



**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 II**  
**VOLUME LXI**



CHAPTER 313

FORMERLY HOUSE BILL NO. 870

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION TO THE BLADES  
VOLUNTEER FIRE COMPANY FOR THE OPERATION AND MAINTENANCE  
OF ITS NEW RESCUE TRUCK.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE (Three-fourths of members elected to each House  
concurring):

Section 1. There is appropriated to the Blades Volunteer  
Fire Company the sum of \$1,250 to be used for the maintenance  
and operation of a rescue truck in the public service.

Section 2. This is a supplementary appropriation for the  
Fiscal Year ending June 30, 1978, and the monies appropriated  
shall be paid by the State Treasurer out of monies in the  
General Fund not otherwise appropriated.

Approved June 6, 1978.

## CHAPTER 314

FORMERLY HOUSE BILL NO. 271  
AS AMENDED BY  
SENATE AMENDMENT NOS. 3 AND 5

AN ACT TO AMEND CHAPTER 41, TITLE 21, DELAWARE CODE RELATING TO  
OPERATING OR RIDING ON MOTORCYCLES.

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

Section 1. Amend §4185, Title 21, Delaware Code, by striking  
subsection (b) and by inserting in lieu thereof the following:

"(b) Every person operating or riding on a motorcycle  
shall have in his possession a safety helmet approved by the  
Secretary of Public Safety and shall wear eye protection  
approved by the said Secretary; provided, however, that  
every person operating or riding on a motorcycle up to 19  
years of age shall wear a safety helmet and eye protection  
approved by the Secretary of Public Safety."

Approved June 10, 1978.

CHAPTER 315

FORMERLY SENATE BILL NO. 90

AN ACT TO AMEND CHAPTER 60, TITLE 7 OF THE DELAWARE CODE RELATING  
TO THE DIVISION OF ENVIRONMENTAL CONTROL.

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 §6002 (16), Chapter 60, Title 7 of the  
Delaware Code by inserting after the word and comma "dirt," and  
before the word "and" the following:

"hydrocarbons, oil, and product chemicals,".

Approved June 12, 1978.

## CHAPTER 316

## FORMERLY SENATE BILL NO. 137

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO SATISFY A SETTLEMENT AGREEMENT ENTERED INTO BETWEEN THE STATE OF DELAWARE AND MANUFACTURERS' LEASE PLANS, INC., A PENNSYLVANIA CORPORATION, IN CONNECTION WITH THE CLAIM OF MANUFACTURERS' LEASE PLANS, INC., FOR CERTAIN SERVICES RENDERED TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES FOR SERVICES UNDER A WRITTEN CONTRACT.

WHEREAS, a lawsuit was filed in the Superior Court of the State of Delaware in and for New Castle County by Manufacturers' Lease Plans, Inc., alleging breach of contract by the State of Delaware and the Department of Administrative Services; and

WHEREAS, the plaintiff alleged that the sum of approximately eight thousand eight hundred fifty dollars (\$8,850) was due and owing from the State of Delaware, Department of Administrative Services, for payment under said contract; and

WHEREAS, a Settlement Agreement was reached between the plaintiff through its attorney, Killoran & Van Brunt, and the State of Delaware, whereby the defendants agreed, for settlement purposes, to pay to plaintiff the sum of six thousand six hundred thirty-seven and 50/100 dollars (\$6,637.50).

NOW, THEREFORE:

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

Section 1. There is hereby appropriated the sum of \$6,637.50 to satisfy the Settlement Agreement entered into by means of Stipulation between the State of Delaware and Killoran & Van Brunt, attorney for plaintiff, in connection with Civil Action No. 694, 1975, in the Superior Court of the State of Delaware in and for New Castle County. Said funds shall be appropriated to J. R. Julian on behalf of Killoran & Van Brunt to be disbursed in accordance with the Settlement Agreement.

Section 2. No funds shall be disbursed to Manufacturers' Lease Plans, Inc., until a signed release is obtained from said corporation discharging the State of Delaware and the Department of Administrative Services from any and all liability in connection with the subject matter of the litigation in Civil Action No. 694, 1975, in the Superior Court of the State of Delaware in and for New Castle County. The sum appropriated hereunder shall be in full and complete payment of any claim that Manufacturers' Lease Plans, Inc., had against the State of

Delaware or the Department of Administrative Services and which was alleged in the pleadings of Civil Action No. 694, 1975.

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. This Act shall not be construed to obligate the State of Delaware to any individual or corporation 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 12, 1978.

## CHAPTER 317

FORMERLY HOUSE BILL NO. 778

AS AMENDED BY

HOUSE AMENDMENT NO. 2

AN ACT MAKING SUPPLEMENTARY APPROPRIATIONS TO THE DEPARTMENTS OF ELECTION FOR NEW CASTLE COUNTY AND KENT COUNTY TO BE USED FOR THE PURCHASE OF VOTING MACHINES.

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

Section 1. The sums of \$43,200 and \$9,600 are hereby appropriated to the Departments of Election for New Castle County and Kent County, respectively, for the purchase of voting machines by each Department.

Section 2. All voting machines purchased with funds appropriated by this bill shall meet the requirement set forth in Title 15, Section 5001, Delaware Code.

Section 3. This Act is a supplemental appropriation for Fiscal 1978 to be paid by the State Treasurer out of funds not otherwise appropriated; and any funds herein appropriated and remaining unexpended or unencumbered on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved June 12, 1978.

CHAPTER 318

FORMERLY HOUSE BILL NO. 835  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 21, DELAWARE CODE RELATING TO  
PASSENGERS RIDING IN TOWED VEHICLES.

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

Section 1. Amend Section 4191, Title 21 of the Delaware Code  
by adding thereto a new subsection (d) as follows:

"(d) The provisions of this section shall not apply to:

(1) vehicles in a parade when the vehicles are  
drawn or towed at a speed of less than 20 miles per  
hour;

(2) Trailers which have been designed or modified  
to carry passengers for sightseeing or public trans-  
portation purposes provided that such activity complies  
with the requirements of the Transportation Authority  
as provided in Chapter 18, Title 2 of the Delaware  
Code."

Approved June 12, 1978.

## CHAPTER 319

## FORMERLY SENATE BILL NO. 578

AN ACT TO AMEND CHAPTER 32, TITLE 29 OF THE DELAWARE CODE DISSOLVING THE DELAWARE AMERICAN REVOLUTION BICENTENNIAL COMMISSION AND CREATING A NEW DELAWARE HERITAGE COMMISSION.

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

Section 1. Chapter 32, Title 29 of the Delaware Code is hereby repealed.

Section 2. Amend Title 29 of the Delaware Code by adding a new Chapter 32 thereto to read as follows:

"CHAPTER 32. DELAWARE HERITAGE COMMISSION

§3201. Creation and membership; termination

(a) There is created the Delaware Heritage Commission composed of 9 citizens of the State appointed by the Governor to serve at his pleasure, 1 of whom shall be designated by the Governor as Chairman of the Commission.

(b) Members of the Commission shall serve without compensation except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Commission.

(c) The Commission may appoint members of a Heritage Resources Committee to assist the Commission in its work. The Division of Historical and Cultural Affairs of the Department of State and the Department of Public Instruction may be represented by ex-officio, non-voting members, and the Commission is authorized to enter into ex-officio non-voting representation from other agencies of government and from nonprofit organizations as the Commission may deem appropriate.

(d) The Commission shall cease to exist on December 31, 1990.

§3202. Executive Director; other personnel; exemptions from Merit System

(a) The Commission may engage an Executive Director to devote his full time to the work of the Commission, and the Commission may employ such additional full-time or part-time personnel as are required for the work of the Commission at such compensation as shall be set by the Commission.

(b) The Executive Director and such other personnel as may be employed by the Commission shall be exempt from the merit system as set forth in Chapter 59 of this title and shall be subject to removal, with or without cause, by the Chairman of the Commission.

§3203. Powers and duties

(a) The Commission shall plan, encourage, develop, coordinate, and implement observances and activities pertaining to (1) the achievement in Delaware of liberty and independence through a constitutional government, and (2) the significant historical events that occurred in Delaware or involved Delaware citizens during the years preceding and following the ratification and adoption of the Constitution of the United States.

(b) In carrying out its duties, the Commission shall consider any related plans and programs developed by national organizations, the organizations of other States, local and private groups, and the Commission may designate representatives to serve on special committees, organizations, non-profit organizations or other entities with representatives from such bodies to plan, develop, and coordinate specific activities.

(c) In all planning, the Commission shall give emphasis to the ideas associated with the American Revolution and the achievement of independence by the United States which have been important to the development of the United States in world affairs and in mankind's quest for freedom and justice.

(d) The Commission may make and enter into any and all contracts, agreements or stipulations and retain, employ and contract for the services of private and public consultants, research and technical personnel and procure by contract, consulting, research, technical and other services and facilities, whenever the same shall be deemed by the Chairman of the Commission necessary or desirable in the performance of the functions of the Commission and whenever funds shall be available for such purpose.

(e) The Commission shall have the authority to organize a nonprofit corporation to assist the Commission in the formulation and execution of its plans; to solicit and receive subscriptions, donations and other funds from public and private sources for organizing and carrying on the undertaking; to negotiate with public or private organizations or persons on terms for approval or endorsement of commission-related programs or projects; to acquire and hold by gift or otherwise, real and other property with full right to convey or dispose of the same in such manner and upon such terms as

the corporation may determine, either absolutely or upon condition; to contract with and employ consultants or other agents; to adopt or enforce such bylaws, rules and regulations as the corporation may, from time to time, deem advisable.

(f) The Commission shall, no later than December 31st of each year, submit to the Governor and to the General Assembly an annual report of the Commission's activities and recommendations. Such activities and recommendations may include but are not limited to:

(1) The production, publication and distribution of books, pamphlets, films and other educational materials on the history, culture and political thought of this Nation and State;

(2) Bibliographical and documentary projects and publications;

(3) Conferences, convocations, lectures, seminars and other programs;

(4) The development of permanent memorials and exhibits, including mobile exhibits;

(5) Ceremonies and celebrations commemorating specific events;

(6) Programs and activities on the local, national and international significance of the American Democracy and its implications for present and future generations; and

(7) The issuance of commemorative medals, seals, automotive license plates and certificates of recognition.

(g) The report of the Commission shall include recommendations for the allocation of financial and administrative responsibility among the public and private authorities and organizations recommended for participation by the Commission. The report shall also include proposals for legislation and administrative action the Commission considers necessary to carry out its recommendations.

#### §3204. Cooperation

(a) In fulfilling its responsibilities the Commission shall consult, cooperate with and seek advice from appropriate state departments and agencies, local public bodies, learned societies and historical, patriotic, philanthropic, civic, professional and related organizations. Heads of state departments and agencies shall cooperate with the

Commission in planning, encouraging, developing and coordinating appropriate commemorative activities.

(b) The Commission shall determine if there are sites within the State which are appropriate for preservation or development in order to assure that fitting observances and exhibits may be held.

(c) The officials of each state-supported school, college or university shall cooperate with the Commission, especially in the encouragement and coordination of scholarly works and presentations on the history, culture and political thought of this Nation and State.

§3205. Donations; preservation of acquisitions; expenditures

(a) The Commission may accept donations of money, property or personal services.

(b) Property acquired by the Commission may be deposited for preservation with the Secretary of State.

(c) All money donated to the Commission or received in furtherance of contracts hereunder shall be deposited with the Secretary of Finance and shall be appropriated to the Commission. All expenditures of the Commission shall be by warrant of the Secretary of Finance on vouchers of the Chairman of the Commission or his designee."

Section 3. Those persons serving as members of the Delaware American Revolution Bicentennial Commission at the time that this Act becomes effective shall be deemed to be members of the Commission created by this Act.

Section 4. The property of the Delaware American Revolution Bicentennial Commission at the time that this Act becomes effective shall be the property of the Delaware Heritage Commission created by this Act. The property of the nonprofit corporation organized by the Delaware American Revolution Bicentennial Commission prior to the time that this Act becomes effective shall remain the property of that nonprofit corporation or its successor, unless the Delaware Heritage Commission provides otherwise.

Approved June 8, 1978.

## CHAPTER 320

FORMERLY HOUSE BILL NO. 302  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR  
VEHICLE INSURANCE; AND PROVIDING FOR A DEFINITION OF  
INJURED PERSON.

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

Section 1. Amend §2118(a) (2) a. , Chapter 21, Part II,  
Title 21 of the Delaware Code by adding thereto a new paragraph  
to be designated as (5) and to read as follows:

"(5) 'injured person' for purposes of this section  
shall include the personal representative of an estate;  
provided, however, that if a death occurs, the 'net amount  
of lost earnings' shall include only that sum attributable  
to the period prior to the death of the person so injured."

Approved June 13, 1978.

CHAPTER 321

FORMERLY HOUSE BILL NO. 757

AN ACT TO AMEND CHAPTER 85, TITLE 11, DELAWARE CODE, RELATING TO  
INFORMATION SUPPLIED BY PEACE OFFICERS TO THE STATE BUREAU  
OF IDENTIFICATION.

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

Section 1. Amend §8503, Chapter 85, Title 11, Delaware Code  
by striking all of subsection "h" of subparagraph "(1)".

Approved June 13, 1978.

## CHAPTER 322

## FORMERLY HOUSE BILL NO. 781

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE LAUREL SCHOOL DISTRICT TO REIMBURSE THE DISTRICT FOR FUNDS PAID THE DIVISION OF HIGHWAYS FOR THE INSTALLATION OF A TRAFFIC CONTROL DEVICE ON STATE ROUTE 28 AT THE LAUREL ELEMENTARY SCHOOL.

WHEREAS, the Division of Highways of the Department of Transportation has installed a traffic sign and flashing signal at the Laurel Elementary School on State Route 28 to insure greater safety for children walking to school; and

WHEREAS, legislation is now required to reimburse the Laurel School District which has paid the Department of Transportation for the installation out of monies not involving state funds.

NOW, THEREFORE:

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

Section 1. The sum of \$1,795.19 is appropriated to the Laurel School District to reimburse the Laurel School District for the installation by the Division of Highways, Department of Transportation, of a traffic-control device on State Route 28 at the Laurel Elementary School.

Section 2. This Act is a supplementary appropriation for Fiscal 1978 and the appropriation shall be paid by the State Treasurer out of funds not otherwise appropriated.

Section 3. Funds herein appropriated remaining unexpended or unencumbered on June 30, 1978, shall revert to the General Fund.

Approved June 13, 1978.

## CHAPTER 323

FORMERLY SENATE BILL NO. 83  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO MAKE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR BACK PAY FOR AN EMPLOYEE WHO WAS DENIED, IN ERROR, APPOINTMENT ABOVE THE FIRST STEP OF HIS PAY GRADE.

WHEREAS, the PT-1 appointing Willie Parker as Counselor II at Step 3 of pay grade 21 was declared void and a subsequent PT-1 appointing Mr. Parker Counselor II at step 1 of pay grade 21 was approved effective February 16, 1975; and

WHEREAS, on August 12, 1976, the State Personnel Commission declared that voiding the initial appointment at step 3 was in error; and

WHEREAS, Mr. Parker was paid at a lower step of pay grade 21 erroneously for the period from February 16, 1975, to September 30, 1975.

NOW, THEREFORE:

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

Section 1. The sum of \$737.16 is hereby appropriated to the Department of Corrections for the purpose of paying back pay to Willie Parker, the said back pay resulting from an error in approving Mr. Parker's initial appointment.

The sum appropriated shall be for the following:

## 38-13-010 Community Based Service

Salaries and Wages of Employees	\$624.84
F.I.C.A.	36.55
Pension	<u>75.77</u>
TOTAL	\$737.16

Section 2. The sum so appropriated shall be considered a supplemental appropriation and shall be paid by the State Treasurer out of funds of the General Fund of the State of Delaware not otherwise appropriated. Any funds remaining unexpended on June 30, 1978, shall revert to the General Fund.

Approved June 13, 1978.

## CHAPTER 324

FORMERLY SENATE BILL NO. 406  
 AS AMENDED BY  
 SENATE AMENDMENT NO. 1 AND  
 HOUSE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF  
 FINANCE FOR PAYMENT OF CLAIMS RELATING TO "VETERANS' MILITARY  
 PAY" FOR CERTAIN PERSONS.

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

Section 1. The sum of five thousand one hundred eighty-five  
 dollars (\$5,185) is hereby appropriated to the Department of  
 Finance to be used toward payment of bona fide veterans' claims,  
 payable to the following persons:

Paul Williams 1531 Forrester Avenue Sharon Hill, PA 19079	\$300
Carol Anne Eggert 14 S. Shannon Athens, Ohio 45701	105
William G. Mazewski 212 S. Jackson Wilmington, Delaware 19805	85
Eddie Lee Thompson 209 East 24th Street Wilmington, Delaware 19802	75
James Alan Vinson 2314 Walnut Lane Wilmington, Delaware	175
Joseph George Yeager 114 McCann Road Newark, Delaware 19711	130
Stephen Michael Masten 114 Pine Street Seaford, Delaware 19973	300
Branson Custus Redden 802 East 23rd Street Wilmington, Delaware	60

Thomas Page Wolfe 5880 Shetland Court Virginia Beach, VA 23462	225
Robert Collins Rein 1718 Northside Drive, Apt. A-1 Valdosta, GA 31601	225
Gary McCoy Dennis 2807 West Street Wilmington, Delaware	225
Lee Albert Joines 24 Tyne Drive New Castle, Delaware 19720	300
Antonio Hinojosa Padilla 803 Aspen Road New Carlisle, Ohio 45344	300
Virginia Katherine Donovan 75 Henderson Road Newark, Delaware 19711	225
Francis Russell Wheeler 3316 Englewood Road Wilmington, Delaware 19810	300
Walter Clarence Calder, Jr. 23 Yeates Drive New Castle, Delaware 19720	100
Bernard John Szymanski 1710 Maple Street Wilmington, Delaware 19805	90
Peter Doelger Robinson 18 Park Avenue Colchester, Connecticut 06415	300
Darius L. Burton 210 West Street Harrington, Delaware	90
William E. Ward 804 Old Capitol Trail Newark, Delaware 19711	300
Aubrey James Leaber R.D. #5, Box 199F Dover, Delaware 19901	60

Lewis Henry Jackson, Jr. Merchant Street Port Penn, Delaware 19731	300
Thomas Morgan Price 3251 Gahu Avenue Honolulu, Hawaii 96822	225
Edwin Harry Bates 360 E. Biddle Street West Chester, PA 19380	90
Angelo Rogers RD 4, Box 1126 Millsboro, Delaware 19966	300
Keith Jones P. O. Box 331 Lewes, DE 19958	300
TOTAL	\$5,185

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

Section 3. Funds herein appropriated and remaining unexpended or unencumbered on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved June 13, 1978.

CHAPTER 325

FORMERLY SENATE BILL NO. 431

AN ACT TO REIMBURSE RAYMOND W. ANDERSON, FORMER SUPERINTENDENT OF THE DELAWARE CORRECTIONAL CENTER, CERTAIN AMOUNTS PAID BY HIM TO CERTAIN PERSONS KNOWN AS THE "SMYRNA FIVE".

WHEREAS, on May 7, 1973, Lieutenant Earl Pope was attacked and repeatedly stabbed by a group of five inmates; and

WHEREAS, Mr. Anderson, in the performance of his duties as Superintendent and in response to the stabbing attack, ordered the now-known "Smyrna Five" to be placed in segregation in support of his staff and for the future protection of both inmates and staff; and

WHEREAS, on November 2, 1976, Raymond W. Anderson was required to pay the sum of \$1,584.82 to inmates Lester M. Johnson, Ronald Payne, Carl Henry, Thomas LeGrande, and Gary Watson (known as the "Smyrna Five") as the outcome of steps taken by Superintendent Anderson in the course of his employment at the prison, and in response to the stabbing attack on Lieutenant Pope.

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 sum of one thousand five hundred eighty-four dollars and eighty-two cents (\$1,584.82) is hereby awarded to Raymond W. Anderson to reimburse him for the payment he was required to make to the Smyrna Five.

Approved June 13, 1978.

## CHAPTER 326

## FORMERLY SENATE BILL NO. 628

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO PROVIDE FOR LIFEGUARDS AT DEWEY BEACH AND FENWICK ISLAND FOR THE 1978 SUMMER SEASON.

WHEREAS, increasing numbers of vacationers are expected to make use of the beaches at Dewey Beach and Fenwick Island this summer; and

WHEREAS, these beaches are not now protected by lifeguards; and

WHEREAS, providing such lifeguards would serve to protect life and property and make these Delaware Beaches safer and more pleasant for the general public; and

WHEREAS, Sussex County will provide \$18,762 toward the salaries of lifeguards through its summer program.

NOW, THEREFORE:

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

Section 1. The sum of \$13,737 is hereby appropriated to the Department of Natural Resources and Environmental Control, Division of Parks and Recreation for the purposes of providing for lifeguards at Dewey Beach from Collins Street to Dagsworthy Street and the unincorporated section of Fenwick Island from the Maryland line to Atlantic Street for the period June 17, 1978 through September 4, 1978, and the Department is hereby directed to provide such lifeguards subject to the provisions of this section.

Section 2. This is a supplementary appropriation and the monies herein appropriated shall be paid from the General Fund of the State of Delaware out of funds not otherwise appropriated.

Section 3. Funds appropriated herein remaining unexpended on September 30, 1978 shall revert to the General Fund of the State of Delaware.

Section 4. This supplemental appropriation shall take effect only in the event the Sussex County Summer Employment Program provides \$18,762 in salaries for lifeguards for the locations and the period of time specified in this Act.

Approved June 16, 1978.

CHAPTER 327

FORMERLY HOUSE BILL NO. 713

AN ACT TO AMEND CHAPTER 5, SUBCHAPTER VI, SUBPART B OF TITLE 11,  
DELAWARE CODE RELATING TO DISCRIMINATION BY PUBLIC SERVANTS  
OF THIS STATE AND ANY POLITICAL SUBDIVISION THEREOF.

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

Section 1. Amend §1211 of Chapter 5, Subchapter VI, Subpart  
B, Title 11, Delaware Code by adding thereto a new subsection to  
be designated as subsection (4) to read as follows:

"(4) He knowingly performs his official functions in a  
way intended to practice discrimination on the basis of race,  
creed, color, sex, or national origin."

Approved June 16, 1978.

## CHAPTER 328

## FORMERLY HOUSE BILL NO. 804

AN ACT TO AMEND CHAPTER 23, TITLE 10 OF THE DELAWARE CODE  
RELATING TO THE DEPOSIT OF SUMS OF MONEY BY THE PROTHONOTARIES  
OF THE RESPECTIVE COUNTIES.

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

Section 1. Amend §2324(a), Chapter 23, Title 10 of the Delaware Code by striking the word "municipality" as the same appears after the word "same" and before the word "as" in the last line of said subsection and by substituting in lieu thereof the word "county".

Approved June 16, 1978.

## CHAPTER 329

## FORMERLY SENATE BILL NO. 472

AN ACT TO AMEND CHAPTER 79, TITLE 29, DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF A DIVISION FOR THE VISUALLY IMPAIRED UNDER THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

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

Section 1. Amend §7911 of Title 29, Delaware Code, by striking subsection (2) and renumbering subsections 3 and 4 to read subsections 2 and 3.

Section 2. Amend §7913(b) of Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"The Council on the Blind shall serve in an advisory capacity to the Administrator of the Division for the Visually Impaired and shall consider matters relating to the general supervision and control of the education, training, and welfare of blind persons residing in the State. The Council shall also consider such other matters as may be referred to it by the Governor, the Secretary of the Department, or the Administrator of the Division for the Visually Impaired. The Council may study, research, plan, and advise the Administrator, Secretary, and Governor on matters it deems appropriate to enable the Division to function in the best possible manner."

Section 3. Amend Subchapter II, of Chapter 79, Title 29, Delaware Code by adding thereto a new section to be designated as §7936 which shall read as follows:

"§7936. Division for the Visually Impaired

The Division for the Visually Impaired is established having the power to perform and be responsible for the performance of all powers, duties, and functions heretofore vested in the Delaware Commission for the Blind, pursuant to Chapters 21 and 23 of Title 31 as formerly vested in the Division of Social Services.

The Division Administrator must be a merit system career person, knowledgeable and skilled in the field of service to the visually impaired and responsive to the needs and concerns of that population."

Approved June 19, 1978.

## CHAPTER 330

## FORMERLY SENATE BILL NO. 502

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE OFFICE OF  
THE DEPUTY ADMINISTRATOR, JUSTICE OF THE PEACE COURTS.

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

Section 1. The sum of six thousand eight hundred dollars (\$6,800.00) is hereby appropriated to the Office of the Deputy Administrator for distribution to the various Justice of the Peace Courts throughout the State for casual and seasonal salaries and wages.

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 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 June 19, 1978.

## CHAPTER 331

FORMERLY HOUSE BILL NO. 253  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 23 OF TITLE 9, DELAWARE CODE TO ALLOW  
THE CREATION OF CONSOLIDATED SANITARY SEWER DISTRICTS.

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

Section 1. Amend §2302, Chapter 23, Title 9, Delaware Code by striking the period "." immediately following the word "election" as the same appears in the section title and inserting the following:

" ; consolidation of districts "

Section 2. Amend §2302, Chapter 23, Title 9, Delaware Code by adding thereto a new subsection to be designated as subsection (c) to read as follows:

"(c) The County Council may consolidate any existing sanitary sewer districts or establish a County-wide district following a public hearing. The hearing shall be at such time as may be fixed by the County Council and advertised at least two (2) weeks in advance by publishing a notice in a newspaper within the County having a general circulation, once in each of the two weeks immediately preceding the week in which the hearing is to be held. All interested persons in any way affected by the proposed consolidation shall be heard. After the public hearing is closed, the County Council shall, by ordinance, determine whether or not it is in the public interest to establish the consolidated district. The ordinance shall specify the boundaries of the consolidated district. The County Council may change or amend the rate of levy as it deems necessary and just."

Approved June 19, 1978.

## CHAPTER 332

## FORMERLY HOUSE BILL NO. 766

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE LAUREL SCHOOL DISTRICT FOR THE PURPOSE OF REIMBURSING MR. DONALD E. ATKINSON, PRINCIPAL OF LAUREL ELEMENTARY SCHOOL, FOR OVERPAYMENTS FOR HIS WIFE'S BLUE CROSS-BLUE SHIELD COVERAGE.

WHEREAS, Mr. Donald E. Atkinson, Principal of the Laurel North and West Elementary Schools, overpaid Blue Cross-Blue Shield in the amount of \$1,256.60 for health insurance coverage on his wife, Jean Atkinson, who was also employed by the Revocation Section of the Division of Motor Vehicles; and

WHEREAS, Mr. Atkinson overpaid health insurance premiums in the following amounts and during the following time periods herein shown:

March 1, 1972 to May 31, 1972	\$ 34.38
\$11.46 Per month	
June 1, 1972 to May 31, 1973	\$ 137.52
\$11.46 Per month	
June 1, 1973 to May 31, 1974	\$ 158.40
\$13.20 Per month	
June 1, 1974 to May 31, 1975	\$ 172.80
\$14.40 Per month	
June 1, 1975 to May 31, 1976	\$ 239.28
\$19.94 Per month	
June 1, 1976 to May 31, 1977	\$ 297.36
\$24.78 Per month	
June 1, 1977 to December 31, 1977	\$ 216.86
\$30.98 Per month	
TOTAL	\$1,256.60

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 \$1,256.60 is hereby appropriated to the Laurel School District for the purpose of reimbursing

Mr. Atkinson who overpaid health insurance coverage on his wife, Jean Atkinson, who was also employed by the Motor Vehicle Division of the Department of Public Safety.

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 19, 1978.

## CHAPTER 333

## FORMERLY HOUSE BILL NO. 773

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO REIMBURSE AN EMPLOYEE WHO OVERPAID HEALTH INSURANCE COVERAGE UNDER BLUE CROSS-BLUE SHIELD.

WHEREAS, Fred Bonner, an employee of the Department of Natural Resources and Environmental Control, has overpaid his Blue Cross-Blue Shield premiums by \$737.30 between June 1970 and June 1975; and

WHEREAS, this overpayment resulted from the fact that Fred Bonner had not received credit under Blue Cross-Blue Shield for his wife who is also a State employee; and

WHEREAS, State law prohibits an agency of the government from paying obligations incurred in a prior year without a special Act of the General Assembly; and

WHEREAS, Fred Bonner overpaid his insurance in the following amounts and during the months shown herein:

June 1970 through May 1971 (\$9.26 per month)	\$111.12
June 1971 through May 1972 (\$11.46 per month)	137.52
June 1972 through May 1973 (\$11.46 per month)	137.52
June 1973 through May 1974 (\$13.20 per month)	158.40
June 1974 through May 1975 (\$14.40 per month)	172.80
June 1, 1975 through June 30, 1975 (\$19.94 per month)	19.94
TOTAL	<u>\$737.30</u>

NOW, THEREFORE:

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

Section 1. The sum of \$737.30 is hereby appropriated to the Department of Natural Resources and Environmental Control to

reimburse Fred Bonner, an employee of the Department, who overpaid his health insurance coverage under Blue Cross-Blue Shield by that amount.

Section 2. This is a supplemental appropriation and the funds hereby appropriated shall be paid by the State Treasurer out of funds of the State of Delaware not otherwise appropriated.

Section 3. The funds hereby appropriated remaining unexpended on June 30, 1978, shall revert to the General Fund.

Approved June 19, 1978.

## CHAPTER 334

FORMERLY HOUSE BILL NO. 303  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 AND  
SENATE AMENDMENT NOS. 1, 3 AND 4

AN ACT TO AMEND TITLE 10, TITLE 11 AND TITLE 31 OF THE DELAWARE CODE, RELATING TO THE CUSTODY, CARE AND TREATMENT OF DELINQUENT, NEGLECTED AND DEPENDENT CHILDREN.

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

Section 1. Amend Section 901, Title 10, Delaware Code by striking the definitions of "delinquent child", "dependent child", "neglected child" and "family" as they appear therein, and substituting in lieu thereof the following definitions:

"Delinquent child" means a child who commits an act which if committed by an adult would constitute a crime.

"Dependent child" means a child whose physical, mental or emotional health and well-being is threatened or impaired because of inadequate care and protection by the child's custodian, who is unable to provide adequate care for the child, whether or not caused by the child's behavior; provided, however that for the purposes of this chapter, dependent child may include a child who has been placed in a non-related home on a permanent basis without the consent and approval of the Division of Social Services or any agency licensed thereby to place children in a nonrelated home; or who has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.

"Neglected child" means a child whose physical, mental or emotional health and well-being is threatened or impaired because of inadequate care and protection by the child's custodian, who has the ability and financial means to provide for the care but does not or will not provide adequate care; or a child who has been abused or neglected as defined by Section 902, Title 16, Delaware Code. No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for purposes of this chapter.

"Family" means husband and wife; a man and woman cohabiting in a home; custodian and child; or any group or person related by blood or marriage.

Section 2. Amend §933, Title 10, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§933. Duties of Officer Having Child in Custody; Duties of Division of Social Services Having Child in Custody; Prohibited Acts

(a) A peace officer may take into custody a child he believes to be dependent, neglected or delinquent. Any peace officer having taken such a child into custody shall immediately notify the child's custodian citing the reasons therefore. If the custodian refuses to accept the child or cannot be located or cannot provide adequate care for the child, the peace officer shall:

(1) when the child is not charged with a delinquent act, immediately contact the Division of Social Services of the Department of Health and Social Services, who shall be responsible for further pursuing the whereabouts of the custodian or providing shelter and care for the child in a shelter home, foster home, group home, private agency home or other appropriate facility for children. The child shall not be placed in the same facility or institution for children charged with or found to be delinquent. After making every reasonable effort to locate the custodian, the Division of Social Services of the Department of Health and Social Services may release the child to the child's custodian or forthwith file with the Court a petition for custody alleging dependency or neglect.

(2) When the child has been charged with a delinquent act, take the child directly before the Court if the Court is in session or take the child before a court or commissioner for disposition in accordance with §934 of this title. After taking the child into custody, the peace officer shall forthwith file with the Court, a sworn complaint alleging delinquency with a report for the reason of his apprehension."

Section 3. Amend Section 937, Title 10, Delaware Code by adding a new subsection (f) at the end thereof to read as follows:

"(f) A dependent or neglected child shall not be placed in the same facility or institution for children charged with or found to be delinquent."

Section 4. Amend Section 1103, Title 11, Delaware Code, by striking subsections (a) and (b) in their entirety and substituting in lieu thereof new subsections (a) and (b) to read as follows:

"(a) 'Delinquent child' means a child who commits an act which if committed by an adult would constitute a crime.

(b) 'Neglected child' means a child whose physical, mental or emotional health and well-being is threatened or impaired because of inadequate care and protection by the child's custodian, who has the ability and financial means to provide for the care but does not or will not provide adequate care; or a child who has been abused or neglected as defined by Section 902, Title 16, Delaware Code."

Section 5. Amend Section 301, Title 31, Delaware Code by striking the said section in its entirety and substituting in lieu thereof the following:

"§301. Definitions

As used in this subchapter:

'Delinquent child' means a child who commits an act which if committed by an adult would constitute a crime."

Section 6. Amend Section 1102, Title 11, of the Delaware Code by striking the period at the end of paragraph (2) and substituting in lieu thereof a ";" followed by a new paragraph thereto to be designated as paragraph (3) to read as follows:

"(3) He knowingly encourages, aids, abets or conspires with the child to run away from the home of his parents, guardian or custodian; or he knowingly and illegally harbors a child who has run away from home."

Section 7. Amend Section 921, Chapter 9, Title 10, Delaware Code by striking subsection (6) and substituting the following:

"(6) Actions and proceedings wherein:

(1) A member of a family alleges that some other member of the family is by his conduct imperiling any family relationship and petitions the Court for appropriate relief.

(2) The Division of Social Services or a licensed youth service agency alleges that the conduct of a child, or of his parents or custodians, or members of a family, imperils any family relationship or imperils the morals, health, maintenance or care of a child and petitions the Court for appropriate relief; provided, however, that where a parent, to ensure the safety or welfare of his child, fails to cause the child to attend school, such parent has not imperiled the family relationship, nor has he imperiled the morals, health,

maintenance or care of the child.

(3) In such actions and proceedings the Court may make such adjudications and dispositions as appears appropriate."

Section 8. If any section, subsection, sentence, phrase or work of this Act or circumstances arising out of the application thereof shall be declared unconstitutional under the Constitution of the State of Delaware or of the United States by a State or Federal Court of competent jurisdiction, the remainder of this Act shall be unimpaired and shall continue in full force and effect and proceedings thereunder shall not be affected.

Section 9. All Acts or parts of Acts inconsistent with this Act are to the extent of such inconsistency hereby repealed.

Section 10. This Act shall become effective 90 days after its approval by the Governor.

Approved June 20, 1978.

## CHAPTER 335

## FORMERLY HOUSE BILL NO. 426

AN ACT TO AMEND CHAPTER 47, TITLE 15, OF THE DELAWARE CODE,  
RELATING TO COMPENSATION OF ELECTION OFFICERS.

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

Section 1. Amend §4704(a), Title 15, Delaware Code, by striking the figure "\$30" as the same appears in said subsection and by inserting in lieu thereof the figure "\$50".

Section 2. Amend §4704(b), Title 15, Delaware Code, by striking the figure "\$30" as the same appears in said subsection and by inserting in lieu thereof the figure "\$50".

Section 3. Amend §4704(c), Title 15, Delaware Code, by striking the figure "\$25" as the same appears in said subsection and by inserting in lieu thereof the figure "\$45".

Approved June 20, 1978.

CHAPTER 336

FORMERLY HOUSE BILL NO. 744

AN ACT TO AMEND CHAPTER 55, TITLE 29, DELAWARE CODE, TO REQUIRE FULL ACTUARIAL FUNDING FOR ANY LAW ESTABLISHING SPECIAL PENSION BENEFITS.

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

Section 1. Amend Chapter 55, Title 29, Delaware Code by adding thereto a new Section 5545 to read as follows:

"§5545. Full Actuarial Funding

No laws establishing special pensions, whether they be service pensions, disability pensions, survivor's pensions, or otherwise, shall be enacted by the General Assembly unless, at the time of enactment, an appropriation is passed that provides full actuarial funding for said special pensions."

Approved June 20, 1978.

## CHAPTER 337

## FORMERLY HOUSE BILL NO. 911

AN ACT TO AMEND CHAPTER 31, TITLE 14, DELAWARE CODE, RELATING TO  
PRIVATE PLACEMENT WITH FINANCIAL AID FOR HANDICAPPED PERSONS.

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

Section 1. Amend §3124(c)(1), Chapter 31, Title 14, Delaware Code, by adding to said paragraph, at the end thereof, the following sentence:

"Maintenance shall be provided on a twelve-month basis in appropriate cases."

Section 2. Amend §3124(c)(3), Chapter 31, Title 14, Delaware Code, by adding to said paragraph, at the end thereof, the following sentence:

"Tuition shall be provided on a twelve-month basis in appropriate cases."

Approved June 20, 1978.

## CHAPTER 338

FORMERLY SENATE BILL NO. 85  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO MAKE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF CORRECTION TO GIVE BACK PAY TO AN EMPLOYEE WHOSE PROMOTION WAS DELAYED THROUGH ADMINISTRATIVE ERROR.

WHEREAS, David L. Frey was employed as a Statistician I while occupying the post of Statistician II; and

WHEREAS, Mr. Frey was selected for promotion to Statistician II effective January 1, 1976; and

WHEREAS, the State Office of Personnel determined that Mr. Frey was not qualified for the position; and

WHEREAS, this determination was later found to be in error; and

WHEREAS, Mr. Frey was promoted to Statistician II retroactive to January 1, 1976; and

WHEREAS, Mr. Frey did not receive a monetary gain with promotion from January 1, 1976 through June 30, 1976.

NOW, THEREFORE:

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

Section 1. There is hereby appropriated to the Department of Corrections the sum of \$1,142.91 for the purpose of correcting an error in pay to David L. Frey and to pay other costs.

The sum appropriated shall be for the following:

38-01-002	Administration	
Salaries and Wages of Employees		\$ 975.60
F.I.C.A.		57.07
Pension		<u>110.24</u>
TOTAL		\$1,142.91

Section 2. The sum so appropriated shall be considered a supplemental appropriation and shall be paid by the State Treasurer out of funds of the General Fund of the State of Delaware not otherwise appropriated. Any funds remaining unexpended on June 30, 1978, shall revert to the General Fund.

Approved June 20, 1978.

## CHAPTER 339

## FORMERLY HOUSE BILL NO. 1049

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DIVISION OF ECONOMIC DEVELOPMENT OF THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT FOR DEBT SERVICE ON CERTAIN INDUSTRIAL DEVELOPMENT BONDS.

