EQUIPMENT AT THE ROXANA VOLUNTEER FIRE COMPANY, ROXANA, DELAWARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$10,000 is hereby appropriated to the Department of Transportation for the purpose of installing traffic signal control equipment at the Roxana Volunteer Fire Company, Roxana, Delaware.

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 herein appropriated remaining unexpended on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved June 5, 1978.

## CHAPTER 306

## FORMERLY SENATE BILL NO. 415

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES FOR PAYMENT OF BACK SALARY OF AN EMPLOYEE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$229 is hereby appropriated to the Department of Administrative Services for the purpose of paying back salary to Thomas W. Murray, Jr., and to be broken down as follows:

Salaries and Wages	\$194
F.I.C.A.	12
Pension	23
TOTAL	<u>\$229</u>

Section 2. This is a supplemental appropriation for fiscal year ending June 30, 1978, and funds hereby appropriated shall be paid from the General Fund of the State of Delaware from monies not otherwise appropriated.

Section 3. Any funds appropriated herein remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund.

Approved June 5, 1978.



## CHAPTER 307

## FORMERLY SENATE BILL NO. 367

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE OFFICE OF THE STATE BANKING COMMISSIONER FOR PAYMENT OF BACK SALARY OF AN EMPLOYEE.

WHEREAS, Richard N. Thompson was dismissed by the previous Bank Commissioner in December, 1975, for cause; and

WHEREAS, Richard N. Thompson successfully appealed his case to the State Personnel Commission; and

WHEREAS, the State Personnel Commission ordered Richard N. Thompson reinstated with the application of a fine, suspension and a demotion; and

WHEREAS, it now is necessary to pay Richard N. Thompson for the period from December 6, 1975 through June 30, 1977, as per the order of the State Personnel Commission.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$14,397.76 is hereby appropriated to the Division of State Banking Commissioner (30-15-000) for the purpose of paying back salary to Richard N. Thompson and to be broken down as follows:

Salaries and Wages	\$12,290.03
F.I.C.A.	718.96
Pension	1,388.77

Section 2. This is a supplemental appropriation for fiscal year ending June 30, 1978, and funds hereby appropriated shall be paid from the General Fund of the State of Delaware from monies not otherwise appropriated.

Section 3. Any funds appropriated herein remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund.

Approved June 5, 1978.

CHAPTER 308

FORMERLY HOUSE BILL NO. 775

AN ACT MAKING AN APPROPRIATION TO THE DELAWARE SPORTS HALL OF FAME ASSOCIATION, INC.

WHEREAS, the Delaware Sports Hall of Fame Association, Inc., was organized in 1976 by the Sports Committee of the Delaware American Revolution Bicentennial Commission; and

WHEREAS, the Association is a non-profit corporation founded and acting to perpetuate the memory of athletes who have brought lasting fame and recognition to the State of Delaware through their athletic achievements; or to supervisors who have served athletics in the State with dedication.

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 \$2,500 is hereby appropriated to the Delaware Sports Hall of Fame Association, Inc.

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.

Section 3. Any funds remaining unexpended as of June 30, 1978 shall revert to the General Fund of the State of Delaware.

Approved June 5, 1978.

## CHAPTER 309 .

FORMERLY SENATE BILL NO. 453  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DIVISION OF FISH AND WILDLIFE OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL FOR THE PURPOSE OF INSTALLING THREE SECURITY LIGHTS AT THE CEDAR CREEK PUBLIC BOAT RAMP LOCATED ON THE EAST SIDE OF COUNTY ROAD 203 BETWEEN SLAUGHTER'S BEACH AND THE MISPELLION LIGHT HOUSE.

WHEREAS, the Cedar Creek Public Boat Ramp located on the east side of county road 203 between Slaughter's Beach and the Mispillion Light House is a congested area during the summer months; and

WHEREAS, it is most difficult for boaters and fishermen to load and unload at the ramp in the absence of no lights, with the exception of those furnished by motor vehicles; and

WHEREAS, many times rescue operations by the Memorial Fire Company are hampered because of no lights at the ramp.

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The sum of \$1,500.00 is hereby appropriated to the Division of Fish and Wildlife of the Department of Natural Resources and Environmental Control for the purpose of installing three (3) security lights at the Cedar Creek Public Boat Ramp.

Section 2. This Act is a supplementary appropriation for fiscal 1978, and the money herein 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 remaining unexpended or unencumbered on June 30, 1978 shall revert to the General Fund of the State of Delaware.

Approved June 5, 1978.

CHAPTER 310

FORMERLY HOUSE BILL NO. 264

AN ACT TO AMEND CHAPTER II, TITLE 30, DELAWARE CODE RELATING TO  
EXTENSION OF TIME FOR FILING A STATE PERSONAL INCOME TAX  
RETURN OR OTHER REQUIRED DOCUMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §1171, Chapter II, Title 30 of the Delaware  
Code by striking subsection (a) of said section in its entirety  
and by substituting in lieu thereof a new subsection (a) to read  
as follows:

"(a) The State Tax Commissioner may grant a reasonable  
extension of time for payment of income tax or estimated tax,  
or any installment thereof, or for filing any return, declara-  
tion, statement or other document required, on such terms  
and conditions as he may require."

Approved June 6, 1978.

## CHAPTER 311

FORMERLY HOUSE BILL NO. 808

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE FISCAL YEAR ENDING JUNE 30, 1978, TO CONSTRUCT AND STAFF INMATE HOUSING AT SUSSEX CORRECTIONAL INSTITUTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. The sum of Three Hundred Thousand Dollars (\$300,000) is hereby appropriated to the Department of Correction for the purposes and in the amounts set out below:

(38-00-000) DEPARTMENT OF CORRECTION

(38-08-004) Sussex Correctional Center

Salaries & Wages of Employees (10)	\$ 6,650
Salaries - Overtime	500
Salaries - Shift Differential	150
Salaries - Hazardous Duty	450
Salaries - Premium Pay	700
F.I.C.A. - Employer's Share	500
Pensions	1,000
Personal Services	
Payments to inmates	150
Contractual Services	2,700
Supplies & Materials	14,700
Capital Outlay	
Construct Prefabricated Building	250,000
Fencing and other necessary improvements	10,000
Other	<u>12,500</u>
Total: Sussex Correctional Center Prefab.	
Bldg.	\$300,000

Section 2. On the effective date of this Act, the following positions shall be included in the General Fund authorization for the indicated agency budget in the Department of Correction for the remainder of the year ending June 30, 1978:

<u>ACCOUNTING CODE</u>	<u>AGENCY/TITLE OF POSITIONS</u>	
38-08-004	Lieutenant	1
	Correctional Officer Trainee	7
	Correctional Officer Cook	1
	Clerk-Steno	1

Section 3. This Act is a supplemental appropriation and the

monies hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund not otherwise appropriated. Any funds hereby appropriated and remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved June 6, 1978.

## CHAPTER 312

## FORMERLY HOUSE BILL NO. 811

AN ACT TO AMEND CHAPTER 29, TITLE 30, DELAWARE CODE, RELATING TO  
RETAIL AND WHOLESALE MERCHANTS' LICENSE FEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend §2908, Chapter 29, Title 30, Delaware Code,  
by adding a new subsection (i) thereto to read as follows:

"(i) Any person 65 years of age or older whose gross  
receipts are less than \$5,000 per year shall pay one fourth  
of the annual license fee specified in this chapter."

Approved June 6, 1978.





**END  
OF  
VOLUME**