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

Section 1. There is appropriated to the Division of Economic Development of the Department of Community Affairs and Economic Development the sum of \$89,491 to pay debt service requirement for the fiscal year ending June 30, 1978, as follows:

Industrial Development Bonds - KEWA Metal Salt, Inc.

Debt Service - Principal	\$50,000
Debt Service - Interest	<u>39,491</u>
TOTAL	\$89,491

Section 2. The sum appropriated herein shall be considered a supplemental appropriation and shall be paid by the State Treasurer from the General Fund monies not otherwise appropriated. Any funds remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund.

Approved June 15, 1978.

## CHAPTER 340

FORMERLY SENATE BILL NO. 432  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT  
OF CORRECTION FOR PURPOSES OF CORRECTING A SALARY UNDERPAYMENT.

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

Section 1. The sum of five thousand one hundred seventy-six  
dollars (\$5,176.00) is hereby appropriated to the Department of  
Correction for the following expenditures:

Back pay due to Raymond W. Anderson	\$4,400
F.I.C.A. - Employer's share	266
Pension	<u>510</u>
TOTAL	\$5,176

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. Any funds appropriated by this Act which remain  
unencumbered or unexpended by July 1, 1978, shall thereupon  
revert to the General Fund of the State Treasury.

Approved June 23, 1978.

## CHAPTER 341

## FORMERLY HOUSE BILL NO. 574

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO  
ISSUANCE OF WARRANT.

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

Section 1. Amend Section 1213, Chapter 11, Title 30,  
Delaware Code, by inserting after the words "commanding him"  
and immediately preceding the words "to levy" the following:

"to garnish wages and bank accounts of such person or".

Approved June 23, 1978.

CHAPTER 342

FORMERLY HOUSE BILL NO. 734

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE,  
RELATING TO VANITY PLATES.

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

Section 1. Amend Section 2121, Chapter 21, Title 21 of the Delaware Code by striking paragraph (1) of subsection (h) in its entirety and inserting in lieu thereof the following new paragraph (1):

"(1) Any single letter or combination of letters or combinations of letters and numerals, not to exceed six (6) in number. If the combination includes numerals, the numerals shall be displayed to the right of all letters on the plate. A hyphen shall be permitted and shall be counted as one letter. In its discretion, the Department may refuse any combination of letters, or letters and numerals."

Approved June 23, 1978.

## CHAPTER 343

## FORMERLY HOUSE BILL NO. 769

AN ACT TO AMEND CHAPTER 27, TITLE 21, DELAWARE CODE, RELATING TO DRIVING WITHOUT A LICENSE.

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 27, Title 21, Delaware Code, by striking §2701 in its entirety and inserting in lieu thereof a new §2701 to read as follows:

"§2701. Driving without a license; penalties

(a) No person shall drive a motor vehicle on a public street or highway of this State without first having been licensed under this Chapter, unless expressly exempt from the licensing requirements.

(b) No person shall drive a motor vehicle on a public street or highway of this State after serving a period of suspension, revocation or license denial, without first having obtained a valid license through proper reinstatement procedures as prescribed by Title 21, Delaware Code.

(c) No person shall drive on a public street or highway of this State a motor vehicle of a class or type for which he has not been duly licensed.

(d) No person whose license has expired shall drive a motor vehicle on a public street or highway of this State.

(e) Whoever violates subsection (a) or (b) of this section shall for the first offense be fined not less than \$50 nor more than \$200.

For each subsequent like offense, shall be fined not less than \$100 nor more than \$500 or imprisoned for a term not to exceed six months, or both.

(f) Whoever violates subsection (c) or (d) of this section shall for the first offense be fined not less than \$10 nor more than \$100.

For each subsequent like offense, be fined not less than \$25 nor more than \$100."

Section 2. Any person deemed legal to drive a truck or

tractor-trailer combination prior to the implementation of the classified licensing system, shall be placed in the class of their choice with no requirement for a road test by the Division of Motor Vehicles, unless the applicant appears physically or mentally unable to operate such vehicle.

Section 3. This Act shall become effective sixty (60) days after the signature of the Governor.

Approved June 23, 1978.

## CHAPTER 344

FORMERLY HOUSE BILL NO. 782  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 52, TITLE 30, DELAWARE CODE, RELATING TO  
EXEMPT VEHICLES.

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

Section 1. Amend §5224, Chapter 52, Title 30, Delaware Code by designating the first paragraph beginning with the word 'Nothing' and ending with the word 'school' as '(a)'; the second paragraph beginning with the word 'This' and ending with the word 'fee' as '(b)' and the third paragraph beginning with the word 'This' and ending with the word 'trip' as '(c)'.

Section 2. Amend §5224, Chapter 52, Title 30, Delaware Code by adding to the end of said section the following new paragraph:

"(d) This chapter shall not apply to any vehicle operated by, for, or on behalf of any volunteer fire company or any ambulance owned and/or operated by a civic or Veterans' organization on a volunteer basis."

Approved June 23, 1978.

## CHAPTER 345

## FORMERLY HOUSE BILL NO. 816

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE, RELATING TO THE ISSUANCE OF SPECIAL LICENSE PLATES FOR HANDICAPPED PERSONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of the members elected to each Branch concurring):

Section 1. Amend Section 2134, Chapter 21, Title 21, by deleting said section in its entirety and substituting a new Section 2134 as follows:

"§2134. Special Plates for Handicapped Persons; Penalties

(a)(1) The owner of any vehicle described in paragraph (2) of this subsection may apply to the Department for the assignment to that vehicle of a special, handicapped person registration number, if the applicant, a dependent of the applicant, or any individual who depends on the applicant for transportation:

(i) Has permanently lost the use of a leg or an arm; or

(ii) Is so severely disabled as to be unable to move without a wheelchair or crutches; or

(iii) So suffers from lung disease that his forced expiratory volume, one second, when measured by spirometry, is less than one liter.

(2) This section only applies to passenger cars, station wagons, pickup trucks and panel van trucks for which the gross registered weight does not exceed 6,000 lbs.

(b) Handicapped persons' license plates may be issued under this section only if the applicant submits:

(1) Proof satisfactory to the Department that the applicant, the dependent of the applicant, or the individual who depends on the applicant for transportation, as the case may be, is handicapped in the manner described in subsection (a) of this section; and

(2) As to an applicant on whom a handicapped individual depends for transportation, a certification of the handicapped individual that the handicapped individual depends on the applicant for transportation.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for the handicapped person license plates issued pursuant to this section.

(d) The registration plates issued pursuant to this section shall bear the word 'HANDICAPPED' in addition to the number assigned to each plate.

(e) Any person who is not a handicapped person, as prescribed in subsection (a) of this section, and who willfully and falsely represents himself as having the qualification to obtain such vehicle registration plates in an attempt to procure the special plates prescribed by this section, shall, upon conviction, be fined \$50 and costs of prosecution and, in default of the payment thereof shall be imprisoned for not more than 10 days. Justices of the Peace shall have jurisdiction of offenses under this section."

Approved June 23, 1978.

CHAPTER 346

FORMERLY HOUSE BILL NO. 1008  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 24 OF THE DELAWARE CODE TO  
EXEMPT MEDICAL PERSONNEL WORKING UNDER THE SUPERVISION OF  
A DOCTOR OF MEDICINE, DOCTOR OF OSTEOPATHY, OR OPTOMETRIST  
FROM THE PROVISIONS OF SUCH CHAPTER.

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

Section 1. Amend §2117, Chapter 21, Title 24 of the Delaware  
Code by striking said section in its entirety and substituting  
in lieu thereof a new section to read as follows:

"§2117. Exemptions

(a) Nothing in this chapter shall be construed to  
prevent the sale and/or application of spectacles in the  
ordinary course of trade, provided no part of this chapter  
is violated by this exemption.

(b) Those persons having the degree of Doctor of  
Medicine or Doctor of Osteopathy and licensed to practice  
medicine and surgery in this State under Chapter 17 of this  
Title shall be exempt from this chapter, and nothing in this  
Chapter shall apply to or restrict any ophthalmic assistant,  
nationally registered as a contact lens technician, from  
acting under the prescription and supervision of a licensed  
physician, osteopath or optometrist from fitting, adapting  
or measuring for contact lenses so long as said ophthalmic  
assistant's office is on the same premises as a licensed  
ophthalmologist, osteopath or optometrist."

Approved June 23, 1978.

## CHAPTER 347

FORMERLY HOUSE BILL NO. 1036  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTION TO TRANSFER FUNDS  
BETWEEN ALL LINES AND BUREAUS.

WHEREAS, the Department of Correction has insufficient general fund appropriations in certain bureaus and a surplus in other bureaus; and

WHEREAS, the Department of Correction's total general fund appropriations is sufficient to cover all anticipated expenses through the balance of fiscal year 1978; and

WHEREAS, the transfer of funds between lines and bureaus would eliminate the need for a supplemental appropriation.

NOW, THEREFORE:

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

Section 1. The Department of Correction is hereby authorized, with the approval of the Budget Director, to transfer funds between lines and divisions, as depicted in the FY 1978 Budget Act, as follows:

<u>FROM</u>	<u>TO</u>
<u>(38-01-001) Commissioner's Office</u>	<u>(38-08-003) Del. Correctional Center</u>
Contractual Services \$44,960	Contractual Services \$30,300
	Supplies & Materials 9,860
	<u>(38-08-004) Sussex Correctional Institution</u>
	Contractual Services 4,800
<u>(38-01-002) Administration</u>	<u>(38-08-003) Del. Correctional Center</u>
Sal. & Wages of Employees \$40,700	Sal. & Wages of Employees 40,700
<u>(38-01-003) Education</u>	<u>(38-01-003) Del. Correctional Center</u>
Sal. & Wages of Employees \$19,735	Sal. & Wages of Employees 2,150
	Sal. - Overtime 16,600
	Sal. - Hazardous Duty 110
	<u>(38-08-004) Sussex Correctional Institution</u>
	Sal. & Wages of Employees 200

<u>FROM</u>	<u>TO</u>
	<u>(38-08-005) Women's Correctional Institution</u>
	Sal.&Wages of Employees \$ 225
	<u>(38-08-007) Probation and Parole</u>
	Sal.&Wages of Employees \$ 190
	<u>(38-08-008) Work Programs</u>
	Sal.&Wages of Employees \$ 100
	<u>(38-08-009) Work Release</u>
	Sal.&Wages of Employees \$ 25
	<u>(38-08-010) Kent Correctional Center</u>
	Sal.&Wages of Employees \$ 135
<u>(38-13-004) Bridge House Detention Center</u>	<u>(38-13-002) Ferris School for Boys</u>
Sal.&Wages of Employees \$9,000	Contractual Services \$9,000
 TOTAL TRANSFER	
<u>\$114,395</u>	<u>\$114,395</u>

Section 2. This authority expires on June 30, 1978.

Approved June 23, 1978.

## CHAPTER 348

## FORMERLY HOUSE BILL NO. 484

AN ACT TO AMEND CHAPTER 53 AND CHAPTER 59, TITLE 11, DELAWARE CODE, RELATING TO PRELIMINARY HEARINGS.

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

Section 1. Amend Chapter 53, Title 11, Delaware Code, by adding a new section as follows:

"§5308. Preliminary hearing; examination

A Court of Common Pleas judge shall conduct a preliminary hearing in accordance with the rules of criminal procedure promulgated by the Court of Common Pleas."

Section 2. Amend Chapter 59, Title 11, Delaware Code, by striking Section 5910.

Approved June 26, 1978.

CHAPTER 349

FORMERLY HOUSE BILL NO. 813

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT FOR PURPOSES OF PROVIDING FINANCIAL SUPPORT TO THE RETIRED SENIOR VOLUNTEER PROGRAM.

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

Section 1. The sum of eight thousand five hundred dollars (\$8,500) is hereby appropriated to the Department of Community Affairs and Economic Development, which funds shall be used to support the Retired Senior Volunteer Program in Kent County.

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 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 June 26, 1978.

## CHAPTER 350

FORMERLY HOUSE BILL NO. 992

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT TO TRANSFER FUNDS BETWEEN ALL LINES AND DIVISIONS.

WHEREAS, the Department of Community Affairs and Economic Development has insufficient General Fund appropriations in certain lines and divisions; and

WHEREAS, the Department of Community Affairs and Economic Development's total General Fund appropriation is sufficient to cover all anticipated expenses through the balance of Fiscal Year 1978; and

WHEREAS, the authority to make transfers between all lines and Divisions would eliminate the need for any supplemental appropriation.

NOW, THEREFORE:

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

Section 1. The Department of Community Affairs and Economic Development is hereby authorized, with the approval of the Budget Director, to transfer funds between lines as depicted in the FY 1978 Budget Act as follows:

<u>(50-01-001) Office of Administration</u>	<u>From</u>	<u>To</u>
Sal. & Wages of Employees	\$ 500	
Supplies and Materials		\$ 500
<u>(50-08-000) Office of Economic Development</u>		
Sal. & Wages of Employees	\$3,636	
Contractual Services		<u>\$3,636</u>
TOTAL TRANSFER	<u>\$4,136</u>	<u>\$4,136</u>

Section 2. This authority expires on June 30, 1978.

Approved June 26, 1978.

CHAPTER 351

FORMERLY SENATE BILL NO. 337

AN ACT TO AMEND CHAPTER 70, TITLE 9, OF THE DELAWARE CODE, RELATING TO THE PROCUREMENT OF SERVICES OR SUPPLIES BY THE DEPARTMENT OF FINANCE OF SUSSEX COUNTY.

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

Section 1. Section 7004(c)(17), Chapter 70, Title 9, of the Delaware Code, is hereby amended by striking from the first line of the second paragraph the figure "\$1,000" and substituting in lieu thereof the figure "\$2,500".

Approved June 26, 1978.

## CHAPTER 352

## FORMERLY SENATE BILL NO. 349

AN ACT TO AMEND CHAPTER 23, TITLE 7, DELAWARE CODE, RELATING TO  
COMMERCIAL CRABBING.

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

Section 1. Amend §2304, Chapter 23, Title 7, Delaware Code, by deleting the period following the words "Delaware River" and inserting the words ", and that area of Roy's Creek which lies south of Fenwick Island Ditch".

Approved June 26, 1978.

## CHAPTER 353

## FORMERLY SENATE BILL NO. 430

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", ALSO KNOWN AS HOUSE BILL NO. 300, AS AMENDED, RELATING TO THE SALARY OF THE STATE LIBRARIAN.

WHEREAS, at the time House Bill No. 300 was written there was no indication that there would be a State Librarian employed; and

WHEREAS, once the Search Committee had determined that one would be hired it was discovered that the salary was totally out of line with other State's Library Agency Directors; and

WHEREAS, upon consulting with the Health, Education, Welfare Officer, Mrs. Beatrice Simmons, additional Library Services and Construction Act funds in the amount of \$3,031 were made available to the State for use to supplement the already appropriated funds for the State Librarian's salary; and

WHEREAS, the Delaware State Clearinghouse Committee has determined that although federal funds are available to pay the State Librarian's contracted salary it is improper for these funds to be utilized without having been appropriated in House Bill No. 300.

NOW, THEREFORE:

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

Section 1. Amend Section 1 of Chapter 116, Volume 61, Laws of Delaware by striking line 3 in its entirety as the same appears on Page 53 of said Chapter and inserting in lieu thereof the following:

"(All other Funds           \$9,819)       \$10,181"

Section 2. Further amend Section 1 of Chapter 116, Volume 61, Laws of Delaware by recomputing all totals and subtotals to reflect the provisions of Section 1 of this Act.

Approved June 26, 1978.

## CHAPTER 354

## FORMERLY SENATE BILL NO. 490

AN ACT TO AMEND CHAPTER 1, TITLE 7 OF THE DELAWARE CODE RELATING  
TO PENALTIES OF A VIOLATION OF FISH AND GAME REGULATIONS.

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

Section 1. Amend §103(e) of Chapter 1, Title 7, Delaware  
Code by striking the word "taking" and the words "in season"  
as the same appears in the second sentence of said subsection  
(e).

Approved June 26, 1978.

CHAPTER 355

FORMERLY HOUSE BILL NO. 473  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 28, DELAWARE CODE, RELATING TO BINGO, BY QUALIFYING THOSE WHO ARE ELIGIBLE FOR THE GRAND PRIZE.

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

Section 1. Amend §1139, Chapter 11, Title 28, Delaware Code by adding the following subsection:

"(1) Any licensed bingo organization shall have discretionary authority to promulgate rules and regulations on the eligibility of persons permitted to participate in the nightly prize or prizes; provided, however, they have been approved by the Bingo Control Commission, and further provided, that if approved by the Commission, such rules and regulations shall be conspicuously displayed at the main entrance where all patrons can observe same."

Approved June 27, 1978.

## CHAPTER 356

FORMERLY HOUSE BILL NO. 855  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24, DELAWARE CODE, RELATING TO CHIROPODY  
AND/OR PODIATRY.

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

Section 1. Amend Title 24, Delaware Code, by striking Chapter 5 thereof and by substituting in lieu thereof a new Chapter 5, to read as follows:

CHAPTER 5. PODIATRY§501. Definitions

(a) As used in this Chapter, podiatry means the diagnosis and the medical, surgical, mechanical, manipulative and electrical treatment of all ailments of the human foot and leg, excepting amputation of the foot or leg or the administration of an anesthetic other than local.

(b) As used in the definition of podiatry in subsection (a) of this Section:

1. "Diagnosis" means the ascertainment of a disease or ailment by its general symptoms;

2. "Medical treatment" means the application to or prescription for the foot or leg of medicine, pads, adhesives, felt, plasters or any medicinal agency;

3. "Surgical treatment" means the use of any cutting instrument to treat a disease, ailment or condition;

4. "Mechanical treatment" means the application of any mechanical appliance made of steel, leather, felt or any material, to the foot or in the shoe for the purpose of treating any disease, deformity or ailment;

5. "Manipulative treatment" means the use of the hand or machinery in the operation or working upon the foot and its articulations;

6. "Electrical treatment" means the administration of electricity to the foot or leg by means of electrodes, machinery, rays and the like;

**\$502. Board of Podiatry Examiners; appointment; tenure; qualifications; removal; vacancies**

(a) The Board of Podiatry Examiners for this State, hereinafter in this Chapter referred to as the "Board", shall consist of four members. The members shall be appointed by the Governor to a term of four years, or until their successors are appointed and qualified, from a list of members in good standing submitted by the Podiatry Society of Delaware. The members shall be so appointed that the term of only one member shall expire in each calendar year.

(b) The members may be removed by the Governor for continued neglect of the duties required by this Chapter or on recommendation of the Podiatry Society of Delaware for unprofessional or dishonorable conduct.

(c) Vacancies occurring in the Board by reason of the death of any member or his incapacity, neglect or refusal to act or removal, or in any other way shall be filled by the Governor from recommendations of members in good standing submitted by the Podiatry Society of Delaware. The newly appointed member or members shall hold office for the remainder of the unexpired term or terms of the member or members.

(d) No member of the Board shall serve more than four complete terms or be appointed thereto after he or she has reached the age of sixty-five years.

(e) Three members of the Board entitled to vote shall constitute a quorum for the transaction of business. The affirmative vote of at least two members of the Board entitled to vote taken at a meeting in which a quorum is present shall be required to adopt any regulation which could deprive a person licensed to practice podiatry of his license or to issue, deny, revoke or suspend any certificate to practice or to take any disciplinary action against any person.

**\$503. Receipts and disbursements; compensation of Board members**

(a) The Board shall pay over to the State Treasurer, in accordance with Chapter 61 of Title 29, all fees and

other moneys received by it, and they shall be deposited in the General Fund of the State.

(b) The necessary and legitimate expenses and salaries of the Board, not exceeding \$25.00 per day for each member of the Board actually engaged in duties of the Board plus expenses incurred in connection therewith, shall be paid by the State Treasurer out of funds appropriate for the purpose upon warrants signed by the President and Secretary of the Board.

\$504. Powers and duties; and immunity of members

(a) The Board shall have the power and duty to:

1. Investigate the character of all applicants for a certificate to practice podiatric medicine to determine whether or not he or she is likely to engage in unprofessional conduct, and whether he or she is physically and mentally capable of engaging in the practice of podiatric medicine with safety to the public.

2. Conduct such examinations as it deems necessary and proper, to determine the professional qualifications of those persons who apply for certificates to practice podiatric medicine in Delaware.

3. Investigate complaints and charges of unprofessional conduct respecting any holder of a certificate to practice podiatric medicine.

4. Investigate complaints and charges that physical and mental disability renders the practice of podiatric medicine by any person contrary to commonly accepted standards.

5. Investigate complaints of unauthorized practice of podiatric medicine.

6. Suspend, revoke or reinstate any certificate to practice podiatric medicine.

7. Reprimand, censure publicly or privately or to take other appropriate disciplinary action with respect to any person authorized to practice podiatric medicine in Delaware.

8. Take or cause to be taken such depositions as may be needed by the Board in any investigation, hearing or proceeding.

9. Administer oaths and to compel the attendance of witnesses and the production of documents by the filing of a subpoena.

(b) The members of the Board shall not be subject to, and shall be immune from, claims, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken, or performed or recommendation made so long as such member of the Board acted in good faith and without malice in carrying out the responsibilities, authority, duties, powers and privileges of the offices conferred by law upon them under this Chapter or any other provisions of the Delaware law, Federal law or regulations, or duly adopted rule or regulation and good faith is presumed unless otherwise proven with malice required to be shown by the complainant.

(c) No member of the Board shall in any manner whatsoever discriminate against any applicant or person holding or applying for a certificate to practice podiatric medicine by reason of sex, race, color, creed or national origin.

(d) No member shall participate in any action of the Board involving directly or indirectly any person related in any way by blood or marriage to said member.

**\$505. Qualifications required**

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

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

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

3. Have received a degree of "Doctor of Podiatric Medicine" or its equivalent from a legally incorporated college or school approved by the Board, and

recognized by the Council on Education of the American Podiatry Association.

4. Submit to the Board satisfactory proof that such person has not been convicted of a felony, professionally penalized or convicted of drug addiction, violated the Podiatry Practice Act of this or any other State, engaged in the practice of Podiatry without a license, prescribed narcotic drugs unlawfully, wilfully violated the confidence of a patient or has been professionally penalized or convicted of fraud.
5. Submit to the Board satisfactory proof that such person is at the time of application physically and mentally capable of engaging in the practice of podiatric medicine according to generally accepted standards, and submit to such examination as the Board may deem necessary to determine such capability.
6. Pass the professional examination administered by the Board, as well as all tests given by the National Board of Podiatry Examiners.

(b) Each person desiring to practice Podiatry in this State shall submit to the Board an application in writing on such form as shall be required by the Board and pay a fee not to exceed \$100.00 which shall not be returned.

(c) Each person shall satisfy the Board with compliance of requirements of subsection (a) of this Section in such form and manner as the rules and regulations of the Board shall require. Upon the applicant's so satisfying the Board and upon payment of such fee as shall be required by the rules and regulations of the Board, the Board shall administer to the applicant an examination, unless the applicant is excepted therefrom by other provisions hereof.

**\$506. Professional examinations**

(a) The Board shall conduct examinations of applicants for a certificate to practice Podiatry in accordance with rules and regulations prescribed and published by the Board. Such examination shall be given at least once each year, or more often as the Board shall determine. Examinations shall be given

in such a way that the persons grading examination papers shall have no knowledge of the identity of the individual being examined.

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

**\$507. Exceptions to Examinations**

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

1. A person who is licensed or otherwise qualified to practice Podiatry in any State of the United States may be issued a certificate to so practice in this State during the disability for the purpose of taking charge of the practice of a person licensed to so practice in this State during a disability, illness or by reason of the decrease of such licensee. The Board may, in its discretion, grant such a temporary license for a period not to exceed four months for such purposes. The Board may, in its discretion, extend such temporary certificate for an additional four months, but not longer. Such certificate shall be issued upon the written request to the Board of the person desiring to so practice and, where possible, by the person licensed to practice in this State whose practice is involved and upon the payment to the Board of a fee of \$50.00. The application shall be made in such form and contain such information and certifications as the Board shall by rule or regulations prescribe.

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

(c) Persons who are licensed to practice Podiatry in any of the United States or of a foreign country may come into this State in consultation with any person licensed to practice Podiatry in this State but only

as a consultant. Consultation shall be limited to examination, recommendation and testimony and litigation.

(d) Students of accredited schools or colleges of Podiatry who are receiving their practical training under the personal supervision of a Podiatrist licensed in Delaware may do so without a license or examination, but such students shall be registered with the Board as such by the supervisor.

(e) Applicants who are registered or certified by the Board of Podiatry Examiners of other states whose requirements for registration and certification are substantially equal to those of this State at the discretion of the Board be granted certificates without examination upon the payment of \$100.00, provided, however, that the provisions of this Section shall be extended only to applicants from those states which extend a similar privilege to persons certified and registered to practice in this State.

**\$508. Certificate filed with Division of Revenue**

Every person receiving a certificate from the Board and desiring to practice in this State shall file same with the Division of Revenue and obtain an occupational license as provided by Chapter 23, Title 30, Laws of Delaware.

The Division of Revenue shall not register any person without such certificate.

**\$509. Renewal of certificate**

(a) For the purpose of correcting and revising the register of practitioners of Podiatry, as kept by the Board, each person to whom a certificate to practice Podiatry in this State is granted, shall procure periodically from the Secretary of the Board, on or before the 30th day of June, a certificate of registration. Such certificate of registration shall be issued by the Secretary of the Board upon payment of the fee of \$50.00. All certificates so issued shall be prima facie evidence of the right of the holders to practice Podiatry, as the certificates shall designate, in this State during the time for which they are issued and the same shall be exposed to public view in the operating room of the holder. Any certificate to practice Podiatry granted by the Board shall be cancelled if the holder thereof fails to secure renewal of the certificate provided for in this

Section by the due date. The certificate to practice or the renewal certificate thus cancelled may at the discretion of the Board be restored upon payment of all renewal fees that are unpaid and a restoration fee of \$25.00, with such further examination of the holder as to his competence and ability to practice, as the Board may determine. The Secretary of the Board shall mail, a renewal notice at least 30 days in advance of the due date to each person whose name appears on the register of the Board. The printed form should be properly filled out by the holder of such certificate and returned to the Secretary of the Board, together with the appropriate fee.

(b) Persons who desire to renew their licenses shall present to the Board proof that they have earned eight (8) credits of continuing education over the two (2) year period preceding their application for renewal as a condition for renewal of the certificate. Any seminar which receives certification by any State Board of Podiatry Examiners or the equivalent thereof shall be accepted towards said credit.

**\$510. Refusal to issue licenses or  
revocation or suspension of same**

(a) The Board may refuse to issue or may suspend or revoke any certificate it has issued or may place the offending person on probation or may censure publicly or privately any holder of a license for any of the following causes:

1. The use of any false, fraudulent or forged statement or document or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements.

2. Conviction of a felony or crime involving moral turpitude.

3. Drug addiction or chronic and persistent addiction to intoxicants to such a degree as to render the licensee unsafe or unfit to practice Podiatry.

4. Any dishonorable, unethical or unprofessional conduct likely to deceive, defraud or harm the public.

5. Violation directly or indirectly of any provision or term of this Chapter or any rule or regulation of the Board.

6. The practice of Podiatry under a false or assumed name.

7. Any physical or mental disability which renders the further practice of Podiatry by the licensee dangerous.

8. Mental incompetence or mental illness when determined by any final order or adjudication of any court of competent jurisdiction.

9. The advertising of the practice of Podiatry in any unethical or professional manner.

10. Knowingly performing any act which in any way assists an unlicensed or unregistered person to practice Podiatry.

11. The wilful violation of any privileged communication.

(b) Any person against whom a complaint has been made under this Section shall be notified at that fact and a copy of such complaint shall be sent to such person by certified mail, return receipt requested, by the Board, and such person shall be given a full fair and impartial hearing by the Board, whose decision shall be made by a majority vote of its members. Such person shall have the right to counsel and to examine and cross-examine witnesses. The Department of Justice shall represent the Board and shall have the same right in every such hearing.

(c) The judgement of the Board in any case shall be final unless within ten days after a copy thereof has been sent to the person against whom the judgment is rendered and said person appeals to the Superior Court of the county wherein the alleged offense occurred. The Superior Court shall hear and determine all appeals taken pursuant to this Section and may by proper rules prescribe the procedure to be followed therein. In the case of every such appeal, the cause shall be determined on the record without the aid of a jury, and the Court may reverse, reaffirm or modify the decision of the Board or remand the cause to the Board for rehearing. The decision of the Board shall be affirmed by the Superior Court unless there is an abuse of discretion by the Board or unless manifest injustice appears.

§511. Corporations, other than colleges, not to practice

Except for professional associations authorized by the laws of this State, no person shall incorporate under the laws of this State for the purpose of practicing Podiatry within this State, and no foreign corporation organized for such purposes shall attempt to practice Podiatry within this State. Such restrictions shall not apply to accredited Podiatry colleges, whose students are receiving their practical training under personal supervision of any licensed Podiatrist of this State.

§512. Persons not affected by chapter

(a) This Chapter shall not apply to:

1. Commissioned surgeons of the United States Army, Navy, Air Force or Public Health Service, in the actual performance of their official duties.
2. Regularly licensed physicians in this State.
3. A visiting Podiatrist called into consultation in this State from another State where it is duly qualified under the laws of that State to practice Podiatry.

(b) This Chapter shall not prohibit the fitting recommending or the sale of corrective shoes, arch supports or similar mechanical appliances by retail dealers or manufacturers. However, no representative of such dealer or manufacturer shall be permitted to diagnose, treat or prescribe medically for any foot or leg ailment, disease or deformity, unless certified and registered under the provisions of this Chapter and licensed to practice Podiatry in this State.

§513. Right to compensation from insurance and related programs

For purposes of disability, workmen's compensation, standard health and accident, sickness and other such insurance plans, whether or not they be considered insurance policies if the Podiatrist is authorized by law to perform the particular services, he shall be entitled to compensation for his services under such plans.

§514. Name used in practice of Podiatry; penalty

Whoever practices or offers to practice Podiatry under any name except his proper name, which is the name in his license granted to him as a Podiatrist, as provided in this Chapter; or whoever uses the name of any company, association, corporation, office, parlor, trade name, business name or a successor thereto, in connection with the practice of Podiatry as defined in this Chapter, shall be fined for the first offense not less than \$100.00 nor more than \$200.00 and for any subsequent offense shall be fined not more than \$500.00, and his license shall be revoked by the Board.

§515. Practice without registration or certificate, separate offenses; penalty

Whoever practices or attempts to practice Podiatry within this State without having been registered or without having obtained a certificate to practice Podiatry or during the period of suspension or revocation of such certificate previously granted shall be fined not less than \$100.00 nor more than \$200.00, or imprisoned not less than one month nor more than one year, or both, and upon a second or any subsequent offense, shall be fined not less than \$200.00 nor more than \$500.00 and imprisoned not less than six months nor more than one year.

Each act of practice or attempt to practice Podiatry under the disabilities described in this Section and each day on which any person holds himself out as practicing under any name except his own shall be a separate offense.

§516. Filing of false documents or forged Affidavits; penalty

Whoever files or attempts to file as his own the diploma, certificate or license of another or a forged, false affidavit or identification or qualification is guilty of a felony and shall be fined not less than \$500.00 nor more than \$2,000.00 and imprisoned not more than five years.

Approved June 27, 1978.

## CHAPTER 357

## FORMERLY SENATE BILL NO. 387

AN ACT TO AMEND §617, CHAPTER 6, TITLE 8, OF THE DELAWARE CODE RELATING TO THE NAMING OF PROFESSIONAL SERVICE CORPORATIONS.

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

Section 1. Amend §617, Chapter 6, Title 8, of the Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

§617. Corporate Name

The corporate name of a corporation organized under this Chapter shall contain either a word or words descriptive of the professional service to be rendered by the corporation or shall contain the last names of one or more of its present, prospective or former shareholders or of persons who were associated with a predecessor person, partnership, corporation or other organization or whose name or names appeared in the name of such predecessor organization. The corporate name shall also contain the words 'chartered' or 'professional association', or abbreviation 'P.A.'. The use of the word 'company', 'corporation' or 'incorporated', or any other word, words, abbreviations, affix or prefix indicating that it is a corporation, in the corporate name of a corporation organized under this Chapter, is specifically prohibited. However, it shall be permissible for the professional service corporation and its shareholders to render professional services and to exercise the corporation's authorized powers under a name which is identical to its corporate name, except that the words 'chartered' or 'professional association', or the abbreviation 'P.A.' is omitted."

Approved June 27, 1978.

## CHAPTER 358

## FORMERLY SENATE BILL NO. 395

AN ACT TO SUSPEND THE PROVISIONS OF 29 DELAWARE CODE, CHAPTER 69, TO PERMIT THE PAYMENT OF FUNDS FOR STREET AND ROAD IMPROVEMENTS IN THE TOWN OF BETHEL.

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

Section 1. Notwithstanding the provisions of 29, Delaware Code, Chapter 69, the Department of Transportation, Division of Highways, is authorized to pay to the Town of Bethel the sum of \$1060.91 to meet the costs of street and road improvements.

Approved June 27, 1978.

CHAPTER 359

FORMERLY SENATE BILL NO. 477

AN ACT TO AMEND CHAPTER 1, TITLE 5, DELAWARE CODE, RELATING TO  
QUALIFICATION OF COMMISSIONER AND EMPLOYEES.

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

Section 1. Amend §104, Chapter 1, Title 5, Delaware Code, by deleting the phrase "Secretary of Administrative Services" wherever it appears and substituting in lieu thereof the word "Commissioner".

Section 2. Amend Chapter 1, Title 5, Delaware Code, by adding a new §108 to read as follows:

§108. Prohibited Relationships with Supervised  
Institutions

The Commissioner, Deputy Commissioner or Examiners employed by the Commissioner, or such person's spouse or such person's son or daughter residing at such person's residence shall not obtain a loan or utilize credit from any financial institution subject to supervision or regulation of the Commissioner. This prohibition, however, shall not be construed as prohibiting such persons from being a depositor or member of any such financial institution on the same terms as available to the public generally."

Approved June 27, 1978.

## CHAPTER 360

## FORMERLY SENATE BILL NO. 478

AN ACT TO AMEND CHAPTER 1, TITLE 5, DELAWARE CODE, RELATING TO  
FINANCIAL INSTITUTION RECORDS RETENTION.

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

Section 1. Amend Chapter 1, Title 5, Delaware Code, to add a new §140 to read as follows:

§140. Retention of Financial Institution Records

(a) All records of financial institutions and of federally-chartered financial institutions, insofar as this section does not contravene paramount federal law, shall be retained for such minimum periods as the Commissioner may prescribe.

(b) The Commissioner shall from time to time issue regulations classifying all records kept by these institutions and prescribing the minimum period for which these records shall be retained. The periods may be permanent or for a lesser term. Such regulations may be amended or repealed from time to time. The regulations shall be promulgated as provided for in Chapter 64, Title 29, Delaware Code.

(c) In issuing the regulations required by subsection (b), the Commissioner shall consider:

(1) Court and administrative proceedings in which the production of these records might be necessary or desirable;

(2) State and Federal statutes of limitation applicable to such proceedings;

(3) Availability of information from other sources; and

(4) Such other matters as the Commissioner shall deem pertinent in order that the regulations will require retention of records for such reasonable period as is commensurate with the interests of customers, depositors, stockholders and the peoples of the State in having such records available.

(d) The Commissioner shall additionally prescribe the substitution of reproductions for the originals to cover the period for which such records shall be retained.

(e) Institutions may at their option dispose of any record which has been retained for the minimum period prescribed by the Commissioner."

Section 2. The initial regulations required by Section 1 of this Act shall be promulgated within 180 days of the effective date of this Act.

Section 3. The effective date of this Act is July 1, 1978.

Approved June 27, 1978.

CHAPTER 361

FORMERLY SENATE BILL NO. 480

AN ACT TO AMEND CHAPTER 21, TITLE 5, OF THE DELAWARE CODE, RELATING  
TO THE EXAMINATION OF SMALL LOAN COMPANIES.

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

Section 1. Amend subsection (1), §2107, Title 5, Delaware Code, by striking the phrase "18 months" as it appears in the last line of said subsection and substitute in lieu thereof the phrase "each year".

Approved June 27, 1978.

## CHAPTER 362

## FORMERLY SENATE BILL NO. 541

AN ACT TO AMEND AN ACT, BEING CHAPTER 170, VOLUME 57, OF THE LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE CITY OF LEWES" TO PROVIDE A PROCEDURE FOR REFERENDUM.

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, Chapter 170, Volume 57 of the Laws of Delaware, as amended, is hereby further amended by adding a new section following Section 29 to be designated as Section 29A to read as follows:

## PROCEDURE FOR REFERENDUM

Section 41A-a. Qualified residents and property owners of the City of Lewes shall have the power to require reconsideration by the City Council of the City of Lewes of any adopted ordinance and to approve or reject it at an election as provided herein, provided, however, that such power of referendum shall not extend to the budget or capital program, any emergency ordinance, any zoning ordinance, any ordinance relating to the appropriation of money, nor to any ordinance relating to the levy of taxes.

b. A Referendum Petition signed by residents and property owners of the City of Lewes entitled to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day that the Referendum Petition was signed by such resident or property owner, whether or not such resident or property owner is a registered voter, equal in number in at least forty percent (40%) of the total number of voters who voted in the Annual Municipal Election next preceding the execution of the Referendum Petition with the local address of the person so signing, or three hundred (300) residents and property owners, qualified as aforesaid, which ever is greater, shall be presented to the City Council of the City of Lewes at the next regular meeting of the City Council of the City of Lewes following adoption of the ordinance sought to be reconsidered. Each copy of such petition shall contain and have attached thereto throughout its circulation the full text of the ordinance sought to be reconsidered.

c. Each copy of the petition shall have attached to it, when filed, an affidavit executed by the signer thereof stating that he personally circulated the petition, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be the genuine

signatures of the persons whose names they purport to be, that each person who signed it is qualified to sign the petition and that each signer had an opportunity before signing to read the full text of the ordinance sought to be reconsidered.

d. A Petition for Referendum shall be filed at the next regular meeting of the City Council of the City of Lewes following adoption by the City Council of the City of Lewes of the ordinance sought to be reconsidered or it shall not be the subject of a referendum. 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 City Council of the City of Lewes, the Petition for Referendum shall be presented at the first regular meeting of the City Council of the City of Lewes 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.

e. Within twenty (20) days after the petition is filed with the City Council of the City of Lewes at a regular meeting, the City Manager shall complete a certificate as to its sufficiency, specifying, that if it is insufficient, the particulars wherein it is defective, shall promptly send a copy of the certificate to the circulator of such petition by certified mail with return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended one (1) time if the circulator files a Notice of Intention to Amend with the City Manager within two (2) days after receiving a copy of his certificate and files a Supplementary Petition upon additional papers within five (5) days after receiving the copy of such certificate. Such Supplementary Petition shall comply with the requirements of this Section concerning form, content and the affidavit of the circulator. Within five (5) days after it is filed, the City Manager shall complete a certificate as to the sufficiency of the petition, as amended, and shall promptly send a copy of such certificate to the circulator by certified mail with return receipt requested, as in the case of the original petition. If the petition, or amended petition is certified sufficient, or if the petition or amended petition is certified insufficient and the circulator does not elect to amend or request a review of the sufficiency of the certificate by the City Council of the City of Lewes within the time required, the City Manager shall promptly present his certificate to the City Council of the City of Lewes at the next regular meeting and the certificate shall be a form of determination as to the sufficiency of the petition.

f. If a petition has been certified to be insufficient and the circulator has not filed Notice of Intention to Amend, or if an amended petition has been certified insufficient, the circulator may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the City Council of the City of Lewes. The City Council of the City of Lewes shall review the certificate at the next regular meeting following the filing of such request and approve or disapprove it, and the determination of the City Council of the City of Lewes shall be a final determination as to the sufficiency of the petition.

g. Any person or persons, jointly or severally, aggrieved by the decision of the City Council of the City of Lewes may present to the Superior Court of the State of Delaware, a petition, duly verified, setting forth that such decision is invalid, in whole or in part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days following the determination by the City Council of the City of Lewes as to the insufficiency of such petition. Upon presentation of the petition, the Court may allow a Writ of Certiorari directed to the City Council of the City of Lewes to review such decision of the City Council of the City of Lewes and shall prescribe therein the time in which a return thereto must be made and served upon the petitioner or his attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the Writ shall stay proceedings upon the decision or determination appealed from. The Court may reverse, or affirm, wholly or partly, or may modify the determination brought up for review.

h. Upon the filing of the Petition for a Referendum for the City Manager, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate upon the happening of any of the following events:

(1) There is a final determination of insufficiency of the Petition; or

(2) The Petition is withdrawn by the circulator or circulators thereof or sufficient copies thereof are withdrawn so that there are insufficient number of signatures as required by this Section; or

(3) The City Council of the City of Lewes repeals the ordinance; or

(4) Thirty (30) days have elapsed after a vote by the voters on the ordinance; or

(5) There is a final determination by the Superior Court.

i. The City Council of the City of Lewes shall reconsider the referred ordinance at the first regular meeting after the Petition for a Referendum has been finally determined to be sufficient. If the City Council of the City of Lewes fails to repeal the referred ordinance, the referred ordinance shall be submitted to the voters of the City of Lewes at an election.

j. The vote of residents and property owners of the City of Lewes on a referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from the date that the petition is determined to be sufficient. If the Annual Municipal Election is to be held within the period prescribed in this Section, such referendum shall be considered as part of that Election. If the Annual Municipal Election is not to be held within the period prescribed in this Section, the City Council of the City of Lewes shall provide for a special election. If the City Council of the City of Lewes fails to hold a referendum within the time specified in this Section, the ordinance for which the petition was filed shall be deemed to be repealed at the expiration of sixty (60) days from the date that the petition was considered to be sufficient, and shall not be passed in the same form for a period of six (6) months from the effective date or repeal.

k. The said election at which the ordinance sought to be repealed is to be reconsidered, every person, male or female, who shall be registered on the "Books of Registered Voters" of the City of Lewes as prescribed in this Charter shall have one (1) vote. Any person who shall register on the "Books of Registered Voters" shall be entitled to vote in the election provided for 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 election at which the ordinance is to be reconsidered until the close of business on the second Friday prior to the date of the said election. Any person registered to vote in any Annual Municipal Election shall not be required to register in order to vote in any 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 any election at which the ordinance sought to be repealed is to be considered.

l. The notice of the time and place of holding the said Special Election shall be printed in at least two (2) issues of a newspaper having a general circulation in the City of Lewes within thirty (30) days immediately preceding the date of the Special Election.

m. The Mayor of the City of Lewes shall appoint three persons to act as a Board of Special Election, if a Special Election is required. The polling place or places shall be open from 12 o'clock noon, prevailing time, until 6 o'clock in the evening, prevailing time, on the date set for the Special Election. Persons in the polling place at 6 o'clock in the evening, prevailing time, shall be entitled to vote even though such votes may be cast after 6 o'clock in the evening, prevailing time.

n. Immediately after the closing of the polling place or places, the Board of Special Election, or the Board of Election if the referendum is held on the day of the Annual Municipal Election, as the case may be, shall count the ballots for and against the proposition as presented and shall announce the results thereof. The Board of Special Election or the Board of Election, as the case may be, shall make a certificate under their hands of the number of votes cast for and against the proposed ordinance and the number of void votes and shall deliver the same to the City Council of the City of Lewes. The said certificate shall be filed with the papers of the City Council of the City of Lewes.

o. The form of the ballot of the said Election, whether the same be considered at the Annual Municipal Election or at a Special Election shall be as follows:



For the Referred Ordinance.

Against the Referred Ordinance.

(Check your preference.)

Paper ballots may be used in any Special Election on a referral of an ordinance. The City Council shall cause to be prepared and printed a sufficient number of ballots not less than five (5) days prior to the date of the Special Election. Voting machines shall be used if the referendum is held on the day of the Annual Municipal Election if voting machines are required for the Annual Municipal Election.

p. If the majority of the registered voters voting on a referred ordinance vote against such ordinance, it shall be considered repealed upon the certification of the result of the election by the Board of Special Election in the case of a Special Election or upon the certification of the Board of Election in the case of such referendum being held on the day of the Annual Municipal Election. No ordinance which has been repealed as the result of a referendum shall be passed again in the same form by the City Council of the City of Lewes for a period of six (6) months from the date of the referendum.

Approved June 27, 1978.

## CHAPTER 363

FORMERLY HOUSE BILL NO. 938  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 & 2

AN ACT TO AMEND CHAPTER 65, PART IV, TITLE 11 OF THE DELAWARE CODE  
RELATING TO THE DEPARTMENT OF CORRECTION; AND LIMITING THE  
FURLOUGH AND WORK RELEASE PRIVILEGES OF CERTAIN PRISONERS.

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

Section 1. Amend §6533, Chapter 65, Part IV, Title 11 of the Delaware Code by adding thereto a new subsection, designated as subsection (d), which new subsection shall read as follows:

"(d) Notwithstanding any other provision of this section or Title to the contrary, no person serving a sentence imposed for a Class A felony shall be permitted outside employment or work released under this section, until such person is within six months from the date of his release from custody, as determined by the Department."

Section 2. Amend §6538, Chapter 65, Part IV, Title 11 of the Delaware Code, by adding thereto a new subsection, designated as subsection (d), which new subsection shall read as follows:

"(d) Notwithstanding any provision of this section or Title to the contrary, no person serving a sentence imposed for a Class A felony shall be permitted to participate in any furlough or furlough program under the provisions of this section."

Approved June 27, 1978.

## CHAPTER 364

## FORMERLY SENATE BILL NO. 539

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF PUBLIC SAFETY TO BE USED FOR THE PURCHASE OF NEW HELICOPTER BLADES.

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

Section 1. The sum of twenty-two thousand dollars (\$22,000.00) is hereby appropriated to the Department of Public Safety to be utilized by the Division of State Police in the purchase of new helicopter blades.

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 June 27, 1978.

## CHAPTER 365

FORMERLY HOUSE BILL NO. 528  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 15, TITLE 13, DELAWARE CODE, RELATING TO  
DIVORCE AND ANNULMENT.

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

Section 1. Amend §1503, Chapter 15, Title 13, Delaware Code, by striking paragraph (7) in its entirety and by inserting in lieu thereof the following:

"(7) 'Separation' means living separate and apart for 6 or more months immediately preceding the ruling upon the petition for a decree of divorce, except that no period of separation is required with respect to a marriage characterized under §1505 (b) (2) of this title; and separation may commence and/or continue while the parties reside under the same roof, provided during such period, the parties occupy separate bedrooms and do not have sexual relations with each other, except as §1505 (e) of this chapter may apply."

Section 2. Amend §1503, Chapter 15, Title 13, Delaware Code, by striking from paragraph (8), in lines 4 and 5, the words, "or by participation by respondent in judicial proceedings", and inserting in lieu thereof the words "or by proof of institution by respondent of separate judicial proceedings".

Section 3. Amend §1505, Chapter 15, Title 13, Delaware Code, by striking subsection (a) in its entirety and by inserting in lieu thereof the following:

"(a) The Court shall enter a decree of divorce whenever it finds that the marriage is irretrievably broken and that reconciliation is improbable."

Section 4. Amend §1505 (b), Chapter 15, Title 13, Delaware Code, by striking the phrase "where reconciliation is improbable" as the same appears in the last line of said subsection and by changing the comma "," after the word "incompatibility" to a period ".".

Section 5. Amend §1505 (e), Chapter 15, Title 13, Delaware Code, by striking subsection (e) in its entirety and by adding a new subsection (e) to read as follows:

"(e) Bona fide efforts to achieve reconciliation prior to divorce, even those that include, temporarily, sleeping in the same bedroom and resumption of sexual relations, shall not interrupt any period of living separate and apart, provided that the parties have not occupied the same bedroom or had sexual relations with each other within the 30 day period immediately preceding the day the Court hears the petition for divorce."

Section 6. Amend §1506, Chapter 16, Title 13, Delaware Code, by adding a new subsection to be designated (e) and to read as follows:

"(e) 'Separation' as defined in §1503 (7) of this title is inapplicable to annulment proceedings; and a petition may be filed whenever a circumstance exists as defined by, and within the time limit specified in, this section."

Section 7. Amend §1507, Chapter 15, Title 13, Delaware Code, by striking subsection (c) in its entirety and by adding four new subsections to be designated (c), (d), (e) and (f) and to read as follows:

"(c) The petition shall be filed either in the county wherein petitioner resides or the county wherein respondent resides.

(d) The petition shall be filed with the Clerk of the Court, along with such deposit to cover costs as the Court may fix, and a praecipe instructing the Clerk how service is to be made or jurisdiction otherwise sought or acquired over respondent.

(e) A petition for divorce may be filed at any time following the separation of the parties if the requirements of §1504 (a) have been satisfied although no ruling shall be made to determine whether to grant a divorce until after the parties have been separated for 6 months; provided, however, that relief under §1509 shall be available to the parties during the interim.

(f) The relief prayed for under subsection (b) (11) of this section may include, where appropriate under the facts and law, in addition to a prayer for a decree of divorce or annulment, prayers for other relief that may be available under this title, including, without limitation, prayers for interim relief (§1509), alimony (§1512), property disposition (§1513), resumption of prior name (§1514), costs and attorneys' fees (§1515), support for a child (subchapter

I, Chapter 5 of this title), and custody and/or child visitation (subchapter II, Chapter 7 of this title)."

Section 8. Amend §1509 (a), Chapter 15, Title 13, Delaware Code, by adding thereto two new paragraphs to be designated paragraphs (7) and (8) and to read as follows:

"(7) For support of a child under Chapter 5 of this title;

(8) For custody and/or visitation of a child under Chapter 7 of this title."

Section 9. Amend §1509, Chapter 15, Title 13, Delaware Code, by adding thereto a new subsection to be designated subsection (c) and to read as follows:

"(c) Where appropriate under the facts and law, relief afforded a party under subparagraphs (1), (3), (4) and/or (5) of subsection (a) of this section may be continued and/or included in the relief granted under §1518 (b) of this title."

Section 10. Amend §1511, Chapter 15, Title 13, Delaware Code, by striking subsection (c) in its entirety, redesignating subsection (d) as subsection (c) and subsection (e) as subsection (d), and by inserting in new subsection (c) a period"." after the word "counterclaim" as the same appears at the beginning of the third line, and then striking all the words following the word "counterclaim".

Section 11. Amend §1512 (b), Chapter 15, Title 13, Delaware Code, by adding a new paragraph to be designated paragraph (7) and to read as follows:

"(7) Tax consequences."

Section 12. Amend §1513 (a), Chapter 15, title 13, Delaware Code, by adding a new paragraph (11) and to read as follows:

"(11) Tax consequences."

Section 13. Amend §1513, Chapter 15, Title 13, Delaware Code, by adding a new subsection to be designated subsection (f) and to read as follows:

"(f) The Court may order a party to execute and deliver any deed, document or other paper necessary to effectuate an order entered under this Chapter, and if the party so ordered fails to do what he has been ordered to do the Court, in addition to any penalty or sanction it may decide to impose

upon that party for such disobedience, may direct the Clerk of the Court to do what the part was ordered to do, and such performance by the Clerk shall be as effective as the preformance of the party would have been."

Section 14. Amend §1516, Chapter 15, Title 13, Delaware Code, by striking said section in its entirety and by substituting in lieu thereof the following:

"§1516. Hearings; use of masters, impoundment,  
assignment of counsel

'(a) All hearings and trials shall be private, but for reasons appearing sufficient to the Court any hearing or trial may be opened to any person who has a direct and legitimate interest in the particular case, or a legitimate educational or research interest in the work of the Court.

(b) A judge, sitting without a jury, shall conduct all hearings and trials where there is a contest; but, pursuant to Court rule, hearings in uncontested proceedings may be conducted by a master, sitting without a jury, in accordance with §913 of Title 10.

(c) Whenever it seems appropriate, in the interest of justice, the Court may designate a disinterested attorney to defend, or otherwise participate in, a proceeding before the Court, and a fee for such attorney shall be taxed as part of the costs.

(d) No record or evidence in any case shall be impounded or access thereto refused."

Section 15. Amend §1517, Chapter 15, Title 13, Delaware Code, by striking subsection (a) in its entirety and by adding a new subsection (a) to read as follows:

"(a) Whenever the petition for divorce or annulment is not contested by respondent, the allegations thereof are presumed to be accurate and true, and the Court shall rule upon the petition after a hearing at which only petitioner need testify; but if petitioner's testimony fails to support the petition in any essential respect, the Court may deny the petition or require corroborating testimony or other evidence before ruling thereon."

I, Chapter 5 of this title), and custody and/or child visitation (subchapter II, Chapter 7 of this title)."

Section 8. Amend §1509 (a), Chapter 15, Title 13, Delaware Code, by adding thereto two new paragraphs to be designated paragraphs (7) and (8) and to read as follows:

"(7) For support of a child under Chapter 5 of this title;

(8) For custody and/or visitation of a child under Chapter 7 of this title."

Section 9. Amend §1509, Chapter 15, Title 13, Delaware Code, by adding thereto a new subsection to be designated subsection (c) and to read as follows:

"(c) Where appropriate under the facts and law, relief afforded a party under subparagraphs (1), (3), (4) and/or (5) of subsection (a) of this section may be continued and/or included in the relief granted under §1518 (b) of this title."

Section 10. Amend §1511, Chapter 15, Title 13, Delaware Code, by striking subsection (c) in its entirety, redesignating subsection (d) as subsection (c) and subsection (e) as subsection (d), and by inserting in new subsection (c) a period"." after the word "counterclaim" as the same appears at the beginning of the third line, and then striking all the words following the word "counterclaim".

Section 11. Amend §1512 (b), Chapter 15, Title 13, Delaware Code, by adding a new paragraph to be designated paragraph (7) and to read as follows:

"(7) Tax consequences."

Section 12. Amend §1513 (a), Chapter 15, title 13, Delaware Code, by adding a new paragraph (11) and to read as follows:

"(11) Tax consequences."

Section 13. Amend §1513, Chapter 15, Title 13, Delaware Code, by adding a new subsection to be designated subsection (f) and to read as follows:

"(f) The Court may order a party to execute and deliver any deed, document or other paper necessary to effectuate an order entered under this Chapter, and if the party so ordered fails to do what he has been ordered to do the Court, in addition to any penalty or sanction it may decide to impose

upon that party for such disobedience, may direct the Clerk of the Court to do what the part was ordered to do, and such performance by the Clerk shall be as effective as the preformance of the party would have been."

Section 14. Amend §1516, Chapter 15, Title 13, Delaware Code, by striking said section in its entirety and by substituting in lieu thereof the following:

"§1516. Hearings; use of masters, impoundment,  
assignment of counsel

'(a) All hearings and trials shall be private, but for reasons appearing sufficient to the Court any hearing or trial may be opened to any person who has a direct and legitimate interest in the particular case, or a legitimate educational or research interest in the work of the Court.

(b) A judge, sitting without a jury, shall conduct all hearings and trials where there is a contest; but, pursuant to Court rule, hearings in uncontested proceedings may be conducted by a master, sitting without a jury, in accordance with §913 of Title 10.

(c) Whenever it seems appropriate, in the interest of justice, the Court may designate a disinterested attorney to defend, or otherwise participate in, a proceeding before the Court, and a fee for such attorney shall be taxed as part of the costs.

(d) No record or evidence in any case shall be impounded or access thereto refused."

Section 15. Amend §1517, Chapter 15, Title 13, Delaware Code, by striking subsection (a) in its entirety and by adding a new subsection (a) to read as follows:

"(a) Whenever the petition for divorce or annulment is not contested by respondent, the allegations thereof are presumed to be accurate and true, and the Court shall rule upon the petition after a hearing at which only petitioner need testify; but if petitioner's testimony fails to support the petition in any essential respect, the Court may deny the petition or require corroborating testimony or other evidence before ruling thereon."

Section 16. Amend §1517, Chapter 15, Title 13, Delaware Code, by striking the first 3 lines of subsection (b) and paragraph (1) of subsection (b), and by substituting in lieu thereof the following:

"(b) In contested cases, after a hearing the Court shall:

1. Rule upon the petition; or"

Section 17. Amend §1517, Chapter 15, Title 13, Delaware Code, by redesignating subsection (c) as subsection (d), and by adding a new subsection (c) to read as follows:

"(c) Before entering a decree the Court shall review the record to determine that:

(1) The averments of the petition satisfy §§1504 (a), 1505 or 1506, and 1507 of this chapter;

(2) Jurisdiction has been acquired over respondent under §1508 of this chapter;

(3) In uncontested cases, whether the time for respondent to file a responsive pleading has expired;

(4) The parties to a divorce proceeding have continued to be separated since the commencement of this action, except as §1505 (e) of this chapter may apply;

(5) A certified copy of the parties' marriage record has been filed; and

(6) The affidavit of non-military service, wherever required by federal statute, has been filed."

Section 18. Amend §1518, Chapter 15, Title 13, Delaware Code, by striking subsection (a) in its entirety and by substituting in lieu thereof a new subsection (a) to read as follows:

"(a) A decree granting or denying a petition or divorce or annulment is final when entered, subject to the right of appeal. An appeal that does not challenge the decree of divorce or annulment, but challenges only rulings with respect to relief awarded under other sections of this chapter, or other matters incidental or collateral to such decree, shall not delay the finality of the decree of divorce or annulment, and the parties may remarry while the appeal is pending."

Section 19. Amend §1518, Chapter 15, Title 13, Delaware Code, by striking subsection (b) in its entirety and by inserting in lieu thereof a new subsection (b) to read as follows:

"(b) Whenever the Court enters a decree granting a petition for divorce or annulment, a certified copy of such decree shall be made available to the parties within 30 days after such ruling; but following a contested proceeding, such a copy of the decree shall only be made available to the parties 30 days after such ruling, and after the furnishing of such proof as the Court may require that no appeal challenging the decree of divorce or annulment is pending."

Section 20. Amend §1518, Chapter 15, Title 13, Delaware Code, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) In the decree granting or denying a petition for divorce or annulment, or by separate order or orders preceding or following such decree, the Court shall dispose of all other prayers for relief, where appropriate under the facts and law; but an application for such relief and a hearing thereon must be presented in the petition or response, or by motion after notice to the other party prior to the entry or denial of such decree."

Section 21. Amend §1518, Chapter 15, Title 13, Delaware Code, by redesignating subsections (d), (e) and (f) as subsections (e), (f) and (g) and by adding a new subsection to be designated (d) and to read as follows:

"(d) Court costs, including any fee for the services of an attorney allowed by the Court, shall be taxed by the Court at or about the time of the granting or denial of the decree of divorce or annulment, at the time of disposition of other prayers for relief in accordance with subsection (c) of this section, following this disposition of an appeal, or at such other time or times as the Court may deem appropriate."

Section 22. Amend §1519, Chapter 15, Title 13, Delaware Code, by striking subsection (a) in its entirety and by inserting in lieu thereof a new subsection (a) to read as follows:

"(a) A decree or separate order entered under §1518 of this title may be modified or terminated only as follows:

(1) Support for a child, only as provided in Chapter 5 of this title, or otherwise;

(2) Custody and/or visitation of a child, only as provided in Chapter 7 of this title, or otherwise;

(3) Property disposition, only upon a showing of circumstances that would justify the opening or vacation of a judgment under the Rules of the Superior Court of this State;

(4) Alimony or any other relief awarded, only upon showing of real and substantial change of circumstances."

Section 23. Amend Chapter 15, Title 13, Delaware Code, by adding a new section thereto to be known as §1523 and to read as follows:

"§1523. Time for Appeal

"No appeal from an interim or final decree, judgment or order entered pursuant to Chapter 15 of this title shall be received or entertained unless the praecipe, notice of appeal or other document or documents required for the appeal is or are duly filed with the proper appellate court within 30 days after the date of the same."

Approved June 27, 1978.

CHAPTER 366

FORMERLY HOUSE BILL NO. 610  
AS AMENDED BY  
HOUSE AMENDMENT NO. 4

AN ACT TO AMEND CHAPTER 55, TITLE 29 OF THE DELAWARE CODE RELATING  
TO THE STATE EMPLOYEES' PENSION PLAN; AND PROVIDING FOR THE  
OPTIONAL AND MANDATORY RETIREMENT OF STATE EMPLOYEES.

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

Section 1. Amend §5521 (a) Title 29, Delaware Code, by striking the words "The mandatory retirement age shall be as follows:" and all that appears thereafter and by inserting in lieu thereof the following:

"The mandatory retirement age shall be age 70 years."

Section 2. Amend §5521, Title 29, Delaware Code, by striking subsection (b) thereof and by restyling subsection (c) as subsection (b).

Approved June 27, 1978.

## CHAPTER 367

FORMERLY HOUSE BILL NO. 880  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 25, 21 AND 10 OF THE DELAWARE CODE RELATING TO LIENS OF GARAGEMEN, LIVERY AND STABLE KEEPERS; SALE OF ABANDONED VEHICLES; REMOVAL AND SALE OF MOTOR VEHICLES FROM PUBLIC HIGHWAYS BY POLICE AND FEES THEREFOR.

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

Section 1. Amend Chapter 39, Title 25, Delaware Code, by striking sections 3901 through 3909 in their entirety and substituting in lieu thereof the following new sections:

"§3901. Persons Entitled to Liens

(a) Any hotelkeeper, innkeeper, garage owner or other person who keeps a livery, boarding stable, garage, airport, marina, or other establishment and, for price or reward at such livery, boarding stable, garage, airport, marina or other establishment, furnishes food or care for any horse or has the custody or care of any carriage, cart, wagon, sleigh, motor vehicle, trailer, moped, boat, airplane, or other vehicle or any harness, robes or other equipment for the same or makes repairs, performs labor upon, furnishes services, supplies or materials for, stores, safekeeps, or tows any carriage, cart, wagon, sleigh, motor vehicle, trailer, moped, boat, airplane, or other vehicle or any harness, robes, or other equipment for the same shall have a lien upon such horse, carriage, cart, wagon, sleigh, motor vehicle, trailer, moped, boat, airplane, or other vehicle, harness, robes or equipment and the right to detain the same to secure the payment of such price or reward.

(b) Unless the context of this Chapter requires otherwise, a lienholder shall mean any person defined in subsection (a) of this section.

§3902. Lienholder's Loss of Possession

(a) In case, either before or after the price or reward become due and payable, the lienholder under Section 3901 loses possession of the encumbered property, except by court order pursuant to this Chapter, the lienholder's lien shall continue in full force and effect, provided that within 10

days from the time of the loss of possession the lienholder files an application for the issuance of an authorization to conduct a lien sale or counterclaims for the sale of the encumbered property replevin action brought by the owners or other persons claiming an interest in the property.

**§3903. Sale to Satisfy Liens**

(a) If a lienholder under Section 3901 or Section 3902 is not paid the amount due, and for which the lien is given within thirty (30) days after the same or any part thereof became due, then the lienholder may proceed to sell the property, or so much thereof as may be necessary, to satisfy the lien and costs of sale pursuant to Section 3905 if (1) an authorization to conduct a lien sale has been issued pursuant to this section, (2) a judgment has been entered in favor of the lienholder on the claim which gives rise to the lien, or (3) the owners and any secured parties of record or known lienholders of the property have signed, after the lien has arisen, a release of any interest in the property in the form prescribed by Section 3904.

(b) A lienholder may apply to a justice of the peace in the county in which the lienholder's business establishment is situated for the issuance of any authorization to conduct a lien sale under Section 3905. The application shall be executed under penalty of perjury and shall include all of the following:

- (1) A description of the property.
- (2) The names and addresses of the owners of the property and the names and addresses of any other persons who the lienholder knows claim an interest in the property.
- (3) A statement of the amount of the lien and facts concerning the claim which gives rise to the lien. If compensation for storage is claimed, the per diem rate of storage shall be shown.
- (4) The date, time and place that the property will be sold if the authorization to conduct a lien sale is issued.
- (5) A statement that the lienholder has no information or belief that there is a valid defense to the claim which gives rise to the lien.

(c) Upon receipt of an application which is made pursuant to subdivision (b), the justice of the peace shall send a notice and a copy of the application by certified mail or registered mail, return receipt requested, to the owners secured parties of record and any known lienholders and any other persons whose names and addresses are listed in the application. If the identity of the last registered owner or secured party cannot be determined with reasonable certainty, the provisions of Section 3905 shall have the same effect as notice sent by certified or registered mail. The notice shall include all of the following:

(1) A statement that an application has been made with the justice of the peace for the issuance of an authorization to conduct a lien sale.

(2) A statement that (i) the person has a legal right to a hearing in court, (ii) if a hearing in court is desired, the enclosed declaration under penalty of perjury must be signed and returned, and (iii) if the declaration is signed and returned, the lienholder will be allowed to sell the vehicle only if he obtains a judgment in court or obtains a release from the owners and any known lienholders.

(3) A statement that (i) if the declaration is signed and returned, a hearing will be promptly scheduled, and the owners may then appear to contest the claim of the lienholder.

(4) A statement of the date, time and place that the property will be sold if the authorization to conduct a lien sale is issued.

(5) A statement that the justice of the peace will issue the authorization to conduct a lien sale unless the person signs and returns, within twenty (20) days after the date on which the notice was mailed, the enclosed declaration stating that the person desires to contest the claim which gives rise to the lien.

(6) A statement that the person shall be liable for costs if a judgment is entered in favor of the lienholder on the claim which gives rise to the lien.

(7) A declaration which may be executed by the person under penalty of perjury stating that he desires to contest the claim which gives rise to the lien and that he has a valid defense to the claim and he shall

furnish names and addresses where official notice may be received of any person or persons including himself known to claim an interest in the property of the hearing date.

(d) If the justice of the peace receives a declaration described in paragraph (3) of subsection (c) which is mailed within twenty (20) days after the date upon which the notice described in subsection (c) is mailed, the justice of the peace shall notify the lineholder, and owners and any other persons listed in the application or declaration of the hearing date unless the owners of the property and any known lienholder(s) have signed, after the lien has arisen, a release of any interest in the property in the form prescribed by §3904. In any other case, the justice of the peace shall issue an authorization to conduct a lien sale.

(e) In any hearing, the lineholder may have the amount of the indebtedness and right to sale determined and the person requesting the hearing may present and have determined any defenses, setoffs, counterclaims, cross-claims or third-party actions.

(f) Any fees shall be recoverable as a cost by the lienholder if a sale is conducted.

(g) The form of the applications, notices, and declarations described in this section shall be prescribed by the justice of the peace. The language used in the applications, notices and declarations should be simple and nontechnical.

§3904. Release of Owner's Interest in Vehicle or Property

(a) An owner of property subject to a lien under Section 3901 or 3902 may release any interest in the property after the lien has arisen. The release shall be dated when signed and a copy shall be given at the time the release is signed to the person releasing the interest.

(b) The release shall contain all of the following information in simple, nontechnical language:

(1) A description of the property sufficient to identify it.

(2) The names and addresses of the owners.

(3) A statement of the amount of the lien and the facts concerning the claim which gives rise to the lien.

(4) A statement that the person releasing the interest understands that (i) he has a legal right to a hearing in court prior to any sale of the property to satisfy the lien and (ii) he is giving up the right to appear to contest the claim of the lienholder.

(5) A statement that (i) the person releasing the interest gives up any interest he may have in the property and (ii) he is giving the lienholder permission to sell the property.

(6) A statement that there is no other person, persons or lienholders who have an outstanding interest in the property.

**\$3905. Notice of Sale; Disposition of Proceeds**

(a) Prior to any such sale the lienholder shall give at least fifteen (15) days notice of the sale by handbills posted in five (5) or more public places and by advertising in a newspaper published and/or circulated in the county in which the sale is to be held.

(b) The proceeds of the sale shall be applied to the discharge of the lien and the cost of keeping and selling the Property. The balances, if any, of the proceeds of this sale shall be deposited with the Court to be applied by the Court to the payment of any lien or security interest to which the property may be subject in the order of their priority, with any remaining proceeds to be paid to the owner or owners of the property sold but, in case such owner or owners cannot be found, such balance shall be deposited with the Farmers Bank of the State of Delaware in the county in which such sale has been held to the credit of such owner or owners.

**\$3906. Notice**

In the case of motor vehicles required to be registered under the motor vehicle laws of this or any other state, notice containing the information required in §3903(b) shall be given to the registered owners and known lienholders at their addresses of record with the Division of Motor Vehicle or similar agency and the return receipt, signed or unsigned, shall be held and considered as prima facie evidence of service of such notice. The lienholder shall notify the appropriate Delaware Auto Theft Unit.

**\$3907. Priority of Lien**

All liens created pursuant to Section 3901 or Section 3902 shall be superior to any lien, title or interest of any person who has a security interest by virtue of a conditional sales contract or a prior perfected security interest in accordance with Title 6, Article IX of the Delaware Code.

**\$3908. Remedy of Owner**

The owners or other persons claiming an interest in the property, in addition to the right to a hearing as provided herein, shall have the right to file an action in replevin at any time in accordance with the provisions of Chapter 95, Title 10, Delaware Code and no bond shall be required to be posted as a prerequisite to the filing of such an action or the issuance of the writ of replevin.

**\$3909. Jurisdiction**

The Justice of the Peace Court in the county in which the lienholder's business establishment is situated shall have exclusive jurisdiction of all petitions for sale or replevin under this Chapter, notwithstanding any monetary amount which is claimed by the lienholder.

**\$3910. Rules**

The Justice of the Peace Court may adopt appropriate and specific rules to effectuate the intent and purpose of this Chapter."

Section 2. Amend §4404 of Chapter 44, Title 21, Delaware Code, by striking said section in its entirety and inserting in lieu thereof a new §4404 to read as follows:

**§4404. Sale of Abandoned Vehicles**

The Department shall have a possessory lien against said abandoned vehicles and shall have a right to sell said abandoned vehicles after complying with the notice and sale provisions as outlined in Chapter 39, Title 25, Delaware Code, with the exception that the proceeds of the sale shall be applied first to the costs of the sale, then to the costs of removing, towing, preserving and storing and then to the payment of any liens to which said motor vehicle, trailer, or

part thereof may be subject in order of their priority, then to the State Treasurer who shall create a special fund thereof and who shall pay to the owner the monies held if a claim is made within one (1) year of the removal, or deposit the monies in the General Fund of the State of Delaware if no claim is made within one (1) year of the removal."

Section 3. Amend §6901 of Chapter 69, Title 21, Delaware Code, by adding thereto a new paragraph to read as follows:

"Anyone so removing any motor vehicle, trailer, or part thereof shall have a possessory lien against said motor vehicle, trailer, or part thereof for the costs of removing, towing, preserving and storing said motor vehicle, trailer or part thereof and shall have a right to sell said motor vehicle, trailer or part thereof after complying with the notice and sale provisions as outlined in Chapter 39, Title 25, Delaware Code, with the exception that the proceeds of the sale shall be applied first to the costs of the sale, then to the costs of removing, towing, preserving and storing and then to the payment of any liens to which said motor vehicle, trailer, or part thereof may be subject in order of their priority, then to the State Treasurer who shall create a special fund thereof and who shall pay to the owner the monies left if a claim is made within one (1) year of the removal or deposit the monies in the General Fund of the State of Delaware if no claim is made within one (1) year of the removal.

Section 4. Amend §9801 of Chapter 98, Title 10, Delaware Code, by adding thereto a new paragraph 3 to read as follows:

"(3) For processing applications for authorization to sell motor vehicles under the provisions of Chapter 39, Title 25, Chapter 44, Title 21, and Chapter 69, Title 21

For issuing orders without necessity of a hearing \$ 1.00

For issuing orders with a hearing \$15.00"

Approved June 27, 1978.

CHAPTER 368

FORMERLY SENATE BILL NO. 601  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO OBTAIN REPRESENTATION FOR DELAWARE RATEPAYERS IN A FORTH-COMING PUBLIC SERVICE COMMISSION HEARING AND DECISION ON A RATE INCREASE REQUEST BY DELMARVA POWER AND LIGHT COMPANY; AND PROVIDING AN APPROPRIATION THEREFOR.

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

WHEREAS, it is the desire of the General Assembly to provide at least minimal representation for Delaware ratepayers in a forthcoming rate increase request by Delmarva Power and Light Company in which the utility company is strongly represented by counsel, and in addition has at least three intervenors on behalf of its rate increase requests, and it is the desire of the General Assembly to provide funding for two parties in the matter who have already filed as intervenors on behalf of large portions of the Delaware general public, and;

WHEREAS, the General Assembly hereby declares that the representation afforded by the intervenors designated by this Act is a legitimate function within the operation of the Commission, and the Commission is required by law to permit said intervenors to fully participate in the rate increase hearing as parties in interest, and without harassment, intimidation or the imposition of procedural technicalities, and;

WHEREAS, it is the desire that in Docket No. 923 (1978) of the Public Service Commission, being a request by the Delmarva Power and Light Company for a rate increase, intervenor Citizens Coalition for Tax Reform and intervenor Victor Singer to be designated as intervenors on behalf of all Delaware rate payers affected or to be affected by the decision of the Public Service Commission in said Docket No. 923.

Section 1. There is hereby authorized to be expended from the Public Service Commission Regulatory Revolving Fund the sum of \$40,000 in addition to those funds authorized in the approved Budget for its Contractual Services to June 30, 1978 for the purpose of providing legal and technical services to assist the Citizens Coalition for Tax Reform and Victor Singer (intervenors in Public Service Commission Docket 923 (1978)).

Approved June 22, 1978.

## CHAPTER 369

## FORMERLY HOUSE BILL NO. 719

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE INDIAN RIVER SCHOOL DISTRICT TO REIMBURSE AN EMPLOYEE WHO OVERPAID HEALTH INSURANCE COVERAGE UNDER BLUE CROSS-BLUE SHIELD.

WHEREAS, Paul Kennedy, a teacher at the Sussex Central Junior School of the Indian River School District, has overpaid his Blue Cross-Blue Shield premiums by \$859.22 between September 1973 and June 1977; and

WHEREAS, this overpayment resulted from the fact that Paul Kennedy had not received credit under Blue Cross-Blue Shield for his wife who is also a state employee; and

WHEREAS, state law prohibits an agency of the government from paying obligations incurred in a prior year without special act of the General Assembly; and

WHEREAS, Paul Kennedy overpaid his insurance in the following amounts and during the months shown herein:

September 1973 through May 1974 (\$13.20 per month)	\$118.80
June 1974 through May 1975 (\$14.40 per month)	172.80
June 1975 through May 1976 (\$19.94 per month)	239.28
June 1976 through May 1977 (\$24.78 per month)	297.36
June 1977	<u>30.98</u>
	\$859.22

NOW, THEREFORE:

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

Section 1. The sum of \$859.22 is hereby appropriated to the Indian River School District to reimburse Paul Kennedy, a teacher at the Sussex Central Junior High School, who overpaid his health insurance coverage under 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 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.

Approved June 28, 1978.

CHAPTER 370

FORMERLY HOUSE BILL NO. 824  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF TRAFFIC SIGNAL CONTROL EQUIPMENT.

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

Section 1. The sum of \$5,200 is appropriated to the Department of Transportation for the installation of traffic signal control equipment near the entrance of the Silver Lake Elementary School, East Main Street and Catherine Street, Middletown, Delaware.

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

Section 3. The funds hereby appropriated remaining unexpended or unencumbered on June 30, 1979, shall revert to the General Fund.

Approved June 28, 1978.

CHAPTER 371

FORMERLY HOUSE BILL NO. 935  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF HIGHWAYS AND TRANSPORTATION FOR THE PURPOSE OF INSTALLING TRAFFIC SIGNAL CONTROL EQUIPMENT IN FRONT OF THE DELMAR FIRE HOUSE ON BI-STATE BOULEVARD IN DELMAR, DELAWARE.

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

Section 1. The sum of \$11,400 is hereby appropriated to the Department of Highways and Transportation for the purpose of installing traffic signal control equipment in front of the Delmar Fire House on Bi-State Boulevard in Delmar, 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 and remaining unexpended and unencumbered on June 30, 1979, shall revert to the General Fund of the State of Delaware.

Approved June 28, 1978.

## CHAPTER 372

FORMERLY SENATE BILL NO. 534

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 7, TITLE 7, OF THE DELAWARE CODE PROHIBITING THE DISCHARGE OF FIREARMS FROM THE HIGHWAY AND ESTABLISHING PENALTIES FOR VIOLATIONS THEREOF.

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

Section 1. Amend Chapter 7, Title 7, of the Delaware Code by adding thereto a new §726, which shall read as follows:

"§726. Discharge of a Firearm while on Public Road

Whoever, except in lawful self-defense, discharges any firearm while on any public road in this State shall be fined not less than \$100 more than \$300 or imprisoned not more than 90 days, or both. Justices of the Peace shall have original jurisdiction to hear, try and finally determine alleged violations of this section."

Approved June 28, 1978.

CHAPTER 373  
FORMERLY HOUSE BILL NO. 841  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16, AND TITLE 31, OF THE DELAWARE CODE RELATING TO THE RIGHTS OF PATIENTS IN SANITORIA, REST HOMES, NURSING HOMES, BOARDING HOMES AND RELATED STATE INSTITUTIONS.

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

Section 1. Amend Chapter 11, Part 11, Title 16 of the Delaware Code by re-designating all of said Chapter as new Subchapter 1 of said Chapter, which new Subchapter shall be entitled:

"SUBCHAPTER I. LICENSING BY THE STATE"

Section 2. Amend Chapter 11, Part 11, Title 16 of the Delaware Code by adding thereto a new Subchapter, designated as Subchapter 11, which new Subchapter shall read as follows:

"SUBCHAPTER II. RIGHTS OF PATIENTS

§1121. Patient's Bill of Rights

It is the intent of the Delaware General Assembly, and the purpose of this section, to promote the interests and well-being of the patients and residents in sanatoria, rest homes, nursing homes, boarding homes and related institutions. It is declared to be the public policy of this State that the interests of the patient shall be protected by a declaration of a patient's bill of rights, and by requiring that all facilities treat their patients in accordance with the provisions of such bill of rights, which shall include but not be limited to the following:

(a) Every patient and resident shall be treated with consideration, respect, and full recognition of his or her dignity and individuality.

(b) Every patient and resident shall receive care, treatment and services which are adequate, appropriate, and in compliance with relevant Federal and State laws and regulations.

(c) Each patient or resident and the family of such patient or resident shall, prior to or at the time of admission and during stay, receive a written statement of the services provided by the facility including those required to be offered on an 'as-needed' basis; and a statement of related charges, including any charges for services

not covered by the facility's basic per diem rate. Upon receiving such statement, the patient and his representative shall sign a written receipt which must be retained by the facility in its files.

(d) Each patient shall receive from the attending physician or the resident physician of the facility complete and current information concerning the patient's diagnosis, treatment and prognosis in terms and language the patient can reasonably be expected to understand, unless medically inadvisable. The patient and resident shall participate in the planning of his or her medical treatment, may refuse medication or treatment, be informed of the medical consequences of all medication and treatment alternatives, and shall give prior informed consent to participation in any experimental research after a complete disclosure of the goals, possible effects on the patient, and whether or not the patient can expect any benefits or alleviation of his condition. In any instance of any type of experiment or administration of experimental medicine, there shall be written evidence of compliance with this subsection, including the signature of the patient and a member of the patient's family or his representative. A copy of the signed acknowledgements shall be forwarded to the family or representative, and a copy shall be retained by the facility.

(e) At the bedside of each patient and resident the facility shall place and maintain in good order the name, address and telephone number of the physician responsible for the patient's care.

(f) Each patient and resident shall receive respect and privacy in his medical care program. Case discussion, consultation, examination and treatment shall be confidential, and shall be conducted discretely. Persons not directly involved in the patient's care shall not be permitted to be present during such discussions, consultations, examinations or treatment. Personal and medical records shall be treated confidentially, and shall not be made public without the consent of the patient or resident, except such records as are needed for a patient's transfer to another health care institution or as required by law or third-party payment contract. No personal or medical record shall be released to any person inside or outside the facility who has no demonstrable need for such records.

(g) Each patient and resident has the right to be free from mental and physical abuse and has the right to be free from chemical and physical restraints (except as authorized by a physician according to clear and indicated medical requirements).

(h) Every patient and resident shall receive from the Administrator or staff of the facility a courteous and reasonable response to his requests.

(i) Every patient and resident shall be provided with information as to any relationship of the facility to other health care and related institutions, insofar as the patient's care is concerned.

(j) Every patient and resident shall receive reasonable continuity of care which shall include, but not be limited to, what appointment times and physicians are available.

(k) Every patient and resident may associate and communicate privately and without restriction with persons and groups of his own choice on his own or their initiative at any reasonable hour; may send and shall receive mail promptly and unopened; shall have access at any reasonable hours to a telephone where the patient may speak privately; and shall have access to writing instruments, stationery, and postage.

(l) Each patient and resident has the right to manage his own financial affairs. If, by written request signed by the patient and a member of his family or representative, the facility manages the patient's financial affairs, it shall have available for inspection a monthly account, and shall furnish the patient and his family or representative with a quarterly statement of the patient's account. The patient and resident shall have unrestricted access to such account at reasonable hours.

(m) If married, every patient and resident shall enjoy privacy in visits by his or her spouse and, if both are in-patients of the facility, they shall be afforded the opportunity where feasible to share a room, unless medically contraindicated.

(n) Every patient and resident has the right of privacy in his or her room, and personnel of the facility shall respect this right by knocking on the door before entering the patient's room.

(o) Every patient and resident has the right, personally or through other persons or in combination with others, to present grievances; to recommend changes in facility policies or services on behalf of himself or others; to present complaints or petitions to the facility's staff or Administrator, to the Division of Aging, or to other persons or groups without fear of reprisal, restraint, interference, coercion or discrimination.

(p) A patient or resident shall not be required to perform services for the facility.

(q) Each patient and resident shall have the right to retain and use his or her personal clothing and possessions where reasonable, and shall have the right to security in the storage and use of such clothing and possessions.

(r) No patient or resident shall be transferred or discharged out of a facility except for medical reasons; the patient's own welfare or the welfare of the other patients; or for non-payment of justified charges. If good cause for transferral is reasonably believed to exist, the patient or resident shall be given at least thirty days' advance notice of the proposed action, together with the reasons for the decision, and the patient shall have the opportunity for an impartial hearing to challenge such action if the patient so desires. In emergency situations such notice need not be given.

§1122. Devolving of Rights

Where consistent with the nature of each right in §1121, all of such rights, particularly as they pertain to a person adjudicated incompetent in accordance with State law, or a patient who is found medically incapable by his attending physician, or a patient who is unable to communicate with others, shall devolve to the patient's next of kin, guardian, representative, sponsoring agency, or representative payee (except where the facility itself is the representative payee) selected pursuant to §205 (j) of the Social Security Act.

§1123. Notice to Patient

The provisions of §1121 shall be posted conspicuously in a public place in all sanatoria, rest homes, nursing homes, boarding homes and related institutions. Copies shall be furnished to the patient or resident upon admittance to the facility; all patients and residents currently residing in the facility; and the next of kin, guardian, representative, sponsoring agency, or representative payee of the patient and resident. Receipts for the statement signed by the aforesaid parties shall be retained in the facility's files.

§1124. Staff Training; Issuance of Regulations

Each facility shall provide appropriate staff training to implement the bill of rights set forth in §1121. Rules and regulations implementing the provisions of this Subchapter shall be developed by the Secretary of the Department of Health and Social Services and shall be promulgated within sixty days after this Chapter becomes effective.

§1125. Investigation of Grievances

The Secretary of the Department of Health and Social Services or his designee shall have the right and responsibility to independently investigate any grievance concerning sanatoria, rest homes, nursing homes, boarding homes and related institutions. Upon completion of an investigation, the Secretary of the Department of Health and Social Services or his designee shall report his findings to the complainants and to all other appropriate agencies of the State, county, or municipality as the case may be."

Section 3. Amend Subchapter IV, Chapter I, Part I, Title 16 of the Delaware Code by striking the Subchapter title and substituting in lieu thereof the following:

"SUBCHAPTER IV. EMILY P. BISSELL HOSPITAL"

Section 4. Amend Chapter I, Part I, Title 16 of the Delaware Code by adding thereto a new section, designated as §157, which new section shall read as follows:

"§157. Rights of Patients

Each patient of the Hospital shall be entitled to all the patient rights set forth in Subchapter II, Chapter 11 of this Title, and all sections in said Subchapter II shall apply to the patients of the Emily P. Bissell Hospital."

Section 5. Amend Chapter 28, Part II, Title 31 of the Delaware Code by adding thereto a new section, designated as §2802, which new section shall read as follows:

"§2802. Rights of Patients

Each patient of the Hospital shall be entitled to all the patient rights set forth in Subchapter II, Chapter 11 of Title 16, and all sections in said Subchapter II shall apply to the patients of the Delaware Hospital for the Chronically Ill."

Approved June 28, 1978.

## CHAPTER 374

## FORMERLY SENATE BILL NO. 611

AN ACT TO PROVIDE SUPPLEMENTAL APPROPRIATION TO DEPARTMENT OF THE PUBLIC SAFETY, DIVISION OF STATE POLICE, FOR THE PURPOSE OF PROVIDING ADDITIONAL OPERATING FUNDS FOR THE FISCAL YEAR ENDING JUNE 30, 1978, AND PRIOR YEARS' EXPENSE.

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

Section 1. There is hereby appropriated the sum of \$359,228 to the Department of Public Safety, Division of State Police, for the purpose of providing additional operating funds for the fiscal year ending June 30, 1978, as follows:

(45-06-000) Division of State Police

Salary of Superintendent	\$ 1,449
Salary of Assistant Superintendent	666
Salaries of Uniformed Division	153,400
Salaries and Wages of Employees	13,811
Salaries - Overtime - Uniformed Division	85,000
Salaries - Overtime - Other Employees	3,000
F.I.C.A. - Employer's Share	1,011
Pensions	1,937
Personal Services	1,554
Contractual Services	51,300
Supplies and Materials	<u>46,100</u>

TOTAL -- Division of State Police                      \$ 359,228

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 from funds not otherwise appropriated.

Section 3. Any funds remaining unexpended or unencumbered as of June 30, 1978, shall revert to the General Fund of the State of Delaware, except funds appropriated for Salaries - Overtime shall not revert until July 31, 1978.

Approved June 29, 1978.

## CHAPTER 375

## FORMERLY SENATE BILL NO. 707

AN ACT TO AMEND CHAPTER 709. VOLUME 60, LAWS OF DELAWARE AND SECTION 7422, TITLE 29, DELAWARE CODE, RELATING TO LIMITATIONS ON THE AUTHORIZATION OF GENERAL OBLIGATION BONDS OF THE STATE OF DELAWARE.

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

Section 1. Amend Chapter 709, Volume 60, Laws of Delaware, by adding the following sentences at the end of Section 1:

"For purposes of complying with this Section, the General Assembly of the State of Delaware shall not authorize the issuance of additional general obligation bonds or notes by the State, in any fiscal year of the State, which pledge the faith and credit of the State to the payment of the principal of and interest on such obligations, if the aggregate amount of such obligations authorized in any fiscal year of the State exceeds an amount equal to seventy-five percent of the aggregate principal amount of such obligations issued by the State and retired in the next prior fiscal year from a source other than the proceeds of such obligations. In determining the amount of such obligations that may be authorized, the General Assembly may increase the amount to be authorized in any fiscal year for appropriation to a Department of the State or for appropriation to the State Board of Education, to Delaware Technical and Community College, to the University of Delaware or to Delaware State College, by an amount equal to the aggregate principal amount of such obligations authorized to be issued by the State, the authorization for which has been duly repealed or reduced by the General Assembly in such fiscal year for such Department or predecessor of such Department, whether or not such authorization was adopted prior to the formation of such Department, or for the State Board of Education, Delaware Technical and Community College, the University of Delaware, or Delaware State College, respectively."

Section 2. Amend Section 7422, Title 29, Delaware Code, by designating the present provision as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) The authorization by the General Assembly of the State of Delaware of General Obligation Bonds shall be limited in any fiscal year to 75 percent (seventy-five percent) of the Principal Retirement of the prior fiscal year. For purposes of complying with this Section, the General Assembly of the State of Delaware shall not authorize the issuance of additional

general obligation bonds or notes by the State, in any fiscal year of the State, which pledge the faith and credit of the State to the payment of the principal of and interest on such obligations, if the aggregate amount of such obligations authorized in any fiscal year of the State exceeds an amount equal to seventy-five percent of the aggregate principal amount of such obligations issued by the State and retired in the next prior fiscal year from a source other than the proceeds of such obligations. In determining the amount of such obligations that may be authorized, the General Assembly may increase the amount to be authorized in any fiscal year for appropriation to a Department of the State or for appropriation to the State Board of Education, to Delaware Technical and Community College, to the University of Delaware or to Delaware State College, by an amount equal to the aggregate principal amount of such obligations authorized to be issued by the State, the authorization for which has been duly repealed or reduced by the General Assembly in such fiscal year for such Department or predecessor of such Department, whether or not such authorization was adopted prior to the formation of such Department, or for the State Board of Education, Delaware Technical and Community College, the University of Delaware, or Delaware State College, respectively."

Section 3. This Act shall be deemed to be effective on July 1, 1977.

Approved June 29, 1978.

## CHAPTER 376

## FORMERLY SENATE BILL NO. 709

A CAPITAL PROJECTS ACT OF THE STATE OF DELAWARE AUTHORIZING THE ISSUANCE OF OBLIGATIONS TO FINANCE COSTS OF VARIOUS PROJECTS, APPROPRIATING THE PROCEEDS THEREOF TO VARIOUS AGENCIES OF THE STATE AND TO THE STATE BOARD OF EDUCATION ON BEHALF OF LOCAL SCHOOL DISTRICTS, APPROPRIATING AMOUNTS IN THE BOND REVERSION ACCOUNT TO FINANCE COSTS OF VARIOUS PROJECTS AND DE-AUTHORIZING THE ISSUANCE BY THE STATE OF OBLIGATIONS FOR VARIOUS PROJECTS:

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 9 hereof the sum of \$36,218,784 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 9 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 9 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, bridge or other properties except for that maintenance as outlined in Sections 16 and 17 of this Act.

Section 3. None of the monies appropriated by this Act shall be expended after June 30, 1980, on any of the individual projects authorized in the 1978 Annual Capital Projects Schedule 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. (a) In order to provide funds for appropriation pursuant to this Act, \$19,166,385 shall be borrowed by the issuance of bonds or bond anticipation notes to which the State shall pledge its faith and credit. The bonds authorized to be issued by this subsection shall mature not later than twenty (20) years from their date of issuance and shall be issued for projects and in amounts set forth in the fiscal year 1978 Capital Budget Summary and the Annual Capital Projects Schedule included herein.

(b) In order to provide funds for appropriation pursuant to this Act, \$14,944,427 shall be borrowed by the issuance of bonds or bond anticipation notes to which the State shall pledge its faith and credit. The bonds authorized to be issued by this subsection shall mature not later than ten (10) years

from their date of issuance and shall be issued for projects and in amounts set forth in the fiscal year 1978 Capital Budget Summary and the Annual Capital Projects Schedule included herein.

Section 5. The State Treasurer is hereby directed to transfer proceeds from the sale of bonds heretofore issued in the amounts, for the projects, and under the Authorization Acts set forth below, which sums are no longer needed for the purposes for which the bonds were issued.

<u>Department of Agency</u>	<u>Volume &amp; Chapter</u>	<u>Project Account Code</u>	<u>Amount</u>
Agriculture	60-271	65-04-000-76-81	\$ 33,950
Correction	60-691	38-13-003-77-81	8,290
Health & Social Services	58-347	35-04-000-72-81	227,000
Health & Social Services	58-578	35-04-000-73-81	339,732
Health & Social Services	59-223	35-04-000-74-80	177,856
Health & Social Services	60-271	35-14-000-76-80	192,443
Health & Social Services	60-691	35-06-002-77-84	3,255
Natural Resources and Environmental Control (DNREC)	60-271	40-05-002-76-80	50,000
DNREC	60-271	40-01-000-76-83	959,419
DNREC	60-271	40-01-000-76-87	50,000
State Board of Education	59-223	95-25-000-74-22	66,027
	Total		\$2,107,972

Such sums are appropriated pursuant to Section 1 of this Act for the purposes and in the amounts set forth in the fiscal year 1978 Annual Capital Projects Schedule, notwithstanding the provisions of Section 7417, Title 29, Delaware Code, as amended.

Section 6. The General Assembly hereby repeals the authorization to issue obligations of the State in the amounts, for the projects, and under the Authorization Acts set forth below:

<u>Department or Agency</u>	<u>Volume &amp; Chapter</u>	<u>Project Account Code</u>	<u>Amount</u>
Administrative Services	60-691	30-04-000-77-80	\$ 18,000
Administrative Services	60-271	30-04-000-76-89	100,000
State	60-691	20-06-004-77-80	10,000
Delaware State College	60-271	90-03-000-76-80	118,293
Delaware State College	60-691	90-03-000-77-80	139,760
Correction	60-691	38-13-003-77-80	14,956
Health & Social Services	58-578	35-04-000-73-81	300,000
Health & Social Services	59-223	35-04-000-74-80	775,000
Health & Social Services	59-223	35-05-004-74-80	15,420
Health & Social Services	60-691	35-06-002-77-83	1,085
Health & Social Services	69-691	35-06-002-77-80	200,000
Health & Social Services	60-691	35-05-004-77-81	31,000

<u>Department or Agency</u>	<u>Volume &amp; Chapter</u>	<u>Project Account Code</u>	<u>Amount</u>
Natural Resources and Environmental Control (DNREC)	60-271	40-01-000-76-81	\$ 244,798
DNREC	60-691	40-06-002-77-80	400,000
DNREC	60-691	40-06-002-77-81	490,000
DNREC	60-691	40-01-000-77-82	100,000
State Board of Education	59-223	95-25-000-74-22	150,000
State Board of Education	60-271	*	712,000
State Board of Education	60-691	*	1,500,000
Transportation	60-271	55-05-000-76-80	622,500
Transportation	60-271	55-05-000-76-80	179,500
Transportation	60-691	55-05-000-77-81	200,000
Transportation	60-691	55-05-000-77-81	100,000
	Total		\$6,422,312

\*NOTE: Project Account Codes not assigned because local share of funds has not been appropriated.

Such sums are appropriated pursuant to Section 1 of this Act for the purposes and in the amounts set forth in the fiscal year 1978 Annual Capital Projects Schedule.

Section 7. 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 therein 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 and notes 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 bonds and notes shall be signed by the State Treasurer, by and with the approval of the Bond 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 8. 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 9. The monies appropriated herein, or so much thereof as is necessary to carry out the purposes of this Act, shall be expended by the following State agencies or their successors and the State Board of Education shall allocate monies to the designated school districts according to the following tabulation of maximum totals and shares or in the proportions represented by said maximum totals and shares:

<u>Department or Agency</u>	<u>State Funds</u>
(a) Department of Administrative Services	\$ 118,000
(b) Department of Community Affairs and Economic Development	1,250,000
(c) Department of Correction	7,949,380
(d) Department of State	160,000
(e) Department of Public Safety	52,500
(f) Department of Health & Social Services	348,000
(g) Delaware State College	450,000
(h) University of Delaware	3, 030,000
(i) Delaware National Guard	426,000
(j) Department of Natural Resources & Environmental Control	2,939,104
(k) Department of Agriculture	33,950
(1) Department of Transportation	
(1) Corridor Program Projects	\$ 3,587,000
(2) Non-Corridor Program Projects	1,433,000
(3) Paving & Rehabilitation Program: Primary & Secondary Roads	4,012,400
(4) Drainage Program Projects	135,000
(5) Traffic Signal Program: Improvements	315,000
(6) Miscellaneous Program: Small Projects	865,000
(7) Suburban Street Program: Improvements	3,650,000
(8) Long Life Heavy Equipment	500,000
(9) Dirt Roads Program	1,002,000
(10) Engineering & Contingencies	<u>1,534,423</u>
Sub-Total	17,033,823

## (m) State Board of Education

	<u>Total Cost</u>	<u>Local Share</u>	<u>State Share</u>
(1) Minor Capital Improv.	\$2,795,571	\$1,067,544	\$1,728,027
(2) Sch. Bldg. Maint.	700,000	--	700,000
Sub-Total	\$3,495,571	\$1,067,544	\$2,428,027
Grand Total State Funds			\$36,218,784

Section 10. 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 11. 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 12. All monies appropriated by this Act shall be considered to be in compliance with and shall be expended in accordance with the intent of the 1978 Annual Capital Projects Schedule.

Section 13. (a) The monies allocated in Section 9(1) of this Act shall be expended for highway construction or related purposes, but they shall not be used for office supplies or for office equipment and furnishings. The monies authorized in Section 9(1) (10) of this Act and termed Engineering and Contingencies shall be accounted for by project.

(b) In the event that the Secretary of the Department of Transportation determines that an individual project listed in the Project Schedule requires additional funds for completion or will have a funding balance remaining upon completion, in excess of the amount listed for such project, the Secretary of the Department of Transportation may, with the approval of the Director of the Office of Management, Budget and Planning, transfer funds from one individual project listed herein to another such project within the same program.

Section 14. The sums of money appropriated and allocated for school construction purposes pursuant to Section 9(m) of this Act shall not be expended for educational supplies of an expendable nature which are consumed or materially changed as they are used; provided, however, that nothing herein contained shall preclude the purchase of all education supplies necessary for the initial operation of schools so built, altered or added to in accordance with the provisions of the School Construction Capital Improvements Act, being, Chapter 75, Title 29, of the Delaware Code.

Section 15. (a) In compliance with Section 7526 of Title 29, Delaware Code, the State Board of Education and the local school districts shall allocate such portions of the total appropriation for the total cost of any school construction authorized by Section 9(m) hereof as shall be necessary to provide for the customary audit function, but in no event, shall such allocation exceed one-half percent of such total cost. The State Auditor of Accounts shall be responsible for arranging the audit function in accordance with Section 2906 and Section 2907 of Title 29, Delaware Code.

(b) In compliance with Section 7526 of Title 29, Delaware Code, the State Board of Education and the local school districts shall allocate such portions of the total appropriation for the total cost of any school construction authorized by Section 9(m) hereof as shall be necessary to provide for the customary supervision (construction inspection services). The limitation of one percent prescribed in Section 7526 of Title 29, Delaware Code, for construction inspection services is hereby set aside and such allocation by the State Board of Education and the local school districts shall not exceed the following percentages:

- |   |                      |
|---|----------------------|
| (1) Normal new construction<br>in excess of \$1,000,000 | 1 1/4% of total cost |
| (2) Small projects up to<br>\$1,000,000                 | 1 1/2% of total cost |
| (3) Reconstruction and<br>Renovations                   | 1 1/2% of total cost |

(c) In contracting for the supervision (construction inspection services) as prescribed in Section 15(b) hereinabove, the State Board of Education shall give first preference to an experienced Delaware organization, able to, and offering to provide quality service on a "non-profit, at cost" basis, and in so contracting it shall not be subject to the bidding laws as prescribed by Chapter 69, Title 29, Delaware Code. If no such organization is able to or is willing to offer to perform such specialized service on such "non-profit, at cost" basis, then the State Board of Education may contract for such services with profit making organization on a bid basis as prescribed by Chapter 69, Title 29, Delaware Code.

Section 16. (a) The sum of \$1,728,027 appropriated by Section 9(m) of this Act to the State Board of Education for minor capital improvements to school buildings, or so much thereof as shall be necessary to carry out the purpose of this Act, shall be paid by the State Board of Education to the local districts in the following amounts:

<u>School District</u>	<u>Maximum Total Cost</u>	<u>Maximum State Share</u>	<u>Local Share</u>
Alexis I. duPont	\$ 91,121	\$ 54,673	\$ 36,448
Alfred I. duPont	230,406	138,244	92,162
Appoquinimink	44,117	26,470	17,647
Claymont	81,501	48,901	32,600
Conrad Area	126,880	76,128	50,752
De La Warr	81,501	48,901	32,600
Marshallton-McKean	91,121	54,673	36,448
Mount Pleasant	123,435	74,061	49,374
New Castle-Gunning Bedford	222,585	133,551	89,034
Newark	385,463	231,278	154,185
Stanton	126,880	76,128	50,752
Wilmington	60,481	36,289	24,192
Caesar Rodney	114,482	68,689	45,793
Capital	165,728	99,437	66,291
Lake Forest	24,862	14,917	9,945
Milford	97,657	58,594	39,063
Smyrna	84,587	50,752	33,835
Cape Henlopen	41,473	24,884	16,589
Delmar	19,008	11,405	7,603
Indian River	125,282	75,169	50,113
Laurel	49,724	29,834	19,890
Seaford	100,209	60,126	40,083
Woodbridge	25,920	15,552	10,368
Kent Vo-Tech	2,851	2,851	-0-
New Castle Vo-Tech	35,069	35,069	-0-
Sterck	45,792	45,792	-0-
Bush	4,320	4,320	-0-
Wallin	3,024	3,024	-0-
Sussex Vo-Tech	35,647	35,647	-0-
Vocational Equipment	94,839	56,904	37,935
State Board of Education	59,606	35,764	23,842
<b>TOTAL</b>	<b>\$2,795,571</b>	<b>\$1,728,027</b>	<b>\$1,067,544</b>

(b) The State Board of Education shall in no case pay more toward the completion of the minor capital improvements for each school district as herein contemplated, than the total amounts designated as "Maximum State Share", nor less than sixty percent rounded to the nearest one hundred dollars of the final actual total costs when such total costs are less than the "Maximum Total Cost" herein designated. As is customary in the case of 100 percent State supported schools, 100 percent of the funds herein contemplated for such schools, shall be wholly provided by the State.

(c) The State Board shall establish criteria for the types of minor capital improvements which it will approve under this Section. The State Board shall pay local districts only for the actual expenses of repairs and replacements of a capital nature which shall include but not be limited to the rebuilding or major repair of roofs, floors, heating systems, painting, electrical, and plumbing or water systems and facilities. The State Board shall in any case, pay only sixty percent of the total costs of such minor capital improvements.

(d) Before any minor capital improvements or repairs of a capital nature authorized by this Section are undertaken by any school district, the school district shall send a request to the State Board of Education, which request shall itemize the improvements or repairs needed and show the estimated cost of each item. The State Board, using the criteria established pursuant to subsection (c) of this Section, shall decide as to the right of payment to the local school district and show the estimated cost of each item.

(e) In order to determine the right of payment to the school district under this Section, the State Board, or its designated representative, shall:

(i) Inspect the building or buildings to determine that the minor capital improvements requested by the school district are needed and are in accordance with the criteria established pursuant to subsection (c) of this Section;

(ii) Provide necessary help to the school district for letting of bids on repairs or replacements meeting the aforesaid criteria;

(iii) Inspect the improvements upon completion to determine that all specifications have been met and that the work and materials used are of acceptable quality; and

(iv) Pay the State's share of the cost of the improvements or repairs made by the school district in accordance with the provisions of this Section after the improvements or repairs are accepted as meeting all specifications as to workmanship and materials and when the school district's share has been deposited with the State Treasurer in accordance with the provisions of this Section.

(f) The State Board of Education shall, if and when the criteria established in this Section are met, pay the school district for the school building improvement, except that the amount paid to each school district shall not be in excess of 60 percent of the total cost.

(g) Any school district may levy and collect a tax to pay its 40 percent share of the cost of the minor capital improvements authorized by this Section. Such taxes shall be collected by local taxation within the school district according to the provisions set forth in Chapter 19, Title 14 of the Delaware Code.

(h) The provisions of Chapter 75, Title 29, Delaware Code, shall not apply to the minor capital improvements authorized by this Section.

Section 17. The sum of \$700,000 appropriated by Section 9(m) (2) of this Act to the State Board of Education for "School Building Maintenance", shall be allocated to the school districts in accordance with the following provisions:

(a) The maximum allocation to any district shall be the sum of the allotments for each school building in the district based upon the following formula: \$9 for each year since the date of pupil occupancy of the building up to a maximum of 30 such years multiplied by the full number of units of 25 pupils in the building on a full time basis as of September 30, 1976.

(b) The allotment for each school district as computed in (a) of this Section shall be expended only for the purpose of maintenance of buildings and such integral parts as the heating plant, plumbing and electrical system, or painting. It shall not be used for the purchase of routine janitorial supplies, upkeep of grounds nor the repair of any equipment not a basic part of the building.

(c) Before the State Board of Education shall make any allotment pursuant to this Section, it shall require that the school district submit a plan of the maintenance and the estimated cost thereof.

(d) The State Board of Education shall establish such rules and regulations as it deems necessary to assure that the purpose of this appropriation is carried out.

Section 18. All State departments and agencies shall submit all architectural structural, electrical, and mechanical plans, specifications and cost estimates during the design and development phases and prior to bid to the State Architect. The State Architect shall be responsible for reviewing and approving these plans prior to bid advertisement and no construction contracts (except Highway construction contracts and school district minor capital improvements) shall be executed without the prior approval of the State Architect.

Section 19. Each State agency and institution of higher learning receiving funds by this Act must, on a semi-annual basis effective upon the enactment of this Act, report to the Office of Management, Budget and Planning the status and anticipated cash flow for each capital improvement project for which it has received funds, either in this Bond Act or in any previous Bond Act, and for which the project is not complete as of the effective date of this Act.

Section 20. (a) 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, then 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.

(b) All projects funded by this Act shall be built to standards that are not less stringent than American Society of Heating, Refrigerating, and Air Conditioning, Engineering, Inc., Standard 90-75.

Section 21. No bonds or notes shall be issued or sold, or monies borrowed on behalf of this State, pursuant to this Act, without the full guarantee to the buyer that the State of Delaware is an equal opportunity employer.

Section 22. This Act may be known, styled or referred to as the "Annual Capital Improvements Act of 1978".

Approved June 29, 1978.

CHAPTER 377

FORMERLY SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 223  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 9, TITLE 10, and Chapter 5, TITLE 31 OF THE DELAWARE CODE TO ALLOW THE FAMILY COURT TO COMMIT AN 18 YEAR OLD PERSON TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS EVEN THOUGH CHARGED WITH THE OFFENSE WHILE A JUVENILE.

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 §937 (b), Chapter 9, Title 10 of the Delaware Code by adding a new subparagraph (17) to read as follows:

"(17). Grant custody of a person to the Department of Correction who is charged with an act of delinquency prior to reaching the age of 18 years but becomes 18 years of age prior to disposition of the charge."

Section 2. Amend §5108 (b), Chapter 5, Title 31 of the Delaware Code by adding at the end thereof the following:

"; provided further that any child who is charged with an act of delinquency prior to reaching 18 years but becomes 18 years of age prior to disposition on the charge may be committed to the custody of the Department until his 19th birthday."

Approved June 29, 1978.

## CHAPTER 378

## FORMERLY SENATE BILL NO. 574

AN ACT TO AMEND CHAPTER 13, TITLE 7 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT OF MAIL-IN FINES FOR A VIOLATION OF CERTAIN GAME AND FISH LAWS AND SMALL BOAT SAFETY LAWS AND MOTORBOAT LAWS.

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

Section 1. Amend Chapter 13, Title 7 of the Delaware Code by adding thereto a new Section to read as follows:

"§1311. Fines Payable by Mail

(a) Applicability. Any duly constituted Environmental Protection Officer or peace officer in this State who charges any person with any of the offenses which are violations of laws or regulations establishing or promulgated under the authority of Parts 1 and 2 of this Title or Chapter 21 of Title 23, may, in addition to issuing a summons for any such offenses, provide the violator with a voluntary assessment form, when properly executed by the officer and the offender, allows the offender to dispose of the charges without the necessity of personally appearing in the court to which the summons is returnable.

(b) Definitions. (1) "Payment" as used in this section shall mean the total amount of the fine and of the costs as herein provided and of the penalty assessment added to the fine pursuant to the Delaware Victim Compensation Law, Chapter 90 of Title 11.

(2) "Voluntary assessment form" as used in this section means the written agreement or document signed by the violator wherein he agrees to pay by mail the fine for the offense described therein together with costs and penalty assessment.

(c) Places and Time of Payment. Payments made pursuant to this section shall be remitted to the court to which the summons is returnable and shall be disbursed in accordance with §1307 of this Chapter. The payment must be received by the court within 10 days from the date of arrest (excluding Saturday and Sunday) and shall be paid only by check or money order.

(d) Offenses Designated as "offenses subject to voluntary assessment"; exceptions. All offenses, as now or hereafter set forth in Title 7 or Title 23, or regulations promulgated under the authority of Title 7 or Title 23 are hereby designated as offenses subject to voluntary assessment except the following offenses:

(1) Violation of Section 103(f) of this Title

(f) Offer and Acceptance of Voluntary Assessment; Effect; Withdrawal of Acceptance; Request for Hearing.

(1) At the time of making an arrest for any offense subject to this section, the arresting officer may offer the alleged violator the option of accepting voluntary assessment. The alleged violator's signature on the voluntary assessment form constitutes an acknowledgement of guilt of the offense stated in the form, and an agreement to pay the fine as herein provided, together with costs and penalty assessment, within 10 days from the date of arrest (excluding Saturday and Sunday) during which time payment must be received by the court.

(2) The alleged violator, after signing and receiving the voluntary assessment form, may withdraw his acceptance of the voluntary assessment and request a hearing on the charge stated in such form, provided that the alleged violator, within 10 days from the date of arrest (excluding Saturday and Sunday), personally or in writing notifies the court to which payment of the penalty assessment was to be made that he wishes to withdraw his acceptance of the voluntary assessment and requests a hearing on the charge stated in the voluntary assessment form. If the alleged violator notified the court of such withdrawal and request for hearing as aforesaid, he shall be prosecuted for the charge stated in the voluntary assessment form as if such form had not been issued.

(g) Penalty. If an alleged violator elects the option of accepting a voluntary assessment in accordance with subsection (f) of this section, the penalty for offenses designated as offenses subject to voluntary assessment shall be the minimum fine for each specific offense charged, and fines shall be cumulative if more than 1 offense is charged.

(h) Court Costs and Applicability of Delaware Victim Compensation Law. In lieu of any other court

costs, and provided the offense is not subject to other proceedings under this section, each fine for an offense under this section shall be subject to court costs of \$8.50. Each fine for an offense under this section shall be subject also to the penalty assessment which is or may be provided for in the Delaware Victim Compensation Law, Chapter 90 of Title 11.

(i) Agreement to Accept Voluntary Assessment; Procedure. Whenever a person is arrested for commission of an offense subject to voluntary assessment and has elected to make payment as herein provided, the arresting officer, using the uniform fish and wildlife complaint and summons citation, shall complete the information section and prepare the voluntary assessment form indicating the amount of the fine, have the arrested person sign the voluntary assessment form, give a copy of the citation and form to the arrested person and release him from custody. The arresting officer shall also inform the arrested person of the court to which payment shall be submitted. No officer shall receive or accept custody of a payment. If the person declines to accept the voluntary assessment, the arresting officer shall follow the procedure for arrest as set forth in Chapter 19 of Title 11.

(j) Payment of Fine as Complete Satisfaction; Repeat Offenders.

(1) Payment of the prescribed fine, costs and penalty assessment is a complete satisfaction of the violation, except as provided in paragraph (2) of this subsection, but does not waive any administrative penalty in the nature of license revocation which may be lawfully revoked by the department of Natural Resources and Environmental Control.

(2) In the event that following compliance with the payment provisions of this section, it is determined that within the 2-year period immediately preceding the violation, the violator was convicted of or made a payment pursuant to this section in satisfaction of a violation of the same section of this title, personal appearance before the court to which the summons is returnable shall be required. Notice of the time and place for the required court appearance shall be given to the violator by the court to which the summons for the offense would be returnable.

(k) Removal from Applicability of Section.

(1) If a payment due pursuant to this section is not received by the court to which the summons is

returnable within 10 days from the date of arrest excluding Saturday and Sunday), the violator shall be prosecuted for the offense charged on the voluntary assessment form in a manner as if a voluntary assessment form had not been issued. Upon conviction in such prosecution, the court shall impose penalties as provided for by this title and Title 23 of the Delaware Code or other law relating to the particular violation charged, and the provisions of this section as to payment of fines under voluntary assessments shall not apply.

(2) In addition to the penalties provided for in paragraph (1) of this subsection, it is a class B misdemeanor, punishable as provided by Title 11, for any person, who has elected to make payment pursuant to this section, to fail to do so within 10 days (excluding Saturday and Sunday) from the date of arrest.

(1) Nonexclusive Procedure. The procedure prescribed is not exclusive of any other method prescribed by law for the arrest and prosecution of persons violating this title."

Approved June 29, 1978.

## CHAPTER 379

## FORMERLY SENATE BILL NO. 576

AN ACT TO PERMIT THE WOODBRIDGE SCHOOL DISTRICT TO TRANSFER CERTAIN FUNDS FROM ITS MINOR CAPITAL IMPROVEMENTS ACCOUNT TO ITS CURRENT OPERATING EXPENSE ACCOUNT.

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

Section 1. The board of Education of the Woodbridge School District is authorized to transfer the sum of \$25,000.00 from its Minor Capital Improvements Account to its Current Operating Expense Account. The sum herein transferred shall be used to meet unanticipated operating expenses.

Section 2. Any funds transferred as provided herein and not expended for the purpose herein specified shall be redeposited in the Minor Capital Improvements Account.

Approved June 29, 1978.

CHAPTER 380

FORMERLY SENATE BILL NO. 271

AN ACT TO AMEND CHAPTER 19 OF TITLE 5 THE DELAWARE CODE RELATING TO  
POWERS AND CONDUCT OF BUSINESS OF BUILDING AND LOAN ASSOCIATIONS.

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

Section 1. Amend §1903 of Chapter 19, Title 5 of the Delaware Code by striking said Section 1903 in its entirety and substituting in lieu thereof a new §1903 to read as follows:

"§1903. Authorized Savings Plans

Any building and loan association doing business in this State and having a State Charter, provided its Charter permits, may issue serial shares, full paid shares, installment full paid shares, and may also make available to members savings accounts, savings certificates and any other type of share or account which any federally chartered association may issue under the rules and regulations of the Federal Home Loan Bank Board and under the term of its Charter."

Section 2. Amend §1904 of Chapter 19, Title 5 of the Delaware Code by striking said Section 1904 in its entirety and substituting in lieu thereof a new §1904 to read as follows:

"§1904. Dividends and Interest

Every building and loan association doing business in this State and holding a State Charter, provided its Charter shall permit, may provide either in its by-laws or by a resolution or resolutions of its Board of Directors a schedule of varying rates of dividends for different classes of shares of stock, and different types of shares within any class, including any type of share or account available to federally chartered associations operating in this State."

Approved June 29, 1978

## CHAPTER 381

## FORMERLY SENATE BILL NO. 270

AN ACT TO AMEND CHAPTER 19, TITLE 5 OF THE DELAWARE CODE RELATING TO POWERS AND CONDUCT OF BUSINESS OF BUILDING AND LOAN ASSOCIATIONS AND PROVIDING THAT SAID ASSOCIATIONS HAVE POWER TO ACT AS TRUSTEE UNDER THE UNITED STATES SELF-EMPLOYED INDIVIDUALS TAX RETIREMENT ACT OF 1962 AND AMENDMENTS THERETO.

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

Section 1. Amend §1902 of Chapter 19, Title 5 of the Delaware Code by adding thereto a new paragraph which shall read as follows:

"Building and Loan Associations may act as trustee of trusts created or organized in the United States under the Self-Employed Individuals Tax Retirement Act of 1962, and amendments thereto, and which qualify for specific tax treatment under §401(d) or §408(a) of the United States Internal Revenue Code of 1954, if the funds of such trust are invested in savings accounts or deposits in such association or in obligations or securities issued by such association. Individual accounts and records shall be kept by the association for each participant and shall show in proper detail all transactions therein."

Approved June 29, 1978.

## CHAPTER 382

## FORMERLY SENATE BILL NO. 582

AN ACT TO AMEND CHAPTER 116, VOLUME 61, LAWS OF DELAWARE, BEING THE 1978 BUDGET APPROPRIATION ACT, ORIGINALLY DESIGNATED HOUSE BILL NO. 300, AMENDED BY HOUSE AMENDMENT NO. 27 AND SENATE AMENDMENT NO. 1, RELATING TO THE OFFICE OF THE COMMISSIONER OF SECURITIES.

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.

<u>Page</u>	<u>Line</u>	<u>Item/Description</u>	<u>From</u>	<u>To</u>	<u>Incr.</u> <u>(Decrease)</u>
15-01-002 Securities Commissioner					
13	30	Salary of Commission	\$22,066	\$22,781.28	\$715.28
13	30	Salary and Wage of Employee (1)	10,253	9,720.87	(532.13)
13	30	F.I.C.A.-Employer's Share	1,565	1,553.92	(11.08)
13	30	Capital Outlay	500	327.93	(172.07)

Section 2. Amend Chapter 116, Volume 61, Laws of Delaware, by recomputing all totals and sub-totals as changed by this Act.

Approved June 29, 1978.

## CHAPTER 383

## FORMERLY SENATE BILL NO. 629

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR THE PURPOSE OF REIMBURSING MR. AND MRS. ROBERT J. STARR FOR PUPIL TRANSPORTATION COST.

WHEREAS, Eileen Starr, daughter of Mr. and Mrs. Robert J. Starr of Newark, Delaware was enrolled at St. Marks High School during academic year 1976-77 and thus entitled to pupil transportation cost; and

WHEREAS, inadvertently Eileen was left off the mailing list of eligible students for transportation reimbursement; and

WHEREAS, when the error was discovered it was too late to reimburse Mr. and Mrs. Robert J. Starr due to the expiration of the fiscal year; and

WHEREAS, under Delaware law no state agency can pay a bill which was incurred in a prior fiscal year; and

WHEREAS, Mr. and Mrs. Robert J. Starr are entitled to be reimbursed like other parents.

NOW, THEREFORE:

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

Section 1. The sum of \$114.00 is hereby appropriated to the State Board of Education for the purpose of reimbursing Mr. and Mrs. Robert J. Starr for pupil transportation cost incurred during fiscal year 1976-77.

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 unexpended on June 30, 1978 shall revert to the General Fund of the State of Delaware.

Approved June 29, 1978.

CHAPTER 384

FORMERLY HOUSE BILL NO. 823

AN ACT TO AMEND CHAPTER 14, TITLE 25, DELAWARE CODE, RELATING TO TIMBER  
TRESPASS

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

Section 1. Amend §1401, Chapter 14, Title 25, Delaware Code, by striking all of said section and inserting in lieu thereof the following:

"§1401. Liability for damages; court's authority to determine whether trespass was intentional; exemplary and actual damages

(a) Whoever wilfully, negligently, or maliciously cuts down or fells or causes to be cut down or felled a tree or trees growing upon the land of another, without the consent of the owner, shall be liable for damages as set forth in subsection (b) of this section.

(b) In civil actions brought for an act of timber trespass the courts shall have the authority to determine whether such trespass was unintentional or wilful and award damages accordingly. If the plaintiff shall satisfy the court that the metes and bounds of his property at the place of the trespass were appropriately established and marked by reasonably permanent and visible markers, or established that the trespasser was on notice that the rights of the plaintiff were in jeopardy, the court shall find that the trespass was wilful and shall award exemplary damages equal to triple the fair value of the trees removed plus the cost of litigation. If, however, the court shall find that the trespass was unintentional, the court may award the plaintiff damages equal to the conversion value of the trees taken or damaged plus cost of litigation."

Approved June 29, 1978.

CHAPTER 385

FORMERLY HOUSE BILL NO. 755

AN ACT TO AMEND CHAPTER 1, TITLE 5 OF THE DELAWARE CODE, RELATING TO  
THE STATE BANK COMMISSIONER.

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

Section 1. Amend §103, Title 5, Delaware Code, by substituting  
the phrase "State Bank Commissioner" for the phrase "Secretary of  
Administrative Services" wherever it appears therein.

Approved June 29, 1978.

CHAPTER 386

FORMERLY HOUSE BILL NO. 381  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 69, PART VI, TITLE 29 OF THE DELAWARE CODE  
RELATING TO THE PROCUREMENT OF MATERIEL AND AWARD OF CONTRACTS  
FOR PUBLIC WORKS BY STATE AGENCIES.

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

Section 1. Amend §6901, Chapter 69, Title 29, Delaware Code  
by adding thereto a new subsection, designated as subsection (4),  
which shall read as follows:

"(4) 'Securities' shall include certified checks,  
cashier's checks, treasurer's checks, and other negotiable  
or transferrable instruments evidencing a debt to the State  
or an agency of the State."

Section 2. Amend §6906, Chapter 69, Title 29, Delaware Code  
by striking the words "or a certified check of the bidder drawn  
upon some responsible banking institution to the order of the agency"  
as they are found in subsection (a) and (b) and substitute in lieu  
thereof the following: "or a security of the bidder assigned to  
the agency".

Approved June 29, 1978.

## CHAPTER 387

## FORMERLY HOUSE BILL NO. 179

AN ACT TO AMEND CHAPTER 23 AND CHAPTER 51, TITLE 29, DELAWARE CODE,  
TO PROVIDE THAT NO CHARGE SHALL BE MADE FOR PROVIDING CERTIFICATES  
OF APPOINTMENT TO VOLUNTEERS NAMED TO ADVISORY COUNCILS.

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

Section 1. §2315, Chapter 23, Title 29, Delaware Code, is amended  
by adding the following sentence after the listing of fees to be  
charged by the Secretary of State:

"Any volunteer accepting appointment by the Governor to an  
advisory council shall be exempt from payment of the fee for such  
certificate."

Section 2. §5101, Chapter 51, Title 29, Delaware Code, is amended  
by adding the following sentence:

"No fee shall be required by the recorder of any person  
appointed by the Governor to serve as a volunteer member of an  
advisory council."

Approved June 29, 1978.

CHAPTER 388

FORMERLY HOUSE BILL NO. 865

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF SMYRNA," BEING CHAPTER 192 OF VOLUME 36, LAWS OF DELAWARE, RELATING TO REGISTRATION OF VOTERS IN MUNICIPAL 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 3 of Chapter 192, Volume 36, Laws of Delaware, as amended by Chapter 166, Volume 41, Laws of Delaware, as amended by Chapter 43, Volume 180 Laws of Delaware, as amended by Chapter 244, Volume 46 Laws of Delaware, as amended by Chapter 335, Volume 48 Laws of Delaware, as amended by Chapter 551, Volume 50 Laws of Delaware, as amended by Chapter 421, Volume 59 Laws of Delaware, by adding thereto the following new subparagraph, denoted "(i)" as follows, to wit:

(i) Registration of Voters. The Town Council shall have the authority to enact such ordinances concerning the registration of qualified voters for municipal elections in the Town of Smyrna as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinances unduly impair the right to vote in a municipal election.

Approved June 29, 1978.

## CHAPTER 389

## FORMERLY HOUSE BILL NO. 850

AN ACT TO AMEND CHAPTER 47, TITLE 7, DELAWARE CODE RELATING TO PARK USER FEES FOR PERSONS 62 YEARS OF AGE OR OLDER.

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

Section 1. Amend §4701 (a) (5) Chapter 47, Title 7, Delaware Code by adding the following phrase at the beginning of the fifth sentence:

"Except as provided in subparagraph (B) of this paragraph,"

Section 2. Amend §4701 (a) (5) Chapter 47, Title 7, Delaware Code by adding the following phrase at the beginning of the sixth sentence:

"Except as provided in subparagraph (B) of this paragraph,"

Section 3. Amend §4701, subsection (a), paragraph (5) Chapter 47, Title 7, Delaware Code by changing its designation to §4701, subsection (a), paragraph (5), subparagraph (A).

Section 4. Amend §4701, (a) (5) Chapter 47, Title 7, Delaware Code by adding a new subparagraph (B) to read as follows:

"(B) Delaware residents who are 62 years of age or older and who own a motor vehicle validly registered in Delaware may pay an annual fee of not less than one-half of the annual fee established for Delaware residents pursuant to subparagraph (A) of this paragraph for each such registered motor vehicle which shall permit such vehicle entrance to any state park or recreation area during the calendar year for which the fee was paid. Persons who are 62 years of age or older and who own a motor vehicle validly registered in another state may pay an annual fee of not less than one-half of the annual fee established for out-of-state registered vehicles pursuant to subparagraph (A) of this paragraph for each such registered motor vehicle which shall permit the vehicle entrance to any State park or recreation area during the calendar year for which the fee was paid. Each applicant under this subparagraph shall furnish proof of age, vehicle ownership, and vehicle registration at the time such application is made. Annual permits issued under this subparagraph will be valid Monday through Friday of each week excluding holidays. No annual permit issued under this subparagraph will be honored on any day unless the owner of the vehicle for which such permit is issued is present in such vehicle at the time of entrance to the State park

or recreation area to which admission is sought. All the fees collected under the authority of this section shall be deposited in the General Fund of this State, and designated solely for park operations and maintenance."

Approved June 29, 1978.

## CHAPTER 390

## FORMERLY HOUSE BILL NO. 1027

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE OFFICE OF THE CONTROLLER GENERAL FOR THE PAYMENT OF SERVICES TO STANDING COMMITTEES.

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

Section 1. The sum of four thousand four hundred eighty one dollars and fifty five cents (\$4,481.55) is hereby appropriated to the Office of the Controller General. These funds shall be expended as follows:

Personal Services	\$4,481.55
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Section 2. 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.

Section 3. The funds herein appropriated which remain unexpended or unencumbered on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved June 29, 1978.

CHAPTER 391

FORMERLY SENATE BILL NO. 562

AN ACT TO AMEND SUBCHAPTER II, CHAPTER 87, TITLE 9, DELAWARE CODE,  
RELATING TO THE MONITION METHOD OF SALE OF LANDS FOR DELINQUENT  
TAXES.

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

Section 1. Amend Subchapter II, Chapter 87, Title 9, Delaware Code, by adding thereto the words "or Sussex County" immediately following the words "New Castle County or Kent County" wherever they appear in said Subchapter II.

Section 2. Amend Subchapter II, Chapter 87, Title 9, Delaware Code by adding thereto the words "or the Department of Finance of Sussex County" immediately following the words "the Department of Finance of New Castle or the Receiver of Taxes for Kent County" wherever they appear in said Subchapter.

Section 3. Amend Section 8732 of Subchapter II, Chapter 87, Title 9, Delaware Code, by adding thereto the following:

"The following fee shall be charged by the Director of Finance for Sussex County:

'For preparing description of liened property.....\$25.00'".

Approved June 29, 1978.

## CHAPTER 392

## FORMERLY SENATE BILL NO. 542

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF FINANCE FOR THE PURPOSE OF COMPENSATING FRANK C. MAYER FOR BACK PAY DUE.

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

Section 1. The sum of \$961.66 is hereby appropriated to the Division of Revenue, Department of Finance, for the purpose of compensating Frank C. Mayer, a former employee, for back pay due him as the result of an error.

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 thereupon revert to the General Fund of the State of Delaware.

Approved June 29, 1978.

CHAPTER 393

FORMERLY HOUSE BILL NO. 956  
AS AMENDED BY  
HOUSE AMENDMENTS 2 & 3

AN ACT TO AMEND PART VIII, TITLE 16 OF THE DELAWARE CODE RELATING TO HOSPITALS AND OTHER HEALTH FACILITIES; AND PROVIDING A SYSTEM OF HEALTH PLANNING AND REVIEW.

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

Section 1. Amend Part VIII, Title 16 of the Delaware Code by adding thereto a new chapter, designated as Chapter 93, which new Chapter shall read as follows:

"CHAPTER 93. EQUITABLE HEALTH PLANNING AND REVIEW

\$9301. Purpose

It is the purpose of this Chapter to create a rational framework for, and to promote effective and equitable health planning and review of, the development, acquisition, construction, expansion, and modification of health facilities and services.

It is the policy of this State that health planning and review shall be based upon evaluation of the needs and resources of the community and the State for health facilities and services, and that participation in this decision-making process shall be accorded to both interested consumers and providers of health care services.

It is the purpose of the General Assembly in enacting this Chapter to further the above-stated public policy by providing a procedure for applying for and obtaining a Certificate of Need prior to undertaking any of the aforesaid regulated activities.

\$9302. Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

(a) 'Affected person' includes the person whose application is being reviewed, the Health System Agency for the area in

which the proposed new health service is to be offered or developed, health systems agencies serving contiguous health service areas, health care facilities and health maintenance organizations located in the health service area, and those members of the public who are to be served by the proposed new health services.

(b) 'Certificate of Need' means the written approval by the State Agency, as defined in this section, of an application for a new health service as described in §9303 of this Chapter.

(c) 'To develop', when used in connection with health services, means to undertake those activities which on their completion will result in the offering a new health service or the incurring of a financial obligation, as described in §9303 of this Chapter, in relation to the offering of such a service.

(d) 'Health care facility' shall include hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center, including freestanding hemodialysis unit, intermediate care facility, ambulatory health care facility, freestanding emergency room, community mental health and retardation facility, home health agency, and blood bank, whether or not licensed or required to be licensed by the State, whether operated for profit or non-profit and whether privately owned or operated or owned or operated by a unit of State or local government. The term does not include Christian Science sanitoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts. The term shall not include any physician's office, whether an individual or group practice, any independent clinical laboratory or any radiology laboratory. The term shall also not include the office of any other licensed health care provider, including but not limited to, physical therapist, dentist, physician assistant, podiatrist, chiropractor, an independently practicing nurse or nurse practitioner, optometrist, pharmacist or psychologist. The term also shall not include any dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees; provided that the facility does not contain inpatient beds, nor shall it apply to any first aid station or dispensary or infirmary offering non-acute services exclusively for use by students and employees of a school or university, or by inmates and employees of a prison provided that services delivered therein are not the substantial equivalent of hospital services in the same area or community. However, the purchase, lease or donation of any single item of medical equipment not usually associated with the provision of primary health care, the purchase price of

which exceeds the threshold to be set by the State Agency annually on or about July 1; such threshold to be between \$100,000 and \$150,000, shall be subject to review under this Chapter if the purchaser, lessee, or recipient is a health care facility. For purposes of this section, the following words and phrases shall have the specific meanings set forth herein:

(1) 'Hospital' shall mean a licensed institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such term does not include psychiatric or tuberculosis hospitals.

(2) 'Psychiatric hospital' shall mean a licensed institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

(3) 'Tuberculosis hospital' shall mean a licensed institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

(4) 'Skilled nursing facility' shall mean a licensed institution or a distinct part of an institution which is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(5) 'Intermediate care facility' shall mean a licensed institution which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require health-related care and services (above the level of room and board).

(6) 'Kidney disease treatment center' shall mean a facility (other than the patient's residence) in which patients suffering from permanent or temporary kidney failure are treated by use of an artificial kidney which separates wastes or poisons from the blood.

(7) 'Ambulatory health care facility' shall mean a facility other than a physician's private office, incorporated, that provides medical or surgical care on an organized basis to patients not requiring medical supervision for more than 24 hours and that is not part of a hospital but is organized and operated to provide medical or surgical care to outpatients.

(8) 'Freestanding emergency room' shall mean a facility physically separated from another health care facility which provides diagnosis and treatment services to individuals which are in urgent need of them.

(9) 'Community mental health and retardation facility' shall mean a facility which provides such comprehensive services and continuity of care as emergency, outpatient, hospitalization, inpatient and consultation and education for individuals with mental illness, mental retardation or drug or alcohol addiction.

(10) 'Home health agency' is an organization primarily engaged in providing directly or through contract arrangements, professional nursing services, home health aide services, and other therapeutic and related services including, but not limited to, physical, speech and occupational therapy and nutritional and medical social services, to persons in their place of residence on a part-time or intermittent basis.

(11) 'Blood bank' shall mean an independent organization collecting or storing human blood or plasma.

(e) 'Health maintenance organization' shall mean a public or private organization, organized under the laws of any State, which:

(1) provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage;

(2) is compensated (except for copayment) for the provision of the basic health care services listed in paragraph (e) (1) of this section to enroll participants on a predetermined periodic rate basis; and

(3) provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(f) 'Health services' shall mean clinically related (i.e., diagnostic, curative or rehabilitative) services provided in or through health care facilities or health maintenance organizations and includes the entities in or through which such services are provided.

(g) 'Health Systems Agency' shall mean any agency within Delaware, designated as same by the U. S. Department of Health, Education, and Welfare under Section 1515 of P.L. 93-641.

(h) 'To offer', when used in connection with health services, means that the health care facility or health maintenance organization holds itself out as capable of providing, or as having the means for the provision of, specified health services.

(i) 'Person' shall mean an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies) a State, or a political subdivision or instrumentality (including a municipal corporation) of a State.

(j) 'Person directly affected' shall include the person whose application is being reviewed, members of the public who are to be served by the proposed new health services, health care facilities and health maintenance organizations located in the health service area in which the new health service is proposed to be offered or developed which provides services similar to the proposed services, and health care facilities and health maintenance organizations which, prior to receipt of the application being reviewed, have formally indicated an intention to provide similar services in the future.

(k) 'State Agency' shall mean the Bureau of Health Planning and Resources Development within the Department of Health and Social Services which is the designated State Health Planning and Development Agency under Section 1521 of P.L. 93-641.

(l) 'Statewide Health Coordinating Council' shall mean the duly authorized body established pursuant to Section 1524 of P. L. 93-641.

**§9303. New Health Services Subject to Review**

(a) On and after the effective date of this Chapter, any person proposing to offer or to develop a 'new health service' within the State shall be required to obtain a Certificate of Need prior to such offering or development. For purposes of this section, a 'new health service' shall include:

(1) the construction, development, or other establishment of a new health care facility or health maintenance organization;

(2) any expenditure by or on behalf of a health care facility or health maintenance organization in excess of the dollar threshold established by the State Agency in accordance with §9302 (d), such threshold to be between \$100,000 and \$150,000 which, under generally accepted accounting principles consistently applied, is a capital expenditure. Where a person makes an acquisition by or on behalf of a health care facility or health maintenance organization under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been by purchase, such acquisition shall be deemed a capital expenditure subject to review;

(3) a change in bed capacity of a health care facility or health maintenance organization which increases or decreases the total number of beds (or distributes beds among various categories, or relocates such beds from one physical facility or site to another) by more than ten beds or more than ten percent of total licensed bed capacity, whichever is less, over a two-year period;

(4) health services, including home health services, which are offered in or through a health care facility or health maintenance organization and which were not offered on a regular basis in or through such health care facility or health maintenance organization within the twelve-month period prior to the time such services would be offered.

(b) Pre-Development Activities.

(1) Any expenditure by or on behalf of a health care facility or health maintenance organization in excess of \$50,000 made in preparation for the offering or development of a new health service and any arrangement or commitment made for financing the offering or development of the new institutional health services shall be subject to review under this Chapter. Nothing in this Chapter shall preclude the retention of consultants by health care facilities for the purpose of planning activities which do not entail the planning of specific new services.

(2) Nothing in this Chapter shall preclude the State Agency from granting a Certificate of Need which permits expenditures only for predevelopment activities, but does not authorize the offering or development of the new health service with respect to which such predevelopment activities are proposed. Expenditures in preparation for the offering of a new health service shall include expenditures for architectural

designs, plans, working drawings and specifications, site acquisitions, and preliminary plans, studies and surveys.

(c) Prior to conducting reviews under this Chapter, the State Agency shall disseminate to all health care facilities and health maintenance organizations within the State, and shall publish in one or more newspapers of general circulation in the State, a description of the scope of coverage of its program for review of new health services. Such description shall include, at a minimum, the coverage required by subsections (a) and (b) of this section. Whenever the scope of such coverage is revised, the State Agency shall disseminate and publish a revised description thereof.

(d) Any project or proposal for which an approval by the Designated Planning Agency was granted under Section 1122 of the Social Security Act, and which was not terminated by action of the Designated Planning Agency at any time prior to the passage or effective date of this Chapter, shall be exempt from further review.

#### \$9304. Procedures for Review

(a) The procedures for conducting reviews under this Chapter shall be as follows:

##### (1) Letters of Intent.

At least thirty (30) days prior to submitting in application for review under this Chapter, applicants shall submit to the State Agency and Health Systems Agency letters of intent in such form as may be determined by the State Agency to cover the scope and nature of the project. A letter of intent may be submitted less than thirty days prior to submission of an application only with the written approval of both the State Agency and Health Systems Agency.

##### (2) Application for Review.

Application forms will be developed by the State Agency after consultation with the Health Systems Agency and Statewide Health Coordinating Council and may vary according to the nature of the application. Blank application forms shall be provided by either the State Agency or the Health Systems Agency to all persons subject to review under this Chapter. Completed applications shall be submitted simultaneously to the Health Systems Agency and the State Agency. No information may be required of

the applicant which is not prescribed by the application form; such information may be requested.

(3) Deadlines and Time Limitations.

Upon receipt of an application under this Chapter, the State Agency shall have a maximum of fifteen (15) days (including the day of receipt) to notify the applicant as to whether the application is considered complete, written notification in accordance with paragraph (a) (4) of this section will be provided. If incomplete, the applicant will be notified in writing of such determination and will be advised of what additional information is required to make the application complete. When that additional information is received, the State Agency has a maximum of fifteen (15) days to determine whether the application is complete. The same steps shall be taken as with the initial submission each time that additional information is required.

Except where a public hearing is requested under paragraph (a) (6) of this section, the review of any application shall take no longer than 90 days from the date of notification as covered under paragraph (a) (4) of this section. If a public hearing is requested under paragraph (a) (6) of this section, the maximum review period will be extended to 120 days from the date of notification.

The Health Systems Agency shall be allotted 60 days (90 days if a public hearing is requested under paragraph (a) (6) of this section) from the date of notification as prescribed in paragraph (a) (4) of this section to complete its review and provide a written recommendation to the State Agency and notify the applicant of its findings. A period of lesser than or greater than 69 days (90 days if a public hearing is requested under paragraph (a) (6) of this section) may be allotted only by a written agreement between the Health Systems Agency and the State Agency.

In the case of a project required to remedy an emergency situation which threatens the safety of patients or the ability of the health facility or health maintenance organization to remain in operation, an abbreviated application shall be submitted in such format as the State Agency prescribes. As quickly as possible, but within seventy-two (72) hours after receipt, the State Agency, after consultation with the Health Systems Agency and the

Chairperson or Vice-Chairperson of the Statewide Health Coordinating Council, if available, shall render a decision as to whether or not the project should be treated as an emergency and whether or not the application shall be approved.

(4) Agency Review; Notification.

Within five (5) working days of determining that an application under this Chapter is complete, the State Agency shall provide to 'affected persons' as defined in §9302 of this Chapter, written notification of the beginning of a review. Such notification shall include the proposed schedule for review, the period during which a public hearing in the course of the review as covered in paragraph (a) (6) of this section may be requested, and the manner in which notice will be provided of the time and place of any hearing so requested. The date of notification is the date on which notification is sent directly to 'affected persons' other than the general public or the date on which the notice appears in a newspaper of general circulation, whichever is later. Such newspaper notice shall constitute written notification to members of the public to be served by the proposed new institutional health service.

(5) Findings and Recommendations.

Upon completion of a review under this Chapter, and within the time-frames outlined in paragraph (a) (3) of this section, the State Agency shall notify in writing the applicant and the Health Systems Agency and anyone else upon request, as to its decision, including the basis on which the decision was made. Decisions can be conditional but the conditions must be related to the specific project in question. Subject to the same limitations, the Health Systems Agency and Statewide Health Coordinating Council may make a conditional recommendation to the State Agency. Such recommendation, whether conditional or not, shall also be submitted in writing to the applicant and anyone else upon request and shall include the basis on which the recommendation is made.

In the case of any proposed new health service for the provision of health services to inpatients, a State Agency shall not grant a Certificate of Need under this Chapter, nor shall the Health Systems Agency or Statewide Health Coordinating Council make a recommendation under this Chapter, unless, after consideration of the

appropriateness of the use of existing facilities providing inpatient services similar to those being proposed, the State Agency, Health Systems Agency, and Statewide Health Coordinating Council make each of the following findings in writing:

(i) that superior alternatives to such inpatient services in terms of cost, efficiency, and appropriateness do not exist and that the development of such alternatives is not practicable;

(ii) that in the case of new construction, alternatives to new construction (e.g., modernization or sharing arrangements) have been considered and have been implemented to the maximum extent practicable;

(iii) that patients will experience serious problems in terms of cost, availability, or accessibility, or such other problems as may be identified by the reviewing agency, in obtaining inpatient care of the type proposed in the absence of the proposed new service; and

(iv) that in the case of a proposal for the addition of beds for the provision of skilled nursing or intermediate care the relationship of the addition to the plans of other agencies of the State responsible for providing and financing long-term care (including home health services) has been considered.

In the case of any new health service proposed to be provided by or through a health maintenance organization, a State Agency shall not deny a Certificate of Need with respect to such service, nor shall the Health Systems Agency or Statewide Health Coordinating Council recommend that a Certificate of Need be denied, in the following instances: when the State Agency has granted a Certificate of Need which authorized the development of the service, or expenditures in preparation for such offering or development (or has otherwise made a finding that such development or expenditure is needed); and when the offering of this new health service will be consistent with the basic objectives, time schedules, and plans of the previously approved application; provided that the State Agency may impose a limitation on the duration of the Certificate of Need which shall expire at the end of such time unless the health service is offered prior thereto.

(6) Public Hearings.

Within ten (10) days after the date of notification as described in paragraph (a) (4) of this section, a public

hearing in the course of review may be requested by 'persons directly affected' as defined in §9302 of this Chapter. Such request shall be in writing and made to the Health Systems Agency. The Health Systems Agency shall provide for a public hearing if requested and shall provide notification of the time and place for such hearing in a newspaper of general circulation within its health service area. The public hearing shall be held not less than fourteen (14) days after such notice appears in the newspaper. The Health Systems Agency shall not impose fees for such hearings. An opportunity must be provided for any person to present testimony.

(7) Administrative Reconsideration; Procedure for State Agency.

Any person may, for good cause shown, request in writing a public hearing for purposes of reconsideration of a State Agency decision. The agency may not impose fees for such a hearing. For purposes of this subsection, a request for a public hearing shall be deemed by the State Agency to have shown good cause if it:

(i) presents significant, relevant information not previously considered by the State Agency;

(ii) demonstrates that there have been significant changes in factors or circumstances relied upon by the State Agency in reaching its decision;

(iii) demonstrates that the State Agency has materially failed to follow its adopted procedures in reaching its decision; or

(iv) provides such other basis for a public hearing as the State Agency determines constitutes good cause.

To be effective, a request for such a hearing shall be received within 30 days of the State Agency decision, and the hearing shall commence within 30 days of receipt of the request.

Notification of such a public hearing shall be sent, prior to the date of the hearing, to the person requesting the hearing, the person proposing the new institutional health service, and the Health Systems Agency for the health service area in which the new institutional health service is proposed to be offered or developed, and shall be sent to others upon request. The State Agency shall

make written findings which state the basis for its decision within 45 days after the conclusion of such hearing. A decision of the State Agency following a public hearing under this paragraph shall be considered a decision of the State Agency for purposes of paragraphs (5), (8), (9), (10), (12) and (14) of this subsection.

(8) Administrative Reconsideration; Procedure for Health Systems Agency.

If the State Agency makes a decision regarding a proposed new health service which is inconsistent with a recommendation made with respect thereto by the Health Systems Agency making such recommendation, the State Agency shall submit to such Health Systems Agency within 30 days a written, detailed statement of the reasons for the inconsistency.

Such decision (and the record upon which it was made) shall, upon written request of the Health Systems Agency, be reviewed, under an appeals mechanism not inconsistent with State law governing the practices and procedures of administrative agencies, by an attorney appointed by the Department of Justice of the State of Delaware. A request for review under this section by the Health Systems Agency must be received within 30 days of the State Agency decision. The hearing shall commence within 30 days of receipt of the request. The decision of the Department of Justice shall be made in writing within 45 days after the conclusion of such review. These written findings shall be sent to the person proposing the new health service, to the Health Systems Agency requesting the review, and to the State Agency, and shall be made available by the State Agency to others upon request.

The decision of the Department of Justice shall be considered the final decision of the State Agency; however, the Department of Justice may remand the matter to the State Agency for further action or consideration. The decision of the Department of Justice may be appealed by the Health Systems Agency within thirty (30) days to the Superior Court of the county in which the proposed new health service or facility is to be located.

(9) Administrative Reconsideration for Person Proposing New Health Service.

Any decision of the State Agency under this Chapter (and the record upon which it was made) shall, upon request of the person proposing the new health service, be reviewed, under an appeals mechanism not inconsistent with State law

governing the practices and procedures of administrative agencies, by an attorney appointed by the Department of Justice of the State of Delaware.

The request for review by the person proposing the new health service must be received within 30 days of the State Agency decision, and the hearing shall commence within 30 days of receipt of the request. The decision of the Department of Justice shall be made in writing within 45 days after the conclusion of such review. These written findings shall be sent to the person proposing the new health service, the appropriate Health Systems Agency, and to the State Agency, and shall be made available by the State Agency to others upon request.

The decision of the Department of Justice shall be considered the final decision of the State Agency; however, the Department of Justice may remand the matter to the State Agency for further action or consideration. The decision of the Department of Justice may be appealed by the aggrieved applicant within thirty (30) days to the Superior Court of the county in which the proposed new service or facility is to be located.

(10) Inconsistencies; Administrative Procedures.

If the State Agency (or the Department of Justice or court, under paragraph (a)(8) or paragraph (a)(9) of this section) makes a decision regarding a proposed new health service which the State Agency determines is not consistent with the goals of the applicable health systems plan (established under Section 1513 (b) (2) of P.L. 93-641) or the priorities of the applicable annual implementation plan (established under Section 1513 (b)(3) of P.L. 93-641), the State Agency (or the Department of Justice or court, as appropriate) shall submit to the appropriate Health Systems Agency within 30 days a written, detailed statement of the reasons for the inconsistency.

(11) Status of Anticipated Projects.

At least annually, health care facilities and health maintenance organizations shall submit to the State Agency a report, in such form as the State Agency requires, which sets forth the status of anticipated projects which would be subject to review under this Chapter. The State Agency shall consult with the Health Systems Agency regarding the form which such report shall take. The State Agency shall send a copy of all such reports received to the Health Systems Agency.

(12) Status Report to Health Care Facility or Health Maintenance Organization.

Upon request of a health care facility or health maintenance organization, the State Agency and Health Systems Agency shall notify such persons of the status of a review under this Chapter, findings made in the course of such review and other appropriate information with respect to such review.

(13) Both the State Agency and Health Systems Agency shall provide for access by the general public to all applications reviewed under this Chapter and to all other written materials pertinent to any such review.

(14) At least annually, the State Agency and the Health Systems Agency shall publish reports of reviews conducted under this Chapter. Such report shall include a statement concerning the status of each such review then in progress, and for reviews completed since the last report shall include a general statement of findings and recommendations or decisions made during the course of such reviews.

§9305. Criteria for Review

(a) In conducting reviews under this Chapter, the State Agency shall consider the recommendations of the Health Systems Agency and Statewide Health Coordinating Council.

(b) In conducting reviews under this Chapter, the State Agency, Health Systems Agency, and Statewide Health Coordinating Council shall consider as appropriate at least the following:

(1) The relationship of the health services being reviewed to the applicable health systems plan and State health plan adopted pursuant to Section 1513 (b)(2) and Section 1524 (c) (2), respectively, of P.L. 93-641, and the annual implementation plan adopted pursuant to Section 1513 (b)(3) of P.L. 93-641.

(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

(3) The need that the population or to be served by such services has for such services.

(4) The availability of less costly or more effective alternative methods of providing such services.

(5) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the new health service.

(6) The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.

(7) The availability of resources (including health manpower, management personnel, and funds to capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.

(8) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services and the impact of the health services being reviewed on quality of care.

(9) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multi-disciplinary clinics and specialty centers.

(10) The special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII of the Public Health Service Act. Such needs and circumstances include the needs of and costs to members and projected members of the health maintenance organization in obtaining health services and the potential for a reduction in the use of inpatient care in the community through an extension of preventive health services and the provision of more systematic and comprehensive health services. The consideration of a new institutional health service proposed by a health maintenance organization shall also address the availability and cost of obtaining the proposed new health service from the existing providers in the area that are not health maintenance organizations.

(11) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(12) In the case of a construction project:

(i) the costs and methods of the proposed construction, including the costs and methods of energy provision, and

(ii) the probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

(c) Criteria adopted for reviews in accordance with subsection (b) of this section may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

**\$9306. Adoption and Public Notice of Additional Review  
Procedures and Criteria**

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(a) Prior to adopting review procedures and criteria in addition to those set forth in \$9304 and \$9305 of this Chapter, respectively, both the State Agency and Health Systems Agency shall afford interested parties an opportunity to offer written comments or oral comments at a public hearing on the proposed additional procedures and criteria in the following manner:

(1) The State Agency shall distribute copies of its proposed additional review procedures and criteria to the Statewide Health Coordinating Council, the Health Systems Agency and all health care facilities covered by this Chapter, as their names and addresses appear with the State Agency.

(2) The State Agency shall publish in one or more newspapers of general circulation in the State, a notice of the proposed additional review procedures and criteria, with the publication of such notice being made not more than 45 days, and not less than 30 days, prior to the time set for the hearing. The notice shall refer to the fact that additional review procedures and criteria have been proposed for adoption and are available at specified addresses for inspection and copying by interested persons and the time and location of the hearing. No changes in review procedures and criteria may be implemented without the public hearing as required in this section.

(3) The State Agency shall distribute copies of its additional adopted review procedures and criteria and any revisions thereof, to the agencies and organizations specified in paragraph (a)(1) of this section and shall provide such copies to other persons upon request.

(4) The Health Systems Agency shall distribute copies of its proposed additional review procedures and criteria to the agencies, institutions and associations with which the agency must coordinate its activities pursuant to Section 1513 (d) of P.L. 93-641 and its designation agreement, to units of general local government within its health service area, to the State Agency and Statewide Health Coordinating Council, and to Health Systems Agencies designated for contiguous health service areas.

(5) The Health Systems Agency shall publish, in one or more newspapers of general circulation in the State, a notice of the proposed additional review procedures and criteria, with the publication of such notice being made not more than 45 days and not less than 30 days prior to the time set for the hearing. The notice shall state that additional review procedures and criteria have been proposed for adoption and are available at specified addresses for inspection and copying by interested persons, as well as the time and location of the public hearing. No changes in review procedures and criteria shall be made without the public hearing as required in this section.

(6) The Health Systems Agency shall distribute copies of its additional adopted review procedures and criteria, and any revisions thereof, to the agencies and organizations specified in paragraph (a)(4) of this section, and shall provide such copies to other persons upon request.

**§9307. Certificate of Need and its Period of Effectiveness**

(a) When an application for review under this Chapter is approved, the State Agency shall issue a Certificate of Need to the applicant. A Certificate of Need shall be valid for one (1) year from the date such approval was granted.

(b) At least thirty days prior to the expiration of the Certificate of Need, the applicant shall inform the State Agency of the project's status. After consultation with the Health Systems Agency, the State Agency shall determine if sufficient progress has been made for the Certificate of Need to continue in effect. If sufficient progress has not been made, the applicant may request, in writing, to the State Agency that a six month extension to the Certificate be granted. The State Agency shall then either allow the Certificate to expire or grant such extension.

**§9308. Sanctions**

(a) Any person offering or developing a new health service as described in §9303 of this Chapter without first being issued a Certificate of Need for such new health service, shall have his license or other authority to operate, denied, revoked, or restricted as deemed appropriate by the responsible licensing or authorizing agency of the State and an order in writing to such effect shall be issued by that licensing or authorizing agency.

(b) In addition to the provisions of subsection (a) of this section, the State Agency, the Health Systems Agency or

an adversely affected health care facility may maintain a civil action in the Court of Chancery to restrain or prohibit any person from offering or developing a new health service as described in §9303 of this Chapter without first being issued a Certificate of Need.

(c) A person who willfully offers or develops a new health service as defined in §9303 of this Chapter which is subject to review under this Chapter and who has not received a Certificate of Need for that new health service, shall not be reimbursed for that new health service by any government agency organized under the laws of the State of Delaware.

(d) A person who willfully offers or develops a new health service as defined in §9303 of this Chapter which is subject to review under this Chapter and who has not received a Certificate of Need for that new health service, shall be fined not less than \$500 nor more than \$2,500 for each offense and each day of a continuing violation after notice of violation shall be considered a separate offense. The Superior Court shall have jurisdiction over criminal violations under this subsection.

§9309. Surrender, Revocation and Transfer of Certificate of Need

(a) An existing Certificate of Need may be surrendered by the holder upon written notification to the State Agency and such surrender shall become effective immediately upon receipt by the State Agency.

(b) A Certificate of Need may be revoked by the State Agency in the case of misrepresentation in the Certificate of Need application, failure to render the new health services applied for or loss of license or other authority to operate the new health services applied for. Revocation of a Certificate of Need shall not be executed, however, without the holder of the Certificate of Need being given an opportunity to voluntarily surrender the Certificate of Need.

(c) No Certificate of Need issued under this Chapter, and no rights or privileges arising therefrom, shall be subject to transfer or assignment, directly or indirectly, except upon order or decision of the State Agency specifically approving the same, issued pursuant to application supported by a finding from the evidence that the public to be served will not be adversely affected thereby. In like manner, any transaction having the effect of conferring, transferring or assigning the controlling interest of any holder of a Certificate of Need issued under this Chapter shall be subject to the same conditions applicable to transfer or assignment of the Certificate of Need itself.

§9310. Immunity

No member, officer or employee of any planning body or health care facility shall be subject to, and such persons shall be immune from, any claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendation made while discharging any duty or authority under this Chapter, so long as such person acted in good faith, without malice, and within the scope of his duty or authority under this Chapter or any other provisions of the Delaware law, Federal law or regulations, or duly adopted rules and regulations providing for the administration of this Chapter, good faith being presumed until proven otherwise, with malice required to be shown by the complainant."

Section 2. Severability.

If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgement shall not impair, invalidate or affect the remainder of this Act which shall remain in full force and effect.

Section 3. Repealing Clause.

All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date.

This Act shall be come effective 180 days after its passage.

Approved June 30, 1978.

CHAPTER 394

FORMERLY SENATE BILL NO. 563  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 51, TITLE 9, DELAWARE CODE, AS THE SAME  
SHALL RELATE 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, Chapter 61, Title 9 of the Delaware  
Code is hereby amended by adding thereto a new subsection (c) to  
read as follows:

"(c) The government of Sussex County, may from time to time,  
borrow money in such amounts as it may find necessary from  
federal and state grant funds, provided, that the same shall not  
be subject to the limitations set forth in Subsection (a) hereof,  
and that the same shall be repaid as set forth in Subsection (b)  
hereof, and that the same shall be permitted by the granting  
authority."

Approved June 30, 1978.

CHAPTER 395

FORMERLY SENATE BILL NO. 512  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF  
TRANSPORTATION FOR THE PURPOSE OF INSTALLING TRAFFIC SIGNAL  
CONTROL EQUIPMENT.

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

Section 1. The sum of \$5,200 is hereby appropriated to the Department of Transportation for the purpose of installing traffic signal control equipment at the East Millsboro School, Millsboro, 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 hereby appropriated remaining unexpended on June 30, 1979, shall revert to the General Fund of the State of Delaware.

Approved June 30, 1978.

## CHAPTER 396

## FORMERLY HOUSE BILL NO. 929

AN ACT MAKING SUPPLEMENTARY APPROPRIATION TO THE STATE TREASURER  
FOR THE PURPOSE OF PAYING A PRIOR YEAR'S OBLIGATION.

WHEREAS, former Governor Tribbitt instructed the Board of Pension Trustees to conduct a study of all county and municipal pension plans in the State of Delaware, and State Police, and Judiciary Pension Plans; and

WHEREAS, the Board of Pension Trustees commissioned the Martin E. Segal Company to conduct this study; and

WHEREAS, former Governor Tribbitt advised the Board of Pension Trustees that the payment for this study would be made from the Governor's Contingency Fund; and

WHEREAS, the funds are not currently available to pay the Martin E. Segal Company from the Governor's Contingency Fund; and

WHEREAS, the Martin E. Segal Company completed this study on June 13, 1977, and to date have not been paid for their services.

NOW, THEREFORE:

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

Section 1. The sum of \$15,500 is hereby appropriated to the State Treasurer for the purpose of paying a prior year's obligation for services rendered.

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 or unencumbered as of June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved June 30, 1978.

CHAPTER 397

FORMERLY HOUSE BILL NO. 941

AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF PUBLIC SAFETY FOR PAYMENT OF AN ANNUAL INCREMENT THAT WAS NOT GIVEN TO JAMES H. DARE, AN EMPLOYEE OF THE DEPARTMENT.

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

Section 1. There is hereby appropriated the sum of one hundred ten dollars (\$110.00) to the Department of Public Safety to pay to James H. Dare, an employee of the department, for increments to which he was entitled but did not receive for the period January 16 through June 30, 1977.

Section 2. This is a supplemental appropriation and shall be paid by the State Treasurer out of the General Fund of the State of Delaware from funds not otherwise appropriated. Any funds remaining unexpended on June 30, 1978, shall revert to the General Fund of the State of Delaware.

Approved June 30, 1978.

## CHAPTER 398

## FORMERLY HOUSE BILL NO. 659

AN ACT TO AID THE HOCKESSIN FIRE COMPANY FOR THE OPERATION AND  
MAINTENANCE OF ITS NEW RESCUE TRUCK.

BE IT ENACTED BY THE GENERAL ASEMBLY OF THE STATE OF DELAWARE  
(three-fourths of all the members elected to each House con-  
curring therein):

Section 1. There is appropriated to the Hockessin Fire Company  
the sum of \$1,250 to be used for the maintenance and operation of  
a rescue truck in the public service.

Section 2. This act is a supplementary appropriation for the  
fiscal year ending June 30, 1978, and the monies appropriated shall  
be paid by the State Treasurer out of monies in the General Fund not  
otherwise appropriated.

Approved June 30, 1978.

CHAPTER 399

FORMERLY HOUSE BILL NO. 919

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE WILMINGTON MANOR VOLUNTEER FIRE COMPANY FOR THE OPERATION AND MAINTENANCE OF AN AERIAL TRUCK.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (three-fourths of all the members elected to each House concurring therein):

Section 1. There is hereby appropriated to the Wilmington Manor Volunteer Fire Company the sum of Two Thousand Dollars (\$2,000.00) to be used for the maintenance and operation of an aerial truck in the public service.

Section 2. This Act is a supplemental appropriation for the fiscal year ending June 30, 1978, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund not otherwise appropriated.

Approved June 30, 1978.

## CHAPTER 400

FORMERLY HOUSE BILL NO. 1051  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO TRANSFER FUNDS BETWEEN ALL LINES AND DIVISIONS.

WHEREAS, the Department of Natural Resources and Environmental Control has insufficient general fund appropriations in certain lines and divisions and a surplus in others; and

WHEREAS, the Department of Natural Resources and Environmental Control's total general fund appropriation is sufficient to cover all anticipated expenses through the balance of fiscal year 1978; and

WHEREAS, the transfer of funds between lines and divisions would eliminate the need for a supplemental appropriation.

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 authorized, with the approval of the Budget Director, to transfer funds between lines as depicted in the FY 1978 Budget Act, as follows:

	<u>FROM</u>	<u>TO</u>
<u>(40-05-002) Wildlife</u>		
Salaries and Wages of Employees	\$	\$ 1,000
<u>(40-05-003) Fisheries</u>		
Salaries and Wages of Employees	1,900	
<u>(40-05-004) Mosquito Control</u>		
Salaries and Wages of Employees	14,000	
<u>(40-06-001) Office of the Director</u>		
Salaries and Wages of Employees		200
<u>(40-06-002) Parks</u>		
Salaries and Wages of Employees		41,000

	<u>FROM</u>	<u>TO</u>
<u>(40-06-005) Technical Services</u>		
Salaries and Wages of Employees	\$	\$ 100
<u>(40-07-001) Office of the Director</u>		
Salaries and Wages of Employees		200
<u>(40-07-002) Drainage</u>		
Salaries and Wages of Employees		400
<u>(40-08-003) Water Resources</u>		
Salaries and Wages of Employees	27,000	
<u>(40-08-004) Technical Services</u>		
Salaries and Wages of Employees		3,000
<u>(40-08-005) Wetlands</u>		
Salaries and Wages of Employees	<u>3,000</u>	
TOTAL TRANSFER	<u>\$45,900</u>	<u>\$45,900</u>

Section 2. This authority expires on June 30, 1978.

Approved June 30, 1978.

## CHAPTER 401

FORMERLY HOUSE BILL NO. 1079  
AS AMENDED BY  
HOUSE AMENDMENTS 1,2,3,4 & 5

AN ACT TO PROVIDE ADDITIONAL OPERATING FUNDS FOR THE FISCAL YEAR  
ENDING JUNE 30, 1978, AND PRIOR YEARS' OBLIGATIONS BY MAKING  
SUPPLEMENTAL APPROPRIATIONS TO VARIOUS AGENCIES AND BY AMENDING  
CHAPTER 116, VOLUME 61, LAWS OF DELAWARE, THE 1978 BUDGET  
APPROPRIATION ACT, ENACTED AS 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. There is hereby appropriated by Supplementary  
Appropriation the sum of \$261,111 to various agencies for the  
purpose of providing additional operating funds for the fiscal year  
ending June 30, 1978, and prior years' obligations as follows:

<u>DEPARTMENT</u>	<u>YEAR ENDING JUNE 30, 1978</u>
<u>(02-00-000) JUDICIAL</u>	
<u>(02-03-000) Superior Court</u>	
Personal Services	
Court-Appointed Counsel for Public	
Officers and Employees	\$ <u>25,000</u>
TOTAL - Superior Court	<u>25,000</u>
TOTAL - JUDICIAL	\$ <u>25,000</u>
<u>(12-00-000) OTHER ELECTIVE OFFICES</u>	
<u>(12-05-000) State Treasurer</u>	
(12-05-001) Administration	
Contingency - Farmers Bank Commission	\$ <u>20,000</u>
TOTAL - Administration	\$ <u>20,000</u>
TOTAL - State Treasurer	\$ <u>20,000</u>
TOTAL - OTHER ELECTIVE OFFICES	\$ <u>20,000</u>

<u>DEPARTMENT</u>	<u>YEAR ENDING JUNE 30, 1978</u>
<u>(25-00-000) DEPARTMENT OF FINANCE</u>	
<u>(25-06-000) Division of Revenue</u>	
Salaries & Wages of Employees - Prior Year	\$ <u>851</u>
TOTAL - Division of Revenue	\$ <u>851</u>
TOTAL - DEPARTMENT OF FINANCE	\$ <u>851</u>
<u>(30-00-000) DEPARTMENT OF ADMINISTRATIVE SERVICES</u>	
<u>(30-04-000) Division of Facilities Management</u>	
Salaries & Wages of Employees	\$ <u>1,250</u>
TOTAL - Division of Facilities Management	\$ <u>1,250</u>
<u>(30-05-000) Division of Maintenance &amp; Communications</u>	
Contractual Services	\$ <u>18,033</u>
TOTAL - Division of Maintenance & Communications	\$ <u>18,033</u>
<u>(30-15-000) Division of State Banking Commissioner</u>	
Salaries & Wages of Employees	\$ 3,040
F.I.C.A. - Employer's Share	184
Pensions	<u>353</u>
TOTAL - Division of State Banking Commissioner	\$ <u>3,577</u>
TOTAL - DEPARTMENT OF ADMINISTRATIVE SERVICES	\$ <u>22,860</u>
<u>(40-00-000) DEPARTMENT OF NATURAL RESOURCES &amp; ENVIRONMENTAL CONTROL</u>	
<u>(40-05-000) Division of Fish &amp; Wildlife</u>	
<u>(40-05-004) Mosquito Control</u>	
Spraying & Insecticides	\$ <u>10,000</u>
Total - Mosquito Control	\$ <u>10,000</u>
TOTAL - Division of Fish & Wildlife	\$ <u>10,000</u>
TOTAL - DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL	\$ <u>10,000</u>

<u>DEPARTMENT</u>	<u>YEAR ENDING JUNE 30, 1978</u>
<u>(45-00-000) DEPARTMENT OF PUBLIC SAFETY</u>	
<u>(45-06-000) Division of State Police</u>	
Contractual Services	\$ 18,000
Supplies & Materials	<u>1,094</u>
TOTAL - Division of State Police	\$ <u>19,094</u>
TOTAL - DEPARTMENT OF PUBLIC SAFETY	\$ <u>19,094</u>
<u>(70-00-000 DEPARTMENT OF ELECTIONS</u>	
<u>(70-03-000) Kent County Department of Elections</u>	
Salaries & Wages of Employees	\$ 341
F.I.C.A. - Employer's Share	21
Pensions	<u>39</u>
TOTAL - Kent County Department of Elections	<u>401</u>
TOTAL - DEPARTMENT OF ELECTIONS	\$ <u>401</u>
<u>(90-00-000) HIGHER EDUCATION</u>	
<u>(90-04-000) Delaware Technical and Community College</u>	
<u>(90-04-002) Southern Campus</u>	
Contractual Services - Boiler Repair	\$ <u>32,515</u>
TOTAL - Southern Campus	\$ <u>32,515</u>
TOTAL - Delaware Technical and Community College	\$ <u>32,515</u>
TOTAL - HIGHER EDUCATION	\$ <u>32,515</u>
TOTAL - SUPPLEMENTARY APPROPRIATIONS	\$ <u>130,721</u>

Section 2. There is hereby appropriated Original Appropriation for the purpose of providing additional operating funds \$1,300,000 to various agencies through amending Chapter 116, Volume 61, Laws of Delaware, the Fiscal Year 1978 Budget Act, by striking line 8, entitled "REDUCTION - CENTRALIZED PURCHASING," on page 106 of Section 1 in its entirety as appearing in House Bill No. 300, as amended.

Section 3. Amend Chapter 116, Volume 61, Laws of Delaware by striking Section 83 in its entirety as appearing in House Bill No. 300 as amended.

Section 4. Amend Chapter 116, Volume 61, Laws of Delaware by striking the words "reduction amount per Section 85 of this Act for savings under Centralized Purchasing;" as appearing on lines 23 and 24, page 149, Section 95 of House Bill No. 300, as amended.

Section 5. Amend Chapter 116, Laws of Delaware by recomputing sub-totals and totals as necessary to reflect changes made by Section 2 of this Act.

Section 6. Money appropriated by this Act shall be paid out of the General Fund of the State Treasury from monies not otherwise appropriated.

Section 7. The appropriation \$25,000 to the Superior Court is to pay for court appointed counsel for public officers and employees and any funds unexpended on July 31, 1978, shall revert to the General Fund of the State Treasury. The Farmers Bank Commission Contingency Appropriation of \$20,000 is to pay current and prior year obligations and shall not revert to the General Fund until June 30, 1979. Any funds remaining unexpended of the appropriation to the Department of Administrative Services, Division of Central Data Processing and Division of State Banking Commissioner shall revert on June 30, 1979 to the General Fund of the State Treasury. All other funds remaining unexpended as of July 31, 1978, shall revert to the General Fund of the State Treasury.

Section 8. Amend Chapter 116, Volume 61, Laws of Delaware by striking the figure "412,000" in its entirety as it appears on line 26, page 12 of House Bill No. 300, as amended, and substituting in lieu thereof the figure "562,000".

Approved June 30, 1978.

## CHAPTER 402

FORMERLY SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 552

AN ACT TO PROVIDE SUPPLEMENTAL APPROPRIATIONS TO THE JUDICIAL BRANCH 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 \$110,113,00 to the Courts for the purpose of providing additional operating funds for the fiscal year ending June 30, 1978, and prior year's expense as follows:

<u>DEPARTMENT</u>	<u>FISCAL YEAR ENDING JUNE 30, 1978</u>
<u>(02-00-000) JUDICIAL</u>	
<u>(02-00-000) Supreme Court</u>	
Travel	1,000
Contractual	<u>6,000</u>
TOTAL - Supreme Court	7,000
<u>(02-02-001) Court of Chancery</u>	
Travel	1,200
Contractual	3,200
Capital Outlay	<u>1,000</u>
TOTAL - Court of Chancery	5,400
<u>(02-03-000) Superior Court</u>	
Personal Services:	
Lawyer Invol. - Comit.	5,000
Travel	4,000
Contractual Services	<u>21,868</u>
TOTAL - Superior Court	30,868
<u>(02-06-000) Court of Common Pleas</u>	
Salary & Wages of Employees	4,550
F.I.C.A. - Employer's Share	276
Pensions	587
Contractual Services	
(previous Year)	1,132
Supplies & Materials	<u>1,500</u>
TOTAL - Court of Common Pleas	8,045

<u>DEPARTMENT</u>	<u>FISCAL YEAR ENDING JUNE 30, 1978</u>	
<u>(02-08-000) Family Court</u>		
Personal Services - Masters	2,800	
Contractual Services	<u>15,000</u>	
TOTAL - Family Court		17,800
<u>(02-09-000) Kent County Law Library</u>		
Capital Outlay	12,000	
Total -Kent County Law Library		12,000
<u>(02-10-000) Sussex County Law Library</u>		
Capital Outlay	<u>5,000</u>	
Total - Sussex County Law Library		5,000
<u>(02-11-000) New Castle Law Library</u>		
Capital Outlay	<u>7,000</u>	
Total - New Castle Law Library		7,000
<u>(02-13-000) Justices of the Peace</u>		
Contractual Services	11,000	
Supplies & Materials	<u>6,000</u>	
Total - Justices of the Peace		<u>17,000</u>
		TOTAL \$110,113.00

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 June 30, 1978.

## CHAPTER 403

FORMERLY HOUSE BILL NO. 639  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 116, VOLUME 61, LAWS OF DELAWARE, THE 1978  
BUDGET APPROPRIATION ACT, ENACTED AS 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 and substituting certain other figures in lieu thereof as referenced by page and line number appearing in House Bill No. 300, 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>Increase (Decrease)</u>
71	3	Growth & Upgrading - Negative Growth	\$(2,277,000)	\$(477,155)	\$1,799,845
71	11	FICA - Employer's Share	( 108,000)	( 37,446)	70,554
71	12	Pensions	( 215,000)	( 74,339)	140,661
TOTAL BUDGET INCREASE					<u>\$2,011,060</u>

Section 2. Amend Chapter 116, Volume 61, Laws of Delaware by re-computing sub-totals and totals as necessary.

Section 3. This Act will become effective upon signature by the Governor.

Approved June 30, 1978.

## CHAPTER 404

FORMERLY HOUSE BILL NO. 641  
AS AMENDED BY  
HOUSE AMENDMENTS NO. 1 & 2

AN ACT TO PROVIDE SUPPLEMENTAL APPROPRIATIONS TO VARIOUS AGENCIES  
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 \$109,299  
to various agencies for the purpose of providing additional operating  
funds for the fiscal year ending June 30, 1978, and prior year's  
expense as follows:

<u>DEPARTMENT</u>	<u>YEAR ENDING JUNE 30, 1978</u>
(02-00-000) JUDICIAL	
<u>(02-02-000) Court of Chancery</u>	
<u>(02-02-001) Court of Chancery</u>	
Supplies & Materials	\$ 238
TOTAL -- Court of Chancery	\$ 238
<u>(02-03-000) Superior Court</u>	
Salaries and Wages of Employees	\$ 29,000
FICA - Employer's Share	1,697
Pensions	<u>3,364</u>
TOTAL -- Superior Court	\$ 34,061
<u>(02-17-000) Administrative Office of the Courts</u>	
<u>(02-17-001) Office of the Director</u>	
Personal Services	
Jury Costs	\$ 65,000
TOTAL -- Office of the Director	\$ 65,000
TOTAL -- Administrative Office of the Courts	\$ 65,000
TOTAL -- JUDICIAL	\$ 99,299

<u>DEPARTMENT</u>	<u>YEAR ENDING JUNE 30, 1978</u>
<u>(25-00-000) DEPARTMENT OF FINANCE</u>	
<u>(25-05-000) Division of Accounting</u>	
Data Processing Forms	\$ 5,000
TOTAL -- Division of Accounting	\$ 5,000
TOTAL -- DEPARTMENT OF FINANCE	\$ 5,000
<u>(45-00-000) DEPARTMENT OF PUBLIC SAFETY</u>	
<u>(45-04-000) Division of Motor Fuel Tax</u>	
Contractual Services	\$ 5,000
TOTAL -- Divison of Motor Fuel Tax	\$ 5,000
TOTAL -- Department of Public Safety	\$ 5,000
GRAND TOTAL	<u>\$ 109,299</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 June 30, 1978.

## CHAPTER 405

FORMERLY HOUSE BILL NO. 881  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO PROVIDE SUPPLEMENTAL APPROPRIATIONS TO VARIOUS AGENCIES  
FOR THE PURPOSE OF PROVIDING ADDITIONAL OPERATING FUNDS.

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

Section 1. There is hereby appropriated the sum of \$203,914  
to various agencies for the purpose of providing additional operating  
funds, as follows:

<u>DEPARTMENT</u>	<u>AMOUNT</u>
<u>(30-00-000) DEPARTMENT OF ADMINISTRATIVE SERVICES</u>	
<u>(30-07-000) Division of Central Data Processing</u>	
Contractual Services -	
Software System Development	\$ 115,390
TOTAL	<u>\$ 115,390</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.

Section 3. Any funds remaining unexpended of the appropriation to the Department of Administrative Services, Division of Central Data Processing, shall revert on June 30, 1979, to the General Fund of the State Treasury.

Approved June 30, 1978.

## CHAPTER 406

FORMERLY HOUSE BILL NO. 876  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 24 OF THE DELAWARE CODE RELATING  
TO DEADLY WEAPONS DEALERS.

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

Section 1. Amend §902, Chapter 9, Title 24 of the Delaware Code by striking the first sentence of said section, and substituting in lieu thereof the following:

"Whoever desires to engage in the business of selling any of the articles referred to in the first paragraph of §901 of this Chapter shall apply to the Department of Administrative Services to obtain a license to conduct such business."

Section 2. Amend §904, Chapter 9, Title 24 of the Delaware Code by striking the word "book" as the same appears throughout the said section, and substituting the word "record" in lieu thereof.

Section 3. Amend §904, Chapter 9, Title 24 of the Delaware Code by striking the words "which shall be furnished him by the State Tax Department" as the same appear in the first sentence of said section.

Section 4. Amend §904, Chapter 9, Title 24 of the Delaware Code by striking the words "freeholders resident in the county wherein the sale is made" as the same appear in the second sentence of said section, and substituting the words "residents of the State of Delaware," in lieu thereof.

Approved June 30, 1978.

CHAPTER 407

FORMERLY SENATE BILL NO. 689  
AS AMENDED BY  
SENATE AMENDMENT NO. 1  
AND  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT ENTITLED: "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1979; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BEING HOUSE BILL NO. 888 OF THE 129TH GENERAL ASSEMBLY OF THE STATE OF DELAWARE.

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

Section 1. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 104. (a) Effective July 1, 1978, the uniform pay plan for all employees in the classified service shall be increased by \$600.

(b) Effective July 1, 1978, all employees occupying positions exempt from the classified service shall receive a \$600 annual salary increase, except the following:

Justices of the Supreme Court, the Chancellor and Vice Chancellor of the Court of Chancery; Judges of the Family, the Superior, and the Common Pleas Courts; Justices of the Peace; uniformed State police; appointed and elected officials of the State; members of Boards and Commissions; National Guard employees; higher education employees; public education employees and Deputy Attorneys General and special investigators of the Department of Justice.

(c) The amount necessary to fund the provisions of this section is appropriated in Section 1 of this Act."

Section 2. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 105. (a) Effective July 1, 1978, the State Board of Education shall increase the salary schedule established in Section 1305(a), Chapter 13, Title 14, Delaware Code, by \$700.

(b) Notwithstanding the provisions of Section 1305(b), Chapter 13, Title 14, Delaware Code, the salaries of principals,

superintendents, other administrative and supervisory employees shall not be increased by one-tenth of the salary increase provided in subsection (a) of this Section for each additional month of employment per year."

Section 3. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 106. Effective July 1, 1978, the State Board of Education shall increase the following salary schedules established in Chapter 13, Title 14, Delaware Code, by adding \$600:

Section 1310 (a)  
Section 1311 (a)  
Section 1322 (a)  
Section 1331"

Section 4. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 107. Effective July 1, 1978, the State Board of Education shall increase the salary schedule established in Section 1322 (c), Chapter 13, Title 14, Delaware Code by 25 cents per hour."

Section 5. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 108. Effective July 1, 1978, the State Board of Education shall increase the salary schedule established in Section 1324 (b), Chapter 13, Title 14, Delaware Code, as follows:

Bus and Class Attendants	\$ 400
Class Aides	\$ 500"

Section 6. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 109. (a) Effective July 1, 1978, annual salaries of employees of Delaware State College, Delaware Technical and Community College, and Delaware Postsecondary Education Commission shall be increased by \$700.

(b) Effective July 1, 1978, employees of Delaware State College, Delaware Technical and Community College and Delaware

Postsecondary Education Commission shall receive a salary adjustment of 2.5 percent.

(c) The amount necessary to fund the provisions of this Section is appropriated in Section 1 of this Act."

Section 7. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking subsection (b) of Section 97 in its entirety as it appears on page 127 of said Bill.

Section 8. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking lines 2 through 15 in their entirety as they appear on page 130 of said Bill and substituting in lieu thereof the following:

<u>Yrs. of Exp.</u>	<u>Clerk</u>	<u>Secretary</u>	<u>Secretary</u>	<u>Financial Secretary</u>	<u>Administrative Secretary</u>
0	\$5,758	\$6,488	\$6,902	\$7,157	\$ 7,530
1	6,029	6,759	7,173	7,427	7,800
2	6,299	7,030	7,444	7,697	8,070
3	6,569	7,300	7,715	7,967	8,340
4	6,839	7,570	7,985	8,237	8,610
5	7,109	7,840	8,255	8,507	8,881
6	7,379	8,110	8,525	8,777	9,150
7	7,649	8,380	8,795	9,047	9,421
8	7,919	8,650	9,065	9,317	9,691
9	8,189	8,920	9,335	9,587	9,961
10					10,232"

Section 9. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking subsection (b) of Section 102 in its entirety as it appears on page 131 of said Bill and substitute in lieu thereof the following subsection, designated as subsection (b), to read as follows:

"(b) The salary schedule set forth in subsection (a) of this Section reflects a \$600 annual increase, effective July 1, 1978."

Section 10. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 110. The amount necessary to fund salaries established in Chapter 13, Title 14, Delaware Code, are provided in Section 1 of this Act."

Section 11. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking Section 28 in its entirety as it

appears in said Bill and substitute in lieu thereof a new section, designated as Section 28, to read as follows:

"Section 28. Notwithstanding any other provision of this Act, in the event the appropriation to any Department or Agency for salaries is excessive or inadequate due to variation in anniversary dates of employment or to variation in proportions of employees at the various steps within the paygrades established for such Department or Agency, the Budget Director, with the approval of the Controller General, is authorized to transfer funds appropriated for salaries among the various Departments in order to effectuate the salary increases authorized by this Act. Such authorizations for transfers shall be in writing and shall be fully documented."

Section 12. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding a new line item after line 30 and before line 31, page 7 of said Bill, to read as follows:

"Contingency - Salary Adjustment and	
Other Employment Costs	\$ 7,900.0"

Section 13. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by renumbering paragraphs and sections affected by this Amendment.

Section 14. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by recomputing all subtotals and totals affected by this Amendment.

Section 15. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking lines 16 through 25, page 130 of said House Bill No. 888 and substituting in lieu thereof the following:

"(b) For purposes of implementing the salary schedule, for the position of Clerk, the years of experience line of 6 years shall become effective July 1, 1978; the years of experience line of 7 years shall become effective July 1, 1979; the years of experience line of 8 years shall become effective July 1, 1980; and the years of experience line of 9 years shall become effective July 1, 1981. For position of Secretary, Senior Secretary, and Financial Secretary, the years of experience line of 7 years shall become effective July 1, 1978; the years of experience line of 8 years shall become effective July 1, 1979; and the years of experience line of 9 years shall become effective July 1, 1980."

Approved July 1, 1978.

## CHAPTER 408

## FORMERLY SENATE BILL NO. 710

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 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. There is appropriated to the agencies of this State set forth in Section 7 hereof the sum of \$31,764,500 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 except for that maintenance as outlined in Sections 14 and 15 of this Act.

Section 3. None of the monies appropriated by this Act shall be expended after June 30, 1981, on any of the individual projects authorized in the 1979 Annual Capital Projects Schedule unless such projects have progressed into any or all of the following phases prior to July 1, 1981; Initial Engineering, Planning, Procurement, Construction.

Section 4. (a) In order to provide funds for appropriation pursuant to this Act, \$23,439,127 shall be borrowed by the issuance of bonds or bond anticipation notes to which the State shall pledge its faith and credit. The bonds authorized to be issued by this subsection shall mature not later than twenty (20) years from their date of issuance and shall be issued for projects and in amounts set forth in the fiscal year 1979 Capital Budget Summary and the Annual Capital Projects Schedule included herein.

(b) In order to provide funds for appropriation pursuant to this Act, \$8,325,373 shall be borrowed by the issuance of bonds or bond anticipation notes to which the State shall pledge

its faith and credit. The bonds authorized to be issued by this subsection shall mature not later than ten (10) years from their date of issuance and shall be issued for projects and in amounts set forth in the fiscal year 1979 Capital Budget and the Annual Capital Projects Schedule included herein.

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 and notes 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 bonds and notes shall be signed by the State Treasurer, by and with the approval of the Bond 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 agencies or their successors and the State Board of Education shall allocate to the designated school districts according to the following tabulation of maximum totals and shares or in the proportions represented by said maximum totals and shares:

<u>Department or Agency</u>	<u>State Funds</u>
(a) Department of State	\$ 65,000
(b) Department of Transportation	
(1) Corridor Program Projects	\$7,881,000
(2) Non-Corridor Program Projects	1,875,127
(3) Paving & Rehabilitation Program: Primary & Secondary Roads	1,660,000

<u>Department or Agency</u>	<u>State Funds</u>		
(4) Drainage Program	\$	160,000	
(5) Bridge Replacement Program		723,000	
(6) Suburban Streets Program		750,000	
(7) Long Life Heavy Equipment		400,000	
(8) Engineering & Contingencies		<u>2,850,000</u>	
Sub-Total			\$16,299,127
(c) Department of Health and Social Services			995,000
(d) Department of Natural Resources and Environmental Control			1,513,000
(e) Department of Correction			10,775,000
(f) Delaware Technical and Community College			132,000
(g) State Board of Education			
	<u>Total Cost</u>	<u>Local Share</u>	<u>State Share</u>
(1) Minor Capital Improv.	\$2,062,004	\$ 776,631	\$ 1,285,373
(2) School Bldg. Maint.	<u>700,000</u>	<u>-0-</u>	<u>700,000</u>
Sub-Total	\$2,762,004	\$ 776,631	\$ 1,985,373
GRAND TOTAL STATE FUNDS			\$31,764,500

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 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 9. No bonds or notes shall be issued or monies borrowed on behalf of this State, pursuant to this Act, after June 30, 1984, except as provided in Chapter 75, Title 29, Delaware Code.

Section 10. All monies appropriated by this Act shall be considered to be in compliance with and shall be expended in accordance with the intent of the 1979 Annual Capital Projects Schedule.

Section 11. (a) The monies allocated in Section 7(b) of this Act shall be expended for highway construction or related purposes, but they shall not be used for office supplies or for office equipment and furnishings. The monies authorized in Section 7(b) (8) of

this Act and termed Engineering and Contingencies shall be accounted for by project.

(b) In the event that the Secretary of the Department of Transportation determines that an individual project listed in the Project Schedule requires additional funds for completion or will have a funding balance remaining upon completion, in excess of the amount listed for such project, the Secretary of the Department of Transportation may, with the approval of the Director of the Office of Management, Budget and Planning, transfer funds from one individual project listed herein to another such project within the same program.

Section 12. The sums of money appropriated and allocated for school construction purposes pursuant to Section 7(g) of this Act shall not be expended for educational supplies of an expendable nature which are consumed or materially changed as they are used; provided, however, that nothing herein contained shall preclude the purchase of all education supplies necessary for the initial operation of schools so built, altered or added to in accordance with the provisions of the School Construction Capital Improvements Act, being, Chapter 75, Title 29, of the Delaware Code.

Section 13. (a) In compliance with Section 7526 of Title 29, Delaware Code, the State Board of Education and the local school districts shall allocate such portions of the total appropriation for the total cost of any school construction authorized by Section 7(g) hereof as shall be necessary to provide for the customary audit function, but in no event shall such allocation exceed one-half percent of such total cost. The State Auditor of Accounts shall be responsible for arranging the audit function in accordance with Section 2906 and Section 2907 of Title 29, Delaware Code.

(b) In compliance with Section 7526 of Title 29, Delaware Code, the State Board of Education and the local school districts shall allocate such portions of the total appropriation for the total cost of any school construction authorized by Section 7(g) hereof as shall be necessary to provide for the customary supervision (construction inspection services). The limitation of one percent prescribed in Section 7526 of Title 29, Delaware Code, for construction inspection services is hereby set aside and such allocation by the State Board of Education and the local school districts shall not exceed the following percentages:

- |   |                      |
|---|----------------------|
| (1) Normal new construction<br>in excess of \$1,000,000 | 1 1/4% of total cost |
| (2) Small projects up to<br>\$1,000,000                 | 1 1/2% of total cost |
| (3) Reconstruction and<br>Renovations                   | 1 1/2% of total cost |

(c) In contracting for the supervision (construction inspection services as prescribed in Section 13(b) hereinabove, the State Board of Education shall give first preference to an experienced Delaware organization, able to, and offering to provide quality service on a "non-profit, at cost" basis, and in so contracting it shall not be subject to the bidding laws as prescribed by Chapter 69, Title 29, Delaware Code. If no such organization is able to or is willing to offer to perform such specialized service on such "non-profit, at cost" basis, then the State Board of Education may contract for such services with profit making organizations on a bid basis as prescribed by Chapter 69, Title 29, Delaware Code.

Section 14. (a) The sum of \$1,285,373 appropriated by Section 7(g) of this Act to the State Board of Education for minor capital improvements to school buildings, or so much thereof as shall be necessary to carry out the purpose of this Act, shall be paid by the State Board of Education to the local districts in the following amounts:

	<u>Maximum Total Cost</u>	<u>Maximum State Share</u>	<u>Local Share</u>
Alexis I. duPont	\$ 50,508	\$ 30,305	\$ 20,203
Alfred I. duPont	142,541	85,525	57,016
Appoquinimink	113,682	68,209	45,473
Claymont	43,718	26,231	17,487
Conrad Area	94,577	56,746	37,831
De La Warr	58,485	35,091	23,394
Marshallton-McKean	58,637	35,182	23,455
Mount Pleasant	39,650	23,790	15,860
New Castle-Gunning Bedford	143,980	86,388	57,592
Newark	548,228	328,937	219,291
Stanton	129,194	77,517	51,677
Wilmington	46,395	27,837	18,558
Caesar Rodney	32,477	19,486	12,991
Capital	91,876	55,126	36,750
Lake Forest	17,844	10,706	7,138
Milford	64,023	38,414	25,609
Smyrna	16,059	9,636	6,423
Cape Henlopen	8,565	5,139	3,426
Delmar	4,282	2,570	1,712
Indian River	44,610	26,767	17,843
Laurel	33,613	20,168	13,445
Seaford	42,099	25,262	16,837
Woodbridge	17,843	10,706	7,137
Kent Vo-Tech	19,797	19,797	-0-
New Castle Vo-Tech	8,776	8,776	-0-
Sterck	30,693	30,693	-0-
Leach	25,411	25,411	-0-
Sussex Vo-Tech	18,879	18,879	-0-
Vocational Equipment	62,061	43,978	18,083
State Board of Education	<u>53,501</u>	<u>32,101</u>	<u>21,400</u>
<b>TOTAL</b>	<b>\$2,062,004</b>	<b>\$1,285,373</b>	<b>\$ 776,631</b>

(b) The State Board of Education shall in no case pay more toward the completion of the minor capital improvements for each school district as herein contemplated, than the total amounts designated as "Maximum State Share", nor less than sixty percent rounded to the nearest one hundred dollars of the final actual total costs when such total costs are less than the "Maximum Total Cost" herein designated. As is customary in the case of 100 percent State supported schools, 100 percent of the funds herein contemplated for such schools shall be wholly provided by the State.

(c) The State Board shall establish criteria for the types of minor capital improvements which it will approve under this Section. The State Board shall pay local districts only for the actual expenses of repairs and replacements of a capital nature which shall include but not be limited to the rebuilding or major repair of roofs, floors, heating systems, painting, electrical, and plumbing or water systems and facilities. The State Board shall in any case, pay only sixty percent of the total costs of such minor capital improvements.

(d) Before any minor capital improvements or repairs of a capital nature authorized by this Section are undertaken by any school district, the school district shall send a request to the State Board of Education which request shall itemize the improvements or repairs needed and show the estimated cost of each item. The State Board, using the criteria established pursuant to subsection (c) of this Section, shall decide as to the right of payment to the local school district and show the estimated cost of each item.

(e) In order to determine the right of payment to the school district under this Section, the State Board, or its designated representative, shall:

(i) Inspect the building or buildings to determine that the minor capital improvements requested by the school district are needed and are in accordance with the criteria established pursuant to subsection (c) of this Section;

(ii) Provide necessary help to the school district for letting of bids on repairs or replacements meeting the aforesaid criteria;

(iii) Inspect the improvements upon completion to determine that all specifications have been met and that the work and materials used are of acceptable quality; and

(iv) Pay the State's share of the cost of the improvements or repairs made by the school district in accordance with the provisions of this Section after the improvements or repairs are accepted as meeting all specifications as to workmanship and materials and when the school district's share has been deposited with the State Treasurer in accordance with the provisions of this Section.

(f) The State Board of Education shall, if and when the criteria established in this Section are met, pay the school district for the school building improvement, except that the amount paid to each school district shall not be in excess of 60 percent of the total cost.

(g) Any school district may levy and collect a tax to pay its 40 percent share of the cost of the minor capital improvements authorized by this Section. Such taxes shall be collected by local taxation within the school district according to the provisions set forth in Chapter 19, Title 14 of the Delaware Code.

(h) The provisions of Chapter 75, Title 29, Delaware Code shall not apply to the minor capital improvements authorized by this Section.

Section 15. The sum of \$700,000 appropriated by Section 7(g) (2) of this Act to the State Board of Education for "School Building Maintenance", shall be allocated to the school districts in accordance with the following provisions:

(a) The maximum allocation to any district shall be the sum of the allotments for each school building in the district based upon the following formula: \$9 for each year since the date of pupil occupancy of the building up to a maximum of 30 such years multiplied by the full number of units of 25 pupils in the building on a full-time basis as of September 30, 1977.

(b) The allotment for each school district as computed in (a) of this Section shall be expended only for the purpose of maintenance of buildings and such integral parts as the heating plant, plumbing and electrical system, or painting. It shall not be used for the purchase of routine janitorial supplies, upkeep of grounds nor the repair of any equipment not a basic part of the building.

(c) Before the State Board of Education shall make any allotment pursuant to this Section, it shall require that the school district submit a plan of the maintenance and the estimated cost thereof.

(c) The State Board of Education shall establish such rules and regulations as it deems necessary to assure that the purpose of this appropriation is carried out.

Section 16. All State departments and agencies shall submit all architectural, structural, electrical, and mechanical plans, specifications and cost estimates during the design and development phases and prior to bid to the State Architect. The State Architect shall be responsible for reviewing and approving these plans prior to bid advertisement, and no construction contracts (except Highway construction contracts and school district minor capital improvements) shall be executed without the prior approval of the State Architect.

Section 17. Each State agency and institution of higher learning receiving funds by this Act, must on a semi-annual basis effective upon the enactment of this Act, report to the Office of Management, Budget and Planning the status and anticipated cash flow for each capital improvement project for which it has received funds, either in this Bond Act or in any previous Bond Act, and for which the project is not complete as of the effective date of this Act.

Section 18. (a) 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, then 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.

(b) All projects funded by this Act shall be built to standards that are not less stringent than American Society of Heating, Refrigerating, and Air Conditioning Engineering, Inc., Standard 90-75.

Section 19. 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 20. This Act may be known, styled or referred to as the "Annual Capital Improvements Act of 1979".

Approved July 1, 1978.

## CHAPTER 409

## FORMERLY HOUSE BILL NO. 888

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1979; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING 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, 1979, 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 1979, 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:

<u>DEPARTMENTS</u>	<u>Year Ending June 30, 1979</u>
<u>(01-00-000) LEGISLATIVE</u>	
<u>(01-01-000) General Assembly - House</u>	
Salaries - House Members	\$ 380.8
Salaries - Attaches	160.0
Salaries and Wages - Employees (4)	54.3
Other Employment Costs	66.9
Personal Services	32.0
Travel	
Mileage	40.0
Legislative	4.0
Expenses - House Members	61.5
Capital Outlay	3.0
TOTAL -- General Assembly - House	\$ 802.5

(01-02-000) General Assembly - Senate      Year Ending June 30, 1979

Salaries - Senate Members	\$	208.5
Salaries - Attaches		115.0
Salaries and Wages - Employees (5)		63.0
Other Employment Costs		41.4
Personal Services		24.9
Travel		
Mileage		25.0
Legislative		4.5
Expenses - Senate Members		31.5
Capital Outlay		3.0

TOTAL -- General Assembly - Senate      \$      516.8

(01-05-000) Commission on Interstate Cooperation

Travel		
Legislative	\$	19.0
Other		3.0
Contractual Services		
Council on State Governments		23.0
Delaware River Basin Advisory Committee		122.0
National Conference of State Legislators		16.0
Other Contractual Services		5.3
Supplies and Materials		.3

TOTAL -- Commission on Interstate Cooperation      \$      188.6

(01-08-000) Legislative Council

(01-08-001) Office of Research Director

Salaries - Casual and Seasonal	\$	21.0
Salaries and Wages of Employees (15)		206.9
Salaries - Overtime		4.1
Other Employment Costs		55.1
Personal Services		1.0
Travel		2.5
Contractual Services		
Printing and Binding Session Laws and Journals		70.0
Printing Code Pocket Parts		67.5
Other Contractual Services		76.9
Supplies and Materials		
House		4.5
Senate		3.5
Legislative Council		31.7
Capital Outlay		
House		3.5
Senate		1.2
Legislative Council		11.8
Contingency - Hearing Fund		1.0

Year Ending June 30, 1979

Contingency - Committee Support (6)	35.0
Central Data Processing Services	6.0
Contingency - Desegregation Committee	<u>50.0</u>

Sub-Total	\$ 653.2
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Code Revisors	
Personal Services	9.5
Travel	.4
Contractual Services	.5
Supplies and Materials	.7
Debt Service	
Principal	12.0
Interest	<u>10.8</u>

TOTAL -- Office of Research Director	\$ 687.1
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(01-08-002) Office of Controller General

Salaries - Casual and Seasonal	\$ 6.0
Salaries - Casual and Seasonal for Standing Legislative Committees	7.5
Salaries and Wages of Employees (11)	213.1
Salaries - Overtime	2.1
Other Employment Costs	43.9
Personal Services	5.0
Travel	4.0
Contractual Services	6.6
Supplies and Materials	3.1
Capital Outlay	6.5
Central Data Processing Services	10.0
Contingency	<u>5.0</u>

TOTAL -- Office of Controller General	\$ 312.8
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TOTAL -- Legislative Council	\$ 999.9
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TOTAL -- Legislative	\$ 2,507.8
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(02-00-000) JUDICIAL(02-01-000) Supreme Court

Salary of Chief Justice	\$ 42.5
Salaries of Associate Justices (2)	84.0
Salaries and Wages of Employees (10)	141.4
Salaries - Casual and Seasonal	1.5
Other Employment Costs	34.4
Personal Services	1.0
Travel	2.5

(01-02-000) General Assembly - Senate      Year Ending June 30, 1979

Salaries - Senate Members	\$	208.5
Salaries - Attaches		115.0
Salaries and Wages - Employees (5)		63.0
Other Employment Costs		41.4
Personal Services		24.9
Travel		
Mileage		25.0
Legislative		4.5
Expenses - Senate Members		31.5
Capital Outlay		<u>3.0</u>

TOTAL -- General Assembly - Senate      \$      516.8

(01-05-000) Commission on Interstate Cooperation

Travel		
Legislative	\$	19.0
Other		3.0
Contractual Services		
Council on State Governments		23.0
Delaware River Basin Advisory Committee		122.0
National Conference of State Legislators		16.0
Other Contractual Services		5.3
Supplies and Materials		<u>.3</u>

TOTAL -- Commission on Interstate Cooperation      \$      188.6

(01-08-000) Legislative Council

(01-08-001) Office of Research Director

Salaries - Casual and Seasonal	\$	21.0
Salaries and Wages of Employees (15)		206.9
Salaries - Overtime		4.1
Other Employment Costs		55.1
Personal Services		1.0
Travel		2.5
Contractual Services		
Printing and Binding Session Laws and Journals		70.0
Printing Code Pocket Parts		67.5
Other Contractual Services		76.9
Supplies and Materials		
House		4.5
Senate		3.5
Legislative Council		31.7
Capital Outlay		
House		3.5
Senate		1.2
Legislative Council		11.8
Contingency - Hearing Fund		1.0

Year Ending June 30, 1979

Contingency - Committee Support (6)	35.0
Central Data Processing Services	6.0
Contingency - Desegregation Committee	<u>50.0</u>

Sub-Total	\$ 653.2
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Code Revisors	
Personal Services	9.5
Travel	.4
Contractual Services	.5
Supplies and Materials	.7
Debt Service	
Principal	12.0
Interest	<u>10.8</u>

TOTAL -- Office of Research Director	\$ 687.1
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(01-08-002) Office of Controller General

Salaries - Casual and Seasonal	\$ 6.0
Salaries - Casual and Seasonal for Standing Legislative Committees	7.5
Salaries and Wages of Employees (11)	213.1
Salaries - Overtime	2.1
Other Employment Costs	43.9
Personal Services	5.0
Travel	4.0
Contractual Services	6.6
Supplies and Materials	3.1
Capital Outlay	6.5
Central Data Processing Services	10.0
Contingency	<u>5.0</u>

TOTAL -- Office of Controller General	\$ 312.8
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TOTAL -- Legislative Council	\$ 999.9
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TOTAL -- Legislative	\$ 2,507.8
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(02-00-000) JUDICIAL(02-01-000) Supreme Court

Salary of Chief Justice	\$ 42.5
Salaries of Associate Justices (2)	84.0
Salaries and Wages of Employees (10)	141.4
Salaries - Casual and Seasonal	1.5
Other Employment Costs	34.4
Personal Services	1.0
Travel	2.5

Year Ending June 30, 1979

Contractual Services	23.1
Supplies and Materials	9.0
Capital Outlay	<u>5.8</u>
Sub-Total	\$ 345.2
Debt Service	
Principal	20.0
Interest	<u>6.8</u>
TOTAL -- Supreme Court	\$ 372.0

(02-02-000) Court of Chancery(02-02-001) Court of Chancery

Salary of Chancellor	\$ 39.5
Salaries of Vice-Chancellors (2)	78.0
Salaries and Wages of Employees (10)	145.9
Salaries - Casual and Seasonal	1.5
Other Employment Costs	34.8
Personal Services	.3
Travel	2.9
Contractual Services	15.8
Supplies and Materials	5.8
Capital Outlay	<u>8.6</u>
TOTAL -- Court of Chancery	\$ 333.1

(02-02-002) Public Guardian

Salary of Public Guardian	\$ 22.8
Salaries and Wages of Employees (2)	22.2
Other Employment Costs	9.3
Personal Services	1.0
Travel	.2
Contractual Services	2.6
Supplies and Materials	1.3
Capital Outlay	<u>.4</u>
TOTAL -- Public Guardian	\$ 59.8
TOTAL -- Court of Chancery and Public Guardian	\$ 392.9

(02-03-000) Superior Court

Salary of President Judge	\$ 39.5
Salaries of Associate Judges (10).	390.0
Salaries of Jury Commissioners (6)	6.0
Salary of Court Administrator (1)	26.0

Year Ending June 30, 1979

Salaries and Wages of Employees (87)	1,167.0
Other Employment Costs	256.0
Personal Services	100.0
Travel	14.9
Contractual Services	73.1
Supplies and Materials	18.5
Capital Outlay	22.3

TOTAL -- Superior Court	\$ 2,113.3
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(02-06-000) Court of Common Pleas

Salary of Chief Judge	\$ 38.5
Salaries of Associate Judges (4)	152.0
Salaries and Wages of Employees (42.5)	536.8
Salaries - Casual and Seasonal	5.5
Other Employment Costs	122.5
Personal Services	18.0
Travel	3.3
Contractual Services	33.9
Supplies and Materials	8.1
Capital Outlay	7.2

TOTAL -- Court of Common Pleas	\$ 925.8
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(02-08-000) Family Court of Delaware

Salary of Chief Judge	\$ 38.5
Salaries of Associate Judges (10)	380.0
Salary of Administrator	32.0
(5) Salaries and Wages of Employees (189)	2,076.1
Salaries - Casual and Seasonal	16.5
Salaries - Overtime	10.2
Other Employment Costs	468.5
Personal Services	55.0
Travel	22.0
Contractual Services	187.3
Supplies and Materials	42.1
Capital Outlay	26.0

Sub-Total	\$ 3,354.2
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Debt Service	
Principal	12.0
Interest	7.4

TOTAL -- Family Court of Delaware	\$ 3,373.6
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Year Ending June 30, 1979(02-09-000) Kent County Law Library

Salaries and Wages of Employees (1)	\$ 12.7
Salaries - Casual and Seasonal	2.5
Other Employment Costs	2.9
Contractual Services	1.8
Supplies and Materials	.5
Capital Outlay	<u>21.0</u>

TOTAL -- Kent County Law Library	\$ 41.4
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(02-10-000) Sussex County Law Library

Salaries and Wages of Employees (1)	\$ 11.6
Other Employment Costs	2.6
Contractual Services	2.7
Supplies and Materials	.4
Capital Outlay	<u>15.3</u>

TOTAL -- Sussex County Law Library	\$ 32.6
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(02-11-000) New Castle County Law Library

Salaries and Wages of Employees (1)	\$ 12.8
Salaries - Casual and Seasonal	2.5
Other Employment Costs	2.8
Contractual Services	2.0
Supplies and Materials	.3
Capital Outlay	<u>29.0</u>

TOTAL -- New Castle County Law Library	\$ 49.4
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(02-13-000) Justice of the Peace Courts

Salaries of Justices of Peace (52)	\$ 676.0
Salaries and Wages of Employees (118)	1,110.0
Salaries - Casual and Seasonal	18.0
Salaries - Overtime	15.3
Salaries - Shift Differential	9.9
Other Employment Costs	392.1
Personal Services	7.0
Travel	68.2
Contractual Services	225.7
Supplies and Materials	37.8
Capital Outlay	<u>25.4</u>

TOTAL -- Justice of Peace Courts	\$ 2,585.4
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Year Ending June 30, 1979(02-17-000) Administrative Office of the Courts(02-17-001) Office of Director

Salary of Director	\$ 32.2
Salaries and Wages of Employees (6)	75.5
Other Employment Costs	20.8
Health Insurance - Retirees	1.8
Judicial Pension - Retirees	133.5
Personal Services	28.0
Jury Cost	560.0
Travel	2.1
Contractual Services	1,489.6
Supplies and Materials	3.7
Capital Outlay	.3
National Center for State Courts	1.5
Central Data Processing Services	24.0

TOTAL -- Office of Director	\$ 2,373.0
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(02-17-002) Violent Crimes Compensation Board

Salary - Executive Secretary	\$ 19.2
Salary - Board Members (5)	21.0
Salaries and Wages of Employees (4)	42.9
Other Employment Costs	17.7
Travel	9.4
Contractual Services	
Rent	8.0
Other Contractual Services	8.4
Supplies and Materials	1.4
Capital	.3
Victims	207.9
Attorney Fees	24.9
Medical Opinions	.3

TOTAL -- Violent Crimes Compensation Board	\$361.4*
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\*Special Funds appropriated per Chapter 90, Title 11, Delaware Code

TOTAL -- Administrative Office of the Courts	\$ 2,373.0
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TOTAL -- JUDICIAL	\$ 12,259.4
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(10-00-000) EXECUTIVE(10-01-000) Office of the Governor

Salary of Governor	\$ 35.0
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Year Ending June 30, 1979

(5.55) Salaries and Wages of Employees (17)	263.3
Salaries - Casual and Seasonal	12.6
Other Employment Costs	55.0
Personal Services	3.0
Travel	10.0
Contractual Services	66.0
Supplies and Materials	16.5
Capital Outlay	2.2
Contingency - Other Expenses	6.0
Commission on Modernization of State Laws	2.4
Governor's Committee for the Employment of Handicapped	2.0
Central Data Processing Services	3.8

TOTAL -- Office of the Governor	\$ 477.8
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(10-02-000) Office of the Budget(10-02-001) Budget Office

Salary of Budget Director	\$ 33.1
Salaries - Casual and Seasonal	1.5
Salaries and Wages of Employees (16)	272.8
Salaries - Overtime	2.0
Other Employment Costs	58.4
Personal Services	4.8
Travel	5.0
Contractual Services	17.1
Supplies and Materials	3.2
Capital Outlay	7.0
Central Data Processing Services	65.0
Contingency - Prior Year's Obligations	10.0

TOTAL -- Budget Office	\$ 479.9
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(10-02-006) Budget Commission

Accrued Vacation and Sick Pay	\$ 25.0
Contingency Funds	200.0

TOTAL -- Budget Commission	\$ 225.0
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TOTAL -- Office of the Budget	\$ 704.9
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(10-03-000) Office of Management, Budget and Planning

Salary of Director - (State Funds - \$16.0)	
(All Other Funds - \$16.0)	\$ 16.0
(26) Salaries and Wages of Employees (12)	177.4
Salaries - Casual and Seasonal	1.5

Year Ending June 30, 1979

Other Employment Costs	39.1
Personal Services	.5
Travel	1.5
Contractual Services	16.8
Supplies and Materials	2.6
Capital Outlay	5.7
Contingency - Washington Office (2)	<u>75.0</u>
TOTAL -- Office of Management, Budget and Planning	\$ 336.1
<u>(10-04-000) Office of State Personnel</u>	
Salaries of Commissioners (5)	\$ 6.0
Salary of Director	27.7
(11.5) Salaries and Wages of Employees (20)	275.8
Salaries - Casual and Seasonal	1.5
Salaries - Overtime	1.0
Other Employment Costs	64.8
Personal Services	2.5
Travel	1.7
Contractual Services	19.0
Supplies and Materials	7.5
Capital Outlay	9.1
Central Data Processing Services	<u>25.0</u>
TOTAL -- Office of State Personnel	\$ 441.6
<u>(10-06-000) Office of Highway Safety Coordinator</u>	
Salary of Director	\$ 22.8
(6) Salaries and Wages of Employees	---
Other Employment Costs	1.1
Contractual Services	14.1
Supplies and Materials	<u>1.5</u>
TOTAL -- Office of Highway Safety Coordinator	\$ 39.5
<u>(10-07-000) Governor's Commission on Criminal Justice</u>	
Salary of Executive Director - (State Funds - \$13.2)	
(All Other Funds - \$13.2)	13.2
(31.2) Salaries and Wages of Employees (2)	47.8
Other Employment Costs	12.8
Personal Services	16.1
Travel	1.6
Contractual Services	37.2
Supplies and Materials	3.0
Planning Grants	
State Agencies (5.3)	<u>174.2</u>
TOTAL -- Governor's Commission on Criminal Justice	\$ 305.9

Year Ending June 30, 1979

TOTAL -- EXECUTIVE \$ 2,305.8

(12-00-000) OTHER ELECTIVE OFFICES(12-01-000) Lieutenant Governor

Salary of Lieutenant Governor	\$ 12.0
Salaries and Wages of Employees (2)	21.9
Other Employment Costs	6.4
Travel	1.9
Contractual Services	1.0
Supplies and Materials	.3
Expenses - Lieutenant Governor	<u>3.0</u>

TOTAL -- Lieutenant Governor \$ 46.5

(12-02-000) Auditor of Accounts

Salary of Auditor	\$ 18.0
(8) Salaries and Wages of Employees (30)	475.4
Salaries - Casual and Seasonal	2.4
Other Employment Costs	99.8
Personal Services	50.0
Travel	2.5
Contractual Services	11.8
Supplies and Materials	8.7
Capital Outlay	<u>22.8</u>

TOTAL -- Auditor of Accounts \$ 691.4

(12-03-000) Insurance Commissioner

Salary of Commissioner	\$ 18.0
Salaries and Wages of Employees (22)	309.5
Other Employment Costs	67.2
Personal Services	40.0
Travel	4.0
Contractual Services -	
Insurance Premium	382.0
Other Contractual Services	43.1
Supplies and Materials	9.9
Capital Outlay	10.3
Self Insurance Fund	1,593.3
Central Data Processing Services	23.0
Malpractice Review	<u>35.0</u>

TOTAL -- Insurance Commissioner \$ 2,535.3

(12-05-000) State Treasurer

Year Ending June 30, 1979

(12-05-001) Administration

(1)	Salary of Treasurer	\$	18.0
	Salaries and Wages of Employees (21)		250.0
	Salaries - Casual and Seasonal		2.0
	Other Employment Costs		56.7
	Travel		.5
	Contractual Services		42.0
	Supplies and Materials		8.8
	Capital Outlay		5.0
	Lost and Outdated Checks		1.5
	Health Insurance Retirees		887.2
	Central Data Processing Services		60.0
	Contingency - Collateralization Program		4.0
	TOTAL -- Administration	\$	1,335.7

(12-05-002) Pensions

	Salaries of Board Members	\$	3.0
	Salaries and Wages of Employees (11)		152.4
	Salaries - Casual and Seasonal		4.0
	Salaries - Overtime		.4
	Other Employment Costs		31.6
	Personal Services		640.0
	Travel		2.6
	Contractual Services		24.2
	Supplies and Materials		3.6
	Capital Outlay		2.0
	Central Data Processing Services		45.0
	Pensions - Paraplegic Veterans	\$	15.6
	TOTAL -- Pensions	\$908.8*	\$ 15.6

\*All administrative expenses are paid out of State Employees Retirement Fund.

(12-05-003) Debt Service and Investments

	Expense of Issuing Bonds	\$	100.0
	Debt Service - Principal		131.0
	Debt Service - Interest		1,415.7
	Principal - Local Schools		922.0
	Interest - Local Schools		820.2
	Principal - Employees' Retirement		1,000.0
	Interest - Employees' Retirement		196.0
	Interest - Farmers Bank Stock		1,038.0
	General Obligation Bonds - Principal		9,600.0
	General Obligation Bonds - Interest		313.0
	Solid Waste Authority Debt Service		

Year Ending June 30, 1979

Principal	70.0
Interest	<u>54.4</u>
TOTAL -- Debt Service and Investments	\$ 15,660.3
<u>(12-05-005) Revenue Refunds</u>	
Revenue Refunds	<u>\$ 34,000.0</u>
TOTAL -- Revenue Refunds	\$ 34,000.0
TOTAL -- State Treasurer	\$ 51,011.6
TOTAL -- OTHER ELECTIVE OFFICES	\$ 54,284.8
<u>(15-00-000) LEGAL</u>	
<u>(15-01-000) Department of Justice</u>	
<u>(15-01-001) Office of Attorney General</u>	
Salary of Attorney General	\$ 30.0
Salary of Chief Deputy Attorney General	33.5
(19) Salaries and Wages of Employees (91)	1,448.3
Salaries - Casual and Seasonal	8.4
Salaries - Overtime	3.0
Other Employment Costs	339.8
Personal Services	14.0
Travel	3.0
Contractual Services	80.0
Supplies and Materials	19.9
Capital Outlay	18.1
Central Data Processing Services	<u>20.0</u>
TOTAL -- Office of Attorney General	\$ 2,018.0
<u>(15-01-002) Securities Commissioner</u>	
Salary of Commissioner	\$ 25.0
Salaries and Wages of Employees (2)	16.4
Other Employment Costs	7.8
Personal Services	1.0
Travel	.5
Contractual Services	2.9
Supplies and Materials	.9
Capital Outlay	<u>.7</u>
TOTAL -- Securities Commissioner	\$ 55.2
TOTAL -- Department of Justice	\$ 2,073.2

Year Ending June 30, 1979

(15-02-000) Public Defender

	Salary of Public Defender	\$ 26.3
	Salary of Chief Deputy	29.8
(7)	Salaries and Wages of Employees (40)	620.4
	Salaries - Casual and Seasonal	5.0
	Other Employment Costs	140.9
	Personal Services	197.5
	Travel	4.0
	Contractual Services	53.2
	Supplies and Materials	11.0
	Capital Outlay	17.1
		<hr/>
	TOTAL -- Public Defender	\$ 1,105.2

(15-03-000) Board of Parole

	Salaries of Board Members (4)	\$ 10.0
	Salary of Board Chairman	26.3
(1)	Salaries and Wages of Employees (4)	48.7
	Other Employment Costs	15.2
	Travel	2.0
	Contractual Services	6.3
	Supplies and Materials	1.4
	Capital Outlay	.2
		<hr/>
	TOTAL -- Board of Parole	\$ 110.1

(15-04-000) Board of Pardons

	Salary of President	\$ .3
	Personal Services	.1
	Travel	.1
		<hr/>
	TOTAL --Board of Pardons	\$ .5

	TOTAL -- Legal	\$ 3,289.0
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(20-00-000) DEPARTMENT OF STATE(20-01-000) Office of the Secretary

	Salary of Secretary of State	\$ 21.2
	Salary of Assistant to the Secretary of State	18.6
	Salaries and Wages of Employees (4)	59.1
	Other Employment Costs	20.8
	Travel	1.5
	Contractual Services	14.6
	Supplies and Materials	2.0

Year Ending June 30, 1979

Capital Outlay	1.0
Sub-Total	\$ 138.8
Debt Service	
Principal	171.0
Interest	105.7
TOTAL -- Office of the Secretary of State	\$ 415.5
<u>(20-05-000) Division of Corporations</u>	
Salaries and Wages of Employees (44)	\$ 412.5
Salaries - Overtime	5.1
Salaries - Casual and Seasonal	6.0
Other Employment Costs	98.3
Travel	1.1
Contractual Services	61.9
Supplies and Materials	29.5
Capital Outlay	22.5
Central Data Processing Services	140.0
TOTAL -- Division of Corporations	\$ 776.9
<u>(20-06-000) Division of Historical &amp; Cultural Affairs</u>	
<u>(20-06-001) Office of Administration</u>	
Salary of Director (State Funds \$21.7)	
(All Other Funds \$5.4)	\$ 21.7
Salaries and Wages of Employees (4)	44.2
Salaries - Casual and Seasonal	3.7
Other Employment Costs	13.7
Travel	.1
Contractual Services	2.5
Supplies and Materials	1.8
Sub-Total	\$ 87.7
Debt Service	
Principal	86.4
Interest	65.1
TOTAL -- Office of Administration	\$ 239.2
<u>(20-06-002) Bureau of Archives and Modern Records</u>	
(3.5) Salaries and Wages of Employees (17.5)	\$ 166.1
Other Employment Costs	38.2
Travel	.2

Year Ending June 30, 1979

	Contractual Services	9.1
	Supplies and Materials	11.5
	Capital Outlay	<u>6.9</u>
	TOTAL -- Bureau of Archives and Modern Records	\$ 232.0
	<u>(20-06-003) Bureau of Archaeology and Historic Preservation</u>	
(5.6)	Salaries and Wages of Employees (2.4)	\$ 29.9
	Salaries - Casual and Seasonal	3.5
	Other Employment Costs	6.7
	Travel	.3
	Contractual Services	2.6
	Supplies and Materials	3.0
	Capital Outlay	<u>1.8</u>
	Sub-Total	\$ 47.8
	Debt Service	
	Principal	7.0
	Interest	<u>7.1</u>
	TOTAL -- Bureau of archaeology and Historic Preservation	\$ 61.9
	<u>(20-06-004) Bureau of Museums and Historic Sites</u>	
	Salaries and Wages of Employees (32.7)	\$ 318.9
	Salaries - Casual and Seasonal	15.1
	Other Employment Costs	67.1
	Personal Services	15.3
	Travel	1.0
	Contractual Services	63.9
	Supplies and Materials	21.2
	Capital Outlay	<u>1.5</u>
	Sub-Total	\$ 504.0
	Debt Service	
	Principal	1.0
	Interest	<u>.4</u>
	TOTAL -- Bureau of Museums and Historic Sites	\$ 505.4
	<u>(20-06-016) Office of the Arts</u>	
(.9)	Salaries and Wages of Employees (2.1)	\$ 27.1
	Other Employment Costs	6.1
	Personal Services	19.2

Year Ending June 30, 1979

Travel	3.5
Contractual Services	14.3
Supplies and Materials	3.1
Capital Outlay	.2
Direct Grants	<u>25.0</u>
TOTAL -- Office of the Arts	\$ 98.5
TOTAL -- Division of Historical and Cultural Affairs	\$ 1,137.0
TOTAL -- DEPARTMENT OF STATE	\$ 2,329.4

(25-00-000) DEPARTMENT OF FINANCE(25-01-000) Office of the Secretary

Salary of Secretary	\$ 34.9
Salaries and Wages of Employees (8)	152.0
Salaries - Casual and Seasonal	44.4
Salaries - Overtime	1.5
Other Employment Costs	36.3
Personal Services	4.0
Travel	3.0
Contractual Services	28.8
Supplies and Materials	2.4
Capital Outlay	5.3
Contingency - Econometric Model	10.0
Delaware Economic Financial Advisory Council	<u>2.0</u>
TOTAL -- Office of the Secretary	\$ 324.6

(25-05-000) Division of Accounting

Salary of Director	\$ 28.0
Salaries and Wages of Employees (20)	236.7
Salaries - Casual and Seasonal	1.0
Salaries - Overtime	1.0
Other Employment Costs	56.6
Travel	.2
Contractual Services	22.1
Supplies and Materials	26.7
Printed Forms	46.0
Capital Outlay	1.2
Central Data Processing Services	<u>440.0</u>
TOTAL -- Division of Accounting	\$ 859.5

(25-06-000) Division of Revenue

Salaries of Board Members (5)	\$ 23.0
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Year Ending June 30, 1979

Salary of Director	31.5
Salaries and Wages of Employees (232)	2,302.7
Salaries - Casual and Seasonal	172.8
Salaries - Overtime	15.3
Other Employment Costs	511.2
Personal Services	3.0
Travel	45.2
Contractual Services	548.1
Supplies and Materials	104.0
Capital Outlay	65.2
Contingency - Toll Free Line	4.5
Central Data Processing Services	800.0
Sub-Total	\$ 4,626.5
Debt Service:	
Principal	225.0
Interest	129.8
TOTAL -- Division of Revenue	\$ 4,981.3

(25-07-000) State Lottery

Salary of Director	\$ 35.2
Salaries and Wages of Employees (16)	194.5
Salaries - Overtime	5.0
Other Employment Costs	46.4
Personal Services	179.7
Travel	7.6
Contractual Services	369.2
Supplies and Materials	71.4
Capital Outlay	3.7
Contingencies:	
Bank Commissions	70.0
Agent Refunds	18.0
Central Data Processing Services	29.0
TOTAL -- State Lottery	\$1,029.7*

\*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% to Operating Budget; 5% to Agent Fees; and 45% for Lottery Prizes.

TOTAL -- DEPARTMENT OF FINANCE	\$ 6,165.4
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(30-00-000) DEPARTMENT OF ADMINISTRATIVE SERVICES(30-01-000) Office of the Secretary

Year Ending June 30, 1979

Salary of Secretary	\$	30.6
Salaries and Wages of Employees (6)		69.0
Salaries - Overtime		.2
Other Employment Costs		19.9
Travel		.2
Contractual Services		6.0
Supplies and Materials		1.6
Capital Outlay		1.0
Central Data Processing Services		<u>25.0</u>

TOTAL -- Office of the Secretary	\$	153.5
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(30-03-000) Division of Alcohol Beverage Control Commission

Salaries of Board Members (5)	\$	9.6
Salary of Executive Secretary		24.0
(1) Salaries and Wages of Employees (21)		247.8
Salaries - Casual and Seasonal		1.5
Salaries - Shift Differential		5.1
Other Employment Costs		58.6
Personal Services		15.9
Travel		5.7
Contractual Services		39.5
Supplies and Materials		6.3
Capital Outlay		<u>15.0</u>

TOTAL -- Division of Alcohol Beverage Control Commission	\$	429.0
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(30-04-000) Division of Facilities Management

Salary of Director	\$	28.7
Salaries and Wages of Employees (4)		62.4
Salaries - Overtime		.2
Other Employment Costs		18.4
Personal Services		.6
Travel		1.6
Contractual Services		83.0
Supplies and Materials		1.4
Capital Outlay		<u>.9</u>

Sub-Total	\$	197.2
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Debt Service		
Principal		1,300.6
Interest		<u>1,475.8</u>

TOTAL -- Division of Facilities Management	\$	2,973.6
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(30-05-000) Division of Maintenance and Communications(30-05-003) Operations

Year Ending June 30, 1979

Salary of Director	\$ 20.7
Salaries and Wages of Employees (119)	1,016.7
Salaries - Casual and Seasonal	19.0
Salaries - Overtime	32.2
Salaries - Shift Differential	21.8
Other Employment Costs	237.7
Personal Services	1.1
Travel	.6
Contractual Services	
Messenger Service	40.0
Other Contractual Services	1,270.8
Supplies and Materials	115.5
Capital Outlay	33.6
Central Data Processing Services	45.0

TOTAL -- Operations \$ 2,854.7

(30-05-004) Delaware State Office Building

Salaries and Wages of Employees (18)	\$ 142.8
Salaries - Overtime	1.0
Other Employment Costs	32.0
Personal Services	.3
Travel	.4
Contractual Services	824.5
Supplies and Materials	3.6
Capital Outlay	.5

TOTAL -- Delaware State Office Building \$ 1,005.1

TOTAL -- Division of Maintenance and Communications \$ 3,859.8

(30-06-000) Division of Purchasing

Salary of Director	\$ 24.5
(7) Salaries and Wages of Employees (16)	191.8
Salaries - Overtime	16.8
Other Employment Costs	48.4
Personal Services	.1
Travel	1.5
Contractual Services	27.9
Supplies and Materials	15.6
Capital Outlay	4.2

Sub-Total \$ 330.8

Debt Service	
Principal	1.0
Interest	.4

TOTAL -- Division of Purchasing \$ 332.2

(30-07-000) Division of Central Data Processing      Year Ending June 30, 1979

Salary of Director	\$	33.0
Salaries and Wages of Employees (114)		1,610.4
Salaries - Casual and Seasonal		3.6
Salaries - Overtime		10.5
Other Employment Costs		334.3
Personal Services		22.8
Travel		6.6
Contractual Services		1,487.4
Supplies and Materials		108.3
Capital Outlay		<u>29.0</u>

TOTAL -- Div. of Central Data Processing      \$3,645.9

Allocation of Central Data Processing Services

01 Legislative	\$	16.0	\$	-
02 Judicial		24.0		-
10 Executive		93.8		-
12 Other Elective Offices		83.0		45.0
15 Legal		20.0		-
20 State		140.0		-
25 Finance		1,240.0		29.0
30 Administrative Services		70.0		-
35 Health and Social Services		423.1		175.0
40 Nat. Res. and Env. Control		30.0		5.0
45 Public Safety		975.0		14.0
55 Transportation		120.0		18.0
60 Labor		-		50.0
70 Elections		35.0		-
95 Public Education		<u>40.0</u>		<u>          </u>

Sub-Total      \$3,309.9      \$336.0

TOTAL -- Central Data  
Processing Services      \$3,645.9

(30-08-000) Division of Business and Occupational Regulation

(30-08-001) Office of the Director

	Salaries of Board Members (32)	\$	10.0
	Salary of Director		18.7
(4)	Salaries and Wages of Employees (11)		116.6
	Salaries - Casual and Seasonal		8.2
	Salaries - Overtime		1.0
	Other Employment Costs		28.3
	Personal Services		1.0
	Travel		14.7
	Contractual Services		45.6
	Supplies and Materials		<u>12.1</u>

Year Ending June 30, 1979

Capital Outlay	<u>15.3</u>
TOTAL -- Office of the Director	\$ 271.5

(30-08-014) Delaware Standardbred Development Fund

Salary of Director	\$ 16.5
Salary and Wages of Employee (1)	9.4
Salaries - Overtime	1.0
Other Employment Costs	5.8
Travel	5.6
Contractual Services	48.5
Supplies and Materials	2.1
Capital Outlay	5.1
Development Stakes - Purses	<u>550.0</u>

TOTAL -- Delaware Standardbred Development Fund	\$644.0*
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\*Special Funds total budget appropriated per Chapter 5, Title 28,  
Delaware Code.

TOTAL - Division of Business & Occupational Regulation	\$ 271.5
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(30-10-000) Division of Graphics and Printing

Salary of Director	\$ 22.5
Salaries and Wages of Employees (28)	281.8
Other Employment Costs	47.6
Travel	1.4
Contractual Services	453.1
Supplies and Materials	177.0
Capital Outlay	<u>68.0</u>

TOTAL -- Division of Graphics & Printing	\$1,051.4
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(30-11-000) Division of Public Utilities Control

Salaries of Board Members (5)	\$ 30.0
Salary of Director	21.7
Salaries and Wages of Employees (12)	171.9
Salaries - Casual and Seasonal	1.5
Salaries - Overtime	.5
Other Employment Costs	39.0
Personal Services	455.0
Travel	19.0
Contractual Services	35.3
Management Audit	120.0
Supplies and Materials	6.6
Capital Outlay	7.0

Year Ending June 30, 1979

Contingency - Power Study	<u>20.0</u>
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TOTAL - Div. of Public Utilities Control	\$927.5*
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\*Special Funds total budget appropriated per Chapter 1, Title 26, Delaware Code.

(30-15-000) Division of State Banking Commissioner

Salary of Bank Commissioner	\$ 31.0
Salaries and Wages of Employees (14)	171.9
Other Employment Costs	34.1
Travel	5.2
Contractual Services	12.8
Supplies and Materials	5.8
Capital Outlay	<u>14.1</u>

TOTAL -- Division of State Banking Commissioner	\$ 274.9
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TOTAL -- DEPARTMENT OF ADMINISTRATIVE SERVICES	\$ 8,294.5
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(35-00-000) DEPARTMENT OF HEALTH AND SOCIAL SERVICES(35-01-000) Office of the Secretary

Salary of Secretary	\$ 35.2
(8.5) Salaries and Wages of Employees (11.5)	154.0
Other Employment Costs	31.1
Travel	.6
Contractual Services	5.6
Supplies and Materials	<u>1.2</u>

TOTAL -- Office of the Secretary	\$ 227.7
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(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 - \$25.5)	
(All Other Funds -\$4.8)	\$ 25.5
(31.81) Salaries and Wages of Employees (56.59)	642.9
Other Employment Costs	132.7
Personal Services	25.0
Travel	.2
Contractual Services	54.3
Supplies and Materials	8.7
Capital Outlay	.9
Central Data Processing Services	

Year Ending June 30, 1979

(State Funds - 423.1)	
(All Other Funds - 175.0)	<u>423.1</u>
Sub-Total	\$ 1,313.3
Debt Service	
Principal	3.0
Interest	<u>3.3</u>
TOTAL -- Office of Business Administration and General Services	\$ 1,319.6
<u>(35-02-002) Office of Education</u>	
Salary of Administrative Assistant (1)	\$ 19.4
Salary of Supervisor (1)	18.9
Salaries of Clerical (2)	18.7
Salaries of Teachers (23)	306.5
Salaries of Aides and Attendants (7)	63.5
Other Employment Costs	94.3
Division II - All Other Costs	<u>13.4</u>
TOTAL -- Office of Education	\$ 534.7
<u>(35-02-003) Bureau of Child Support Enforcement</u>	
(39) Salaries and Wages of Employees (13)	\$ 134.4
Other Employment Costs	27.6
Travel	.5
Contractual Services	29.4
Supplies and Materials	1.7
Capital Outlay	<u>1.8</u>
TOTAL -- Bureau of Child Support Enforcement	\$ 195.4
TOTAL -- Office of Business Administration and General Services and Education	\$ 2,049.7
<u>(35-03-000) Office of Planning Research and Evaluation</u>	
Salary of Director	\$ 25.0
(17.5) Salaries and Wages of Employees (13.5)	192.6
Other Employment Costs	42.4
Travel	1.2
Contractual Services	6.7
Supplies and Materials	<u>.9</u>
TOTAL -- Office of Planning, Research and Evaluation	\$ 268.8

Year Ending June 30, 1979(35-04-000) Office of the Medical Examiner

Salary of Chief Medical Examiner	\$	45.2
Salaries and Wages of Employees (25.5)		363.0
Salaries - Overtime		13.7
Other Employment Costs		83.5
Personal Services		6.1
Travel		1.7
Contractual Services		68.3
Supplies and Materials		36.6
Capital Outlay		<u>15.7</u>
Sub-Total	\$	633.8

Debt Service		
Principal		78.0
Interest		<u>64.0</u>

TOTAL -- Office of the Medical Examiner	\$	775.8
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(35-05-000) Division of Public Health(35-05-001) Office of the Director

Salary of Director	\$	45.9
Other Employment Costs		7.4
Travel		.3
Contractual Services		<u>1.2</u>
TOTAL -- Office of the Director	\$	54.8

(35-05-002) Community Health

(181.0) Salaries and Wages of Employees (252.2)	\$	3,263.7
Other Employment Costs		683.2
Personal Services		99.4
Travel		26.8
Contractual Services		393.4
Supplies and Materials		149.8
Capital Outlay		13.2
Longterm Birth Defects Program		16.5
Contingency - Generic Drug Program		2.0
Virus Diagnostic Laboratory		15.0
Streptococcal Program		<u>20.0</u>
Sub-Total	\$	4,683.0
Debt Service		
Principal		1,117.8
Interest		<u>804.9</u>
TOTAL -- Community Health	\$	6,605.7

Year Ending June 30, 1979(35-05-003) Emily P. Bissell Hospital

(5)	Salaries and Wages of Employees (280.8)	\$ 2,490.3
	Salaries - Casual and Seasonal	17.3
	Salaries - Overtime	50.0
	Salaries - Shift Differential	18.0
	Other Employment Costs	500.8
	Personal Services	17.9
	Travel	2.2
	Contractual Services	292.7
	Supplies and Materials	
	Food	197.0
	Drugs and Medical Supplies	190.0
	Other Supplies and Materials	70.9
	Capital Outlay	<u>9.8</u>
	Sub-Total	\$ 3,856.9
	Debt Service	
	Principal	82.2
	Interest	<u>88.8</u>
	TOTAL -- Emily P. Bissell Hospital	\$ 4,027.9

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

	Salaries and Wages of Employees (722)	\$ 6,005.1
	Salaries - Overtime	153.3
	Salaries - Shift Differential	60.0
	Other Employment Costs	1,231.4
	Personal Services	8.0
	Travel	1.5
	Contractual Services	498.6
	Supplies and Materials	
	Drugs and Medical Supplies	141.0
	Food	380.7
	Other Supplies and Materials	207.0
	Capital Outlay	<u>9.2</u>
	Sub-Total	\$ 8,695.8
	Debt Service	
	Principal	351.5
	Interest	<u>247.6</u>
	TOTAL -- Delaware Hospital for the Chronically Ill	\$ 9,294.9

(35-05-005) Office of Health-Related Professional Licensing

	Salaries of Board Members	\$ 29.9
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Year Ending June 30, 1979

Salaries and Wages of Employees (6)	83.2
Other Employment Costs	17.9
Personal Services	1.7
Travel	8.9
Contractual Services	24.0
Supplies and Materials	<u>.9</u>

TOTAL -- Office of Health-Related Professional Licensing	\$ 166.5
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(35-05-006) Controlled Substances Program

Salaries and Wages of Employees (5)	\$ 76.6
Other Employment Costs	16.3
Travel	.6
Contractual Services	3.3
Supplies and Materials	<u>1.8</u>

TOTAL -- Controlled Substances Program	\$ 98.6
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(35-05-019) Rodent Control

Salaries and Wages of Employees (5)	\$ 46.0
Other Employment Costs	9.5
Contractual Services	2.2
Supplies and Materials	<u>4.9</u>

TOTAL -- Rodent Control	\$ 62.6
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TOTAL -- Division of Public Health	\$ 20,311.0
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(35-06-000) Division of Mental Health(35-06-001) Office of the Director

Salary of Director	\$ 45.9
(.6) Salaries and Wages of Employees (4)	70.3
Other Employment Costs	21.1
Contractual Services	4.8
Supplies and Materials	<u>.9</u>

TOTAL -- Office of the Director	\$ 143.0
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(35-06-002) Delaware State Hospital

(18) Salaries and Wages of Employees (756.2)	\$ 7,444.1
Salaries - Overtime	316.9
Salaries - Hazardous Duty	21.6
Salaries - Shift Differential	60.0
Other Employment Costs	1,563.3

Year Ending June 30, 1979

Personal Services		
Payments to Patients		4.2
Other Personal Services		117.6
Travel		1.6
Contractual Services		1,356.4
Supplies and Materials		
Food		417.2
Drugs and Medical		163.8
Other Supplies and Materials		305.3
Capital Outlay		53.0
72-Hour Commitment		2.5
Sheltered Workshop		
Payments to Patients		19.1
Sub-Total		\$ 11,846.6
Debt Service		
Principal		653.0
Interest		293.7
TOTAL -- Delaware State Hospital		\$ 12,793.3
<u>(35-06-003) Mental Hygiene Clinics</u>		
(8)	Salaries and Wages of Employees (50)	\$ 732.6
	Other Employment Costs	154.7
	Travel	.3
	Contractual Services	35.7
	Supplies and Materials	
	Food	1.7
	Drugs and Medical	58.3
	Other Supplies and Materials	2.8
	Capital Outlay	1.7
	West End Neighborhood Clinic	29.9
Sub-Total		\$ 1,017.7
Debt Service		
	Principal	9.0
	Interest	1.8
TOTAL -- Mental Hygiene Clinics		\$ 1,028.5
<u>(35-06-004) Governor Bacon Health Center</u>		
(13)	Salaries and Wages of Employees (269.5)	\$ 2,630.9
	Salaries - Casual and Seasonal	5.1
	Salaries - Overtime	61.3
	Salaries - Shift Differential	33.8
	Other Employment Costs	574.4

Year Ending June 30, 1979

Personal Services	
Payments to Patients	1.8
Other Personal Services	22.0
Travel	.5
Contractual Services	389.0
Supplies and Materials	
Food	121.0
Drugs and Medical	25.4
Other Supplies and Materials	65.7
Capital Outlay	10.5
Sub-Total	\$ 3,941.4

Debt Service	
Principal	242.0
Interest	208.7

TOTAL -- Governor Bacon Health Center \$ 4,392.1

(35-06-005) Community Mental Health Center

(5.4)	Salaries and Wages of Employees (36)	\$ 564.0
	Salaries - Overtime	2.0
	Salaries - Shift Differential	1.1
	Other Employment Costs	106.2
	Personal Services	2.0
	Travel	.3
	Contractual Services	23.5
	Supplies and Materials	
	Food	.3
	Drugs and Medical	13.4
	Other Supplies and Materials	4.4
	Capital Outlay	1.0

TOTAL -- Community Mental Health Center \$ 718.2

(35-06-007) Terry Children's Psychiatric Center

(2)	Salaries and Wages of Employees (71)	\$ 790.8
	Salaries - Overtime	8.4
	Salaries - Casual and Seasonal	16.0
	Salaries - Shift Differential	7.5
	Other Employment Costs	150.0
	Personal Services	3.2
	Contractual Services	72.8
	Supplies and Materials	
	Food	23.2
	Drugs and Medical	4.2
	Other Supplies and Materials	13.3
	Capital Outlay	9.0

Sub-Total \$ 1,098.4

Year Ending June 30, 1979

	Debt Service	
	Principal	56.0
	Interest	17.3
		<hr/>
	TOTAL -- Terry Children's Psychiatric Center	\$ 1,171.7
	<u>(35-06-008) Bureau of Substance Abuse</u>	
	Salary of Chief	\$ 24.0
(71)	Salaries and Wages of Employees (72.5)	712.5
	Salaries - Overtime	7.2
	Salaries - Shift Differential	5.6
	Other Employment Costs	145.2
	Personal Services	4.2
	Travel	1.7
	Contractual Services	
	Contracts with Institutions	469.7
	Other Contractual Services	60.5
	Supplies and Materials	
	Food	75.6
	Drugs and Medical	8.5
	Other Supplies and Materials	4.1
	Capital Outlay	.4
		<hr/>
	TOTAL -- Bureau of Substance Abuse	\$ 1,519.2
	TOTAL -- Division of Mental Health	\$ 21,766.0
	<u>(35-07-000) Division of Social Services</u>	
	<u>(35-07-002) Public Welfare</u>	
	Salary of Director (State Funds \$11.6)	
	(All Other Funds \$17.5)	\$ 11.6
(296)	Salaries and Wages of Employees (146)	1,649.4
	Other Employment Costs	348.5
	Personal Services	4.9
	Travel	2.1
	Contractual Services	
	Medicaid Administration Contracts	245.0
	Other Contractual Services	164.0
	Supplies and Materials	23.0
	Capital Outlay	16.4
	General Assistance Grants	1,000.0
	S.S.I. Supplementation	625.0
	Purchase Homemaker Service	73.0
	Aid to Families with Dependent Children	14,850.0
	Child Care	900.0
	Child Foster Care	2,186.8
	Emergency and Disaster Assistance	217.0

Year Ending June 30, 1979

Indigent Burial	2.6
Title XIX Federal Programs	
Other Than State Institutions	11,130.0
Statewide Child Protective Services	<u>100.0</u>
Sub-Total	\$ 33,549.3
Debt Service	
Principal	2.0
Interest	<u>.8</u>
TOTAL -- Public Welfare	\$ 33,552.1
<u>(35-07-003) Bureau for the Visually Impaired</u>	
(26.6) Salaries and Wages of Employees (15.2)	\$ 188.6
Other Employment Costs	41.3
Personal Services	7.5
Travel	1.8
Contractual Services	56.2
Supplies and Materials	39.5
Capital Outlay	<u>28.1</u>
TOTAL -- Bureau for the Visually Impaired	\$ 363.0
<u>(35-07-005) Food Stamp Program</u>	
(32.5) Salaries and Wages of Employees (30.5)	\$ 287.2
Other Employment Costs	61.2
Personal Services	1.1
Travel	.5
Contractual Services	155.1
Supplies and Materials	5.5
Capital Outlay	<u>8.0</u>
TOTAL -- Food Stamp Program	\$ 518.6
TOTAL -- Division of Social Services	\$ 34,433.7
<u>(35-11-000) Division of Mental Retardation Service</u>	
<u>(35-11-002) Hospital for the Mentally Retarded</u>	
Salaries and Wages of Employees (565)	\$ 4,599.8
Salaries - Overtime	224.9
Salaries - Shift Differential	48.0
Other Employment Costs	1,054.2
Personal Services	
Payments to Patients	17.7
Other Personal Services	36.6
Travel	2.5

Year Ending June 30, 1979

Contractual Services	
Longterm and Respite Care	150.0
Other Contractual Services	543.5
Supplies and Materials	
Food	281.4
Drugs and Medical	70.7
Other Supplies and Materials	163.5
Capital Outlay	<u>98.8</u>
Sub-Total	\$ 7,291.6
Debt Service	
Principal	284.0
Interest	<u>193.0</u>
TOTAL -- Hospital for the Mentally Retarded	\$ 7,768.6

(35-11-003) Community Mental Retardation Program

Salaries and Wages of Employees (41.6)	\$ 364.7
Salaries - Casual and Seasonal	2.3
Salaries - Overtime	10.6
Other Employment Costs	79.4
Personal Services	.1
Travel	.4
Contractual Services	55.4
Supplies and Materials	
Food	10.6
Other Supplies and Materials	46.9
Capital Outlay	7.6
Contingency - Small Group Living Centers	<u>18.0</u>
Sub-Total	\$ 596.0
Debt Service	
Principal	4.0
Interest	<u>.8</u>
TOTAL -- Community Mental Retardation Program	\$ 600.8
TOTAL -- Division of Mental Retardation Services	\$ 8,369.4

(35-12-000) State Service Centers

Salary of Director	\$ 19.6
(31) Salaries and Wages of Employees (35)	326.5
Other Employment Costs	73.6
Personal Services	6.1
Travel	1.3
Contractual Services	400.4

Year Ending June 30, 1979

Supplies and Materials	
Food	.4
Other Supplies and Materials	28.3
Capital Outlay	<u>3.6</u>
Sub-Total	\$ 859.8
Debt Service	
Principal	85.0
Interest	<u>72.3</u>
TOTAL -- State Service Centers	\$ 1,017.1
<u>(35-14-000) Division of Aging</u>	
Salary of Director (State Funds \$5.0)	
(All Other Funds \$15.0)	\$ 5.0
(16) Salaries and Wages of Employees (4)	50.3
Other Employment Costs	11.7
Travel	.6
Contractual Services	7.2
Supplies and Materials	.8
Old American Act Grants	186.9
Nutrition Program	<u>110.0</u>
Sub-Total	\$ 372.5
Debt Service	
Principal	9.3
Interest	<u>16.1</u>
TOTAL -- Division of Aging	\$ 397.9
TOTAL -- DEPARTMENT OF HEALTH AND SOCIAL SERVICES	\$ 89,617.1
<u>(38-00-000) DEPARTMENT OF CORRECTION</u>	
<u>(38-01-000) Office of the Commissioner</u>	
<u>(38-01-001) Commissioner's Office</u>	
Salary of Commissioner	\$ 32.0
Salaries and Wages of Employees (7)	62.4
Other Employment Costs	17.9
Travel	.8
Contractual Services	.8
Supplies and Materials	1.7
Capital Outlay	<u>4.8</u>
TOTAL -- Commissioner's Office	\$ 120.4

Year Ending June 30, 1979(38-01-002) Administration

(10)	Salaries and Wages of Employees (60)	\$	681.6
	Salaries - Overtime		1.7
	Salaries - Shift Differential		.4
	Salaries - Hazardous Duty		16.8
	Other Employment Costs		142.7
	Travel		.8
	Contractual Services		29.5
	Supplies and Materials		15.1
	Capital Outlay		<u>12.7</u>

Sub-Total	\$	901.3
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Debt Service		
Principal	\$	5.5
Interest		<u>5.0</u>

TOTAL -- Administration	\$	911.8
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(38-01-003) Education

Salary of Administrative Assistant (1)	\$	21.3
Salary of Supervisor (1)		19.9
Salary of Clerical (1)		11.4
Salary of Teachers (35)		566.5
Salaries - Casual and Seasonal		3.0
Salaries - Overtime		.5
Salaries - Hazardous Duty		15.9
Other Employment Costs		131.6
Personal Services		2.0
Travel		.6
Contractual Services		3.2
Supplies and Materials		26.7
Capital Outlay		<u>12.0</u>

TOTAL -- Education	\$	814.6
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(38-01-004) Medical Services

Other Health Care Services (17)	\$	<u>1,467.0</u>
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TOTAL -- Medical Services	\$	1,467.0
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(38-01-005) Facilities Maintenance and Construction

Salaries and Wages of Employees (27)	\$	345.7
Salaries - Overtime		7.8
Salaries - Hazardous Duty		12.2
Other Employment Costs		77.7

Year Ending June 30, 1979

Travel	.3
Contractual Services	122.9
Supplies and Materials	98.3
Capital Outlay	<u>8.8</u>
TOTAL -- Facilities Maintenance and Construction	\$ 673.7
TOTAL -- Office of the Commissioner	\$ 3,987.5
<u>(38-08-000) Bureau of Adult Corrections</u>	
<u>(38-08-001) Office of the Bureau Chief</u>	
Salary of Bureau Chief	\$ 30.2
Institutional Classification Board (3)	9.0
Salaries and Wages of Employees (7)	225.0
Salaries - Casual and Seasonal	-0-
Salaries - Overtime	7.7
Salaries - Hazardous Duty	6.0
Salaries - Shift Differential	1.7
Other Employment Costs	45.2
Travel	.3
Contractual Services	
Family Blue Cross	141.0
Other Contractual Services	171.8
Supplies and Materials	5.7
Capital Outlay	<u>5.8</u>
Sub-Total	\$ 649.4
Debt Service	
Principal	\$ 608.4
Interest	<u>289.6</u>
TOTAL -- Office of the Bureau Chief	\$ 1,547.4
<u>(38-08-002) Pre-Trial Annex</u>	
Salaries and Wages of Employees (18)	\$ 215.6
Salaries - Overtime	8.5
Salaries - Premium Pay	16.1
Salaries - Shift Differential	3.8
Salaries - Hazardous Duty	10.8
Other Employment Costs	55.3
Personal Services	3.6
Travel	.2
Contractual Services	24.1
Supplies and Materials	48.0
Capital Outlay	<u>6.7</u>
TOTAL -- Pre-Trial Annex	\$ 392.7

(38-08-003) Delaware Correctional  
CenterYear Ending June 30, 1979

(3)	Salaries and Wages of Employees (227)	\$ 2,389.0
	Salaries - Overtime	180.8
	Salaries - Premium Pay	134.3
	Salaries - Shift Differential	40.7
	Salaries - Hazardous Duty	137.5
	Other Employment Costs	607.9
	Personal Services	
	Payments to Inmates	26.5
	Other Personal Services	3.6
	Travel	.5
	Contractual Services	486.5
	Supplies and Materials	552.3
	Capital Outlay	22.0
	Sub-Total	\$ 4,581.6
	Debt Service	
	Principal	\$ 23.0
	Interest	24.3
	TOTAL -- Delaware Correctional Center	\$ 4,628.9

(38-08-004) Sussex Correctional Center

(8)	Salaries and Wages of Employees (100)	\$ 1,023.1
	Salaries - Overtime	49.1
	Salaries - Premium Pay	83.6
	Salaries - Shift Differential	13.6
	Salaries - Hazardous Duty	60.8
	Other Employment Costs	261.2
	Personal Services	
	Payments to Inmates	11.0
	Other Personal Services	1.8
	Travel	.7
	Contractual Services	112.0
	Supplies and Materials	201.1
	Capital Outlay	28.3
	Sub-Total	\$ 1,846.3
	Debt Service	
	Principal	\$ 190.0
	Interest	210.0
	TOTAL -- Sussex Correctional Center	\$ 2,246.3

(38-08-005) Women's Correctional Institution

(1)	Salaries and Wages of Employees (29)	\$ 293.7
	Salaries - Overtime	10.0

Year Ending June 30, 1979

Salaries - Premium Pay	23.2
Salaries - Shift Differential	9.5
Salaries - Hazardous Duty	17.4
Other Employment Costs	70.4
Personal Services	
Payments to Inmates	1.8
Other Personal Services	1.3
Travel	.2
Contractual Services	17.2
Supplies and Materials	41.3

Sub-Total \$ 486.0

Debt Service	
Principal	\$ 20.0
Interest	22.1

TOTAL -- Women's Correctional Institution \$ 528.1

(38-08-006) Pre-Trial Release

Salaries and Wages of Employees (9)	\$ 109.8
Salaries - Casual and Seasonal	6.5
Other Employment Costs	24.5
Travel	1.0
Contractual Services	5.1
Supplies and Materials	2.6

TOTAL -- Pre-Trial Release \$ 149.5

(38-08-007) Probation and Parole

(14)	Salaries and Wages of Employees (77)	\$ 892.2
	Other Employment Costs	183.4
	Travel	10.7
	Contractual Services	21.6
	Supplies and Materials	11.8
	Capital Outlay	40.3

TOTAL -- Probation and Parole \$ 1,160.0

(38-08-008) Work Programs

(5)	Salaries and Wages of Employees (3)	\$ 35.4
	Other Employment Costs	7.1
	Travel	.4
	Contractual Services	1.5
	Supplies and Materials	1.3
	Capital Outlay	4.7

TOTAL -- Work Programs \$ 50.4

(38-08-009) Work ReleaseYear Ending June 30, 1979

Salaries and Wages of Employees (20)	\$ 222.6
Salaries - Overtime	8.2
Salaries - Shift Differential	3.0
Salaries - Hazardous Duty	1.9
Other Employment Costs	49.8
Personal Services	1.1
Travel	.6
Contractual Services	17.7
Supplies and Materials	35.2
Capital Outlay	6.9
<b>TOTAL -- Work Release</b>	<b>\$ 347.0</b>

(38-08-010) Kent Correctional Center

Salaries and Wages of Employees (24)	\$ 230.2
Salaries - Overtime	8.0
Salaries - Premium Pay	14.6
Salaries - Shift Differential	4.7
Salaries - Hazardous Duty	14.4
Other Employment Costs	57.2
Personal Services	
Payments to Inmates	3.0
Other Personal Services	1.8
Travel	.5
Contractual Services	37.5
Supplies and Materials	42.5
Capital Outlay	.4
<b>TOTAL -- Kent Correctional Center</b>	<b>\$ 414.8</b>

(38-08-011) Short Term Facility

Salaries and Wages of Employees (10)	\$ 79.8
Salaries - Overtime	6.0
Salaries - Premium Pay	9.2
Salaries - Shift Differential	1.8
Salaries - Hazardous Duty	5.4
Other Employment Costs	19.4
Personal Services	
Payment to Inmates	1.8
Other Personal Services	-0-
Travel	.2
Contractual Services	32.4
Supplies and Materials	43.0
Capital Outlay	.2
Contingency	5.0
<b>TOTAL -- Short Term Facility</b>	<b>\$ 204.2</b>

(38-08-012) Court and Transportation      Year Ending June 30, 1979

Salaries and Wages of Employees (16)	\$ 201.4
Salaries - Overtime	35.0
Salaries - Hazardous Duty	9.6
Other Employment Costs	53.0
Travel	4.0
Contractual Services	8.0
Supplies and Materials	23.6
Capital Outlay	<u>19.0</u>

TOTAL -- Court and Transportation	\$ 353.6
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TOTAL -- Bureau of Adult Corrections	\$ 12,022.9
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(38-13-000) Bureau of Juvenile Corrections(38-13-001) Office of Bureau Chief

Salary of Bureau Chief	\$ 30.2
Salary and Wage of Employee (1)	12.8
Other Employment Costs	8.0
Travel	.6
Contractual Services	2.2
Supplies and Material	<u>.5</u>

Sub-Total	\$ 54.3
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Debt Service	
Principal	\$ 253.5
Interest	<u>158.4</u>

TOTAL -- Office of Bureau Chief	\$ 466.2
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(38-13-002) Ferris School for Boys

Salaries and Wages of Employees (96.5)	\$ 1,067.2
Salaries - Casual and Seasonal	54.0
Salaries - Overtime	78.7
Salaries - Shift Differential	20.0
Salaries - Hazardous Duty	41.2
Other Employment Costs	259.2
Personal Services	10.8
Travel	1.3
Contractual Services	170.2
Supplies and Materials	167.8
Capital Outlay	<u>26.7</u>

Sub-Total	\$ 1,897.1
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Year Ending June 30, 1979

Debt Service	
Principal	\$ 81.0
Interest	82.8
TOTAL -- Ferris School for Boys	\$ 2,060.9
<u>(38-13-003) Woods Haven-Kruse School for Girls</u>	
Salaries and Wages of Employees (27)	\$ 333.8
Salaries - Casual and Seasonal	6.0
Salaries - Overtime	13.3
Salaries - Shift Differential	6.4
Salaries - Hazardous Duty	14.4
Other Employment Costs	79.9
Personal Services	5.0
Travel	.9
Contractual Services	92.8
Supplies and Materials	43.7
Capital Outlay	7.0
Sub-Total	\$ 603.2
Debt Service	
Principal	\$ 7.0
Interest	4.9
TOTAL -- Woods Haven-Kruse School for Girls	\$ 615.1
<u>(38-13-004) Bridge House Detention Center</u>	
Salaries and Wages of Employees (19)	\$ 236.7
Salaries - Casual and Seasonal	16.0
Salaries - Overtime	23.5
Salaries - Shift Differential	3.7
Salaries - Hazardous Duty	9.6
Other Employment Costs	56.9
Personal Services	.5
Travel	.2
Contractual Services	18.0
Supplies and Materials	29.4
Capital Outlay	1.0
TOTAL -- Bridge House Detention Center	\$ 395.5
<u>(38-13-005) Stevenson House Detention Center</u>	
Salaries and Wages of Employees (18)	\$ 209.2
Salaries - Casual and Seasonal	15.0
Salaries - Overtime	13.3
Salaries - Shift Differential	4.2

Year Ending June 30, 1979

Salaries - Hazardous Duty	9.0
Other Employment Costs	51.1
Personal Services	1.1
Travel	.3
Contractual Services	24.4
Supplies and Materials	23.7
Capital Outlay	<u>6.5</u>

TOTAL -- Stevenson House Detention Center	\$ 357.8
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(38-13-010) Community Services

(7) Salaries and Wages of Employees (30)	\$ 398.2
Salaries - Overtime	.5
Other Employment Costs	83.3
Personal Services	.3
Travel	2.3
Contractual Services	39.7
Supplies and Materials	16.0
Capital Outlay	<u>8.8</u>

TOTAL -- Community Services	\$ 549.1
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TOTAL -- Bureau of Juvenile Corrections	\$ 4,444.6
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TOTAL -- DEPARTMENT OF CORRECTION	\$ 20,455.0
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(40-00-000) DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL

(40-01-000) Department Management

Salary of the Secretary	\$ 33.1
(9) Salaries and Wages of Employees (19)	254.7
Other Employment Costs	61.0
Personal Services	8.0
Travel	.5
Contractual Services	42.2
Supplies and Materials	8.8
Capital Outlay	<u>2.7</u>

Sub-Total	\$ 411.0
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## Debt Service

Principal	\$ 1,050.0
Interest	<u>1,183.5</u>

TOTAL -- Department Management	\$ 2,644.5
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Year Ending June 30, 1979

(40-05-000) Division of Fish and Wildlife

(40-05-001) Management and Support

(6.2)	Salaries and Wages of Employees (2.5)	\$ 32.9
	Other Employment Costs	7.1
	Travel	.5
	Contractual Services	5.6
	Supplies and Materials	.8
	Other	<u>3.0</u>

TOTAL -- Management and Support	\$ 49.9
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(40-05-002) Wildlife

(23)	Salaries and Wages of Employees (12)	\$ 165.9
	Other Employment Costs	36.2
	Travel	.2
	Contractual Services	11.8
	Supplies and Materials	10.6
	Capital Outlay	<u>16.8</u>

Sub-Total	\$ 241.5
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Debt Service	
Principal	\$ 22.5
Interest	<u>23.8</u>

TOTAL -- Wildlife	\$ 287.8
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(40-05-003) Fisheries

(17)	Salaries and Wages of Employees (27)	\$ 334.3
	Other Employment Costs	71.4
	Contractual Services	53.5
	Supplies and Materials	44.0
	Capital Outlay	12.0
	Contingency - Oyster Seeding	15.0
	Contingency - Aquatic Weed Control	10.0
	Central Data Processing Services (State Funds \$30.0)	
	(All Other Funds \$ 5.0)	<u>30.0</u>

Sub-Total	\$ 570.2
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Debt Service	
Principal	\$ 31.0
Interest	<u>17.3</u>

TOTAL -- Fisheries	\$ 618.5
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Year Ending June 30, 1979(40-05-004) Mosquito Control

(7)	Salaries and Wages of Employees (17)	\$ 188.7
	Casual and Seasonal	6.0
	Other Employment Costs	41.9
	Personal Services	.1
	Travel	.4
	Contractual Services	17.1
	Supplies and Materials	19.1
	Capital Outlay	31.9
	Other -- Spraying and Insecticides	<u>179.1</u>

TOTAL -- Mosquito Control \$ 484.3

TOTAL -- Division of Fish and Wildlife \$ 1,440.5

(40-06-000) Division of Parks and Recreation(40-06-001) Management and Support

(7)	Salaries and Wages of Employees (6)	\$ 108.9
	Other Employment Costs	22.9
	Travel	.2
	Contractual Services	4.7
	Supplies and Materials	3.3
	Capital Outlay	<u>8.0</u>

Sub-Total \$ 148.0

## Debt Service

Principal	\$ 527.5
Interest	<u>413.4</u>

TOTAL -- Management and Support \$ 1,088.9

(40-06-002) Operations and Maintenance

(41.1)	Salaries and Wages of Employees (44)	\$ 477.1
	Other Employment Costs	102.9
	Capital Outlay	<u>69.8</u>

TOTAL -- Operations and Maintenance \$ 649.8

(40-06-003) Special Programs

(4)	Salaries and Wages of Employees (6)	\$ 76.2
	Other Employment Costs	15.2
	Travel	.3
	Contractual Services	4.6
	Supplies and Materials	3.9

Year Ending June 30, 1979

Capital Outlay	1.0
Youth Conservation Program	<u>21.8</u>
TOTAL -- Special Programs	\$ 123.0
TOTAL -- Division of Parks and Recreation	\$ 1,861.7

(40-07-000) Division of Soil & Water Conservation(40-07-001) Management and Support

Salaries and Wages of Employees (17)	\$ 236.0
Other Employment Costs	50.8
Personal Services	.1
Contractual Services	116.0
Supplies and Materials	96.5
Tax Ditches*	90.0
Other - Retaining Wall at Indian River	<u>15.0</u>
Sub-Total	\$ 604.4
Debt Service	
Principal	\$ 267.0
Interest	<u>218.9</u>
TOTAL -- Management and Support	\$ 1,090.3

\*Pursuant to Section 3921, Title 7, Delaware Code.

(40-08-000) Division of Environmental Control(40-08-001) Management and Support

(11.5) Salaries and Wages of Employees (11.5)	\$ 180.9
Other Employment Costs	39.5
Personal Services	4.1
Travel	4.1
Contractual Services	26.9
Supplies and Materials	<u>10.5</u>
TOTAL -- Management and Support	\$ 266.0

(40-08-002) Air Resources

(10) Salaries and Wages of Employees (8)	\$ 126.2
Other Employment Costs	26.9
Personal Services	.5
Travel	.6
Contractual Services	33.4
Supplies and Materials	<u>3.5</u>
TOTAL -- Air Resources	\$ 191.1

Year Ending June 30, 1979(40-08-003) Water Management

(8)	Salaries and Wages of Employees (5)	\$ 79.5
	Other Employment Costs	16.4
	Personal Services	.1
	Travel	.6
	Contractual Services	8.7
	Supplies and Materials	<u>2.0</u>
	TOTAL -- Water Management	\$ 107.3

(40-08-004) Water Pollution Control

(31)	Salaries and Wages of Employees (15)	\$ 245.9
	Other Employment Costs	51.3
	Personal Services	1.9
	Travel	.7
	Contractual Services	20.8
	Supplies and Materials	<u>16.7</u>
	Sub-Total	\$ 337.3
	Debt Service	
	Principal	\$ 385.0
	Interest	<u>271.2</u>
	TOTAL -- Water Pollution Control	\$ 993.5

(40-08-005) Water Supply

(4)	Salaries and Wages of Employees (7.5)	\$ 106.6
	Other Employment Costs	23.0
	Personal Services	.7
	Travel	.2
	Contractual Services	17.1
	Supplies and Materials	3.6
	Capital Outlay	<u>5.2</u>
	TOTAL -- Water Supply	\$ 156.4
	TOTAL -- Division of Environmental Control	\$ 1,714.3
	TOTAL -- DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL	\$ 8,751.3

(45-00-000) DEPARTMENT OF PUBLIC SAFETY(45-01-000) Office of the Secretary

Salary of the Secretary	\$ 33.1
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Year Ending June 30, 1979

Salary and Wage of Employee (1)	13.3
Other Employment Costs	8.8
Travel	.4
Contractual Services	2.9
Supplies and Materials	.4
TOTAL -- Office of the Secretary	\$ 58.9

(45-03-000) Division of Communications

Salaries and Wages of Employees (19)	\$ 265.2
Other Employment Costs	56.3
Travel	1.2
Contractual Services	16.0
Supplies and Materials	8.2
Capital Outlay	1.0
Sub-Total	\$ 347.9
Debt Service	
Principal	27.0
Interest	18.1
TOTAL -- Division of Communications	\$ 393.0

(45-04-000) Division of Motor Fuel Tax

Salaries and Wages of Employees (13)	\$ 151.0
Salaries - Casual and Seasonal	3.0
Other Employment Costs	30.9
Travel	9.8
Contractual Services	34.2
Supplies and Materials	22.3
Capital Outlay	1.7
Central Data Processing Services	50.0
TOTAL -- Division of Motor Fuel Tax	\$ 302.9

(45-05-000) Division of Administration

Salaries and Wages of Employees (5)	\$ 72.6
Other Employment Costs	15.4
Contractual Services	3.5
Supplies and Materials	.7
Capital Outlay	.2
TOTAL -- Division of Administration	\$ 92.4

(45-06-000) Division of State Police

Salary of Superintendent	\$ 30.0
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Year Ending June 30, 1979(40-08-003) Water Management

(8)	Salaries and Wages of Employees (5)	\$	79.5
	Other Employment Costs		16.4
	Personal Services		.1
	Travel		.6
	Contractual Services		8.7
	Supplies and Materials		<u>2.0</u>
	TOTAL -- Water Management	\$	107.3

(40-08-004) Water Pollution Control

(31)	Salaries and Wages of Employees (15)	\$	245.9
	Other Employment Costs		51.3
	Personal Services		1.9
	Travel		.7
	Contractual Services		20.8
	Supplies and Materials		<u>16.7</u>
	Sub-Total	\$	337.3
	Debt Service		
	Principal	\$	385.0
	Interest		<u>271.2</u>
	TOTAL -- Water Pollution Control	\$	993.5

(40-08-005) Water Supply

(4)	Salaries and Wages of Employees (7.5)	\$	106.6
	Other Employment Costs		23.0
	Personal Services		.7
	Travel		.2
	Contractual Services		17.1
	Supplies and Materials		3.6
	Capital Outlay		<u>5.2</u>
	TOTAL -- Water Supply	\$	156.4
	TOTAL -- Division of Environmental Control	\$	1,714.3
	TOTAL -- DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL	\$	8,751.3

(45-00-000) DEPARTMENT OF PUBLIC SAFETY(45-01-000) Office of the Secretary

Salary of the Secretary	\$	33.1
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Year Ending June 30, 1979

Salary and Wage of Employee (1)	13.3
Other Employment Costs	8.8
Travel	.4
Contractual Services	2.9
Supplies and Materials	<u>.4</u>
TOTAL -- Office of the Secretary	\$ 58.9
<u>(45-03-000) Division of Communications</u>	
Salaries and Wages of Employees (19)	\$ 265.2
Other Employment Costs	56.3
Travel	1.2
Contractual Services	16.0
Supplies and Materials	8.2
Capital Outlay	<u>1.0</u>
Sub-Total	\$ 347.9
Debt Service	
Principal	27.0
Interest	<u>18.1</u>
TOTAL -- Division of Communications	\$ 393.0
<u>(45-04-000) Division of Motor Fuel Tax</u>	
Salaries and Wages of Employees (13)	\$ 151.0
Salaries - Casual and Seasonal	3.0
Other Employment Costs	30.9
Travel	9.8
Contractual Services	34.2
Supplies and Materials	22.3
Capital Outlay	1.7
Central Data Processing Services	<u>50.0</u>
TOTAL -- Division of Motor Fuel Tax	\$ 302.9
<u>(45-05-000) Division of Administration</u>	
Salaries and Wages of Employees (5)	\$ 72.6
Other Employment Costs	15.4
Contractual Services	3.5
Supplies and Materials	.7
Capital Outlay	<u>.2</u>
TOTAL -- Division of Administration	\$ 92.4
<u>(45-06-000) Division of State Police</u>	
Salary of Superintendent	\$ 30.0

Year Ending June 30, 1979

	Salary of Assistant Superintendent	26.6
(19)	Salaries of Uniformed Division (400)	6,734.5
(5)	Salaries and Wages of Employees (136)	1,340.8
	Salaries - Overtime - Uniformed Division	180.5
	Salaries - Overtime - Other Employees	6.1
	Other Employment Costs	460.7
	Health Insurance - Retirees	48.6
	Pensions - State Police	2,085.0
	Personal Services	4.0
	Travel	10.0
	Contractual Services	574.1
	Supplies and Materials	708.0
	Capital Outlay	328.1
	Crime Reduction Fund	10.0
	Drug Control Program	15.0
	Central Data Processing Services (State Funds \$625.0)	
	(All Other Funds \$14.0)	625.0
	Advanced Schooling/Training and Library	30.0
	Sub-Total	\$ 13,217.0

Debt Service	
Principal	125.0
Interest	92.4

TOTAL -- Division of State Police \$ 13,434.4

(45-07-000) Division of Motor Vehicles

	Salary of Director	\$ 24.7
	Salaries and Wages of Employees (179)	1,748.2
	Salaries - Casual and Seasonal	10.0
	Salaries - Shift Differential	.4
	Other Employment Costs	381.7
	Travel	.8
	Contractual Services	174.4
	Supplies and Materials	335.8
	Capital Outlay	9.0
	Central Data Processing Services	300.0
	Sub-Total	\$ 2,985.0

Debt Service	
Principal	77.5
Interest	60.8

TOTAL -- Division of Motor Vehicles \$ 3,123.3

(45-08-000) Division of Emergency Planning & Operations

Salary of Director (State Funds \$9.9)

Year Ending June 30, 1979

	(All Other Funds \$9.9)	\$	9.9
(11)	Salaries and Wages of Employees (6)		64.7
	Other Employment Costs		16.7
	Travel		1.1
	Contractual Services		13.5
	Supplies and Materials		2.7
	Capital Outlay		4.2
	Contingency - Radiation Monitoring		<u>5.0</u>
	Sub-Total	\$	117.8
	Debt Service		
	Principal		7.0
	Interest		<u>2.1</u>
	TOTAL -- Division of Emergency Planning and Operations	\$	126.9
	<u>(45-09-000) Division of Boiler Safety</u>		
	Salary of Director	\$	19.7
	Salaries and Wages of Employees (6)		70.2
	Other Employment Costs		19.7
	Travel		6.6
	Contractual Services		7.7
	Supplies and Materials		1.3
	Capital Outlay		<u>.6</u>
	TOTAL -- Division of Boiler Safety	\$	125.8
	TOTAL -- DEPARTMENT OF PUBLIC SAFETY	\$	17,657.6
	<u>(50-00-000) DEPARTMENT OF COMMUNITY AFFAIRS</u>		
	<u>AND ECONOMIC DEVELOPMENT</u>		
	<u>(50-01-000) Office of the Secretary</u>		
	<u>(50-01-001) Administration</u>		
	Salary of Secretary	\$	30.6
	Salaries and Wages of Employees (7)		79.2
	Other Employment Costs		23.1
	Contractual Services		9.1
	State Flags		3.0
	Supplies and Materials		1.3
	Federal Match		<u>22.3</u>
	TOTAL -- Administration	\$	168.6
	<u>(50-01-003) Economic Opportunity</u>		
(13.45)	Salaries and Wages of Employees (7)	\$	86.3

Year Ending June 30, 1979

Other Employment Costs	17.0
Personal Services	2.3
Travel	6.1
Contractual Services	16.1
Supplies and Materials	2.3
Foster Grandparents Program	<u>288.6</u>

TOTAL -- Economic Opportunity \$ 418.7

(50-01-004) Commission on the Status of Women

(1) Salaries and Wages of Employees (.5)	\$ 5.7
Other Employment Costs	1.0
Travel	.6
Contractual Services	8.3
Supplies and Materials	<u>.8</u>

TOTAL -- Commission on the Status of Women \$ 16.4

TOTAL -- Office of the Secretary \$ 603.7

(50-04-000) Office of Minority Business Enterprise

Salary of Director	\$ 23.5
Salaries and Wages of Employees (9)	119.7
Other Employment Costs	29.6
Personal Services	4.0
Travel	5.4
Contractual Services	43.4
Supplies and Materials	<u>2.0</u>

TOTAL -- Office of Minority Business Enterprise \$227.6\*

\*Federal Funds - U.S. Department of Commerce

(50-06-000) Office of Human Relations

Salary of Director	\$ 21.8
(1) Salaries and Wages of Employees (6)	78.9
Other Employment Costs	19.2
Travel	4.0
Contractual Services	5.7
Supplies and Materials	<u>1.8</u>

TOTAL -- Office of Human Relations \$ 131.4

(50-08-000) Division of Economic Development(50-08-001) Industrial Development, Tourism and Management

Year Ending June 30, 1979

	Salary of Director	\$ 21.8
(2)	Salaries and Wages of Employees (10)	106.1
	Other Employment Costs	25.8
	Personal Services	.7
	Travel	7.2
	Contractual Services	104.6
	Supplies and Materials	8.9
	Capital Outlay	4.0
	Special Projects	47.4
	Contingency -- Mother-Of-The-Year Travel	.5
	Contingency -- Young Mother-Of-The- Year Travel	.5

TOTAL -- Industrial Development, Tourism and Management	\$ 327.5
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(50-08-002) Planning

Travel	\$ .3
TOTAL -- Planning	\$ .3

(50-08-003) Industrial Finance

(3.0) Salaries and Wages of Employees	\$ ---
TOTAL -- Industrial Finance	\$ ---
TOTAL -- Division of Economic Development	\$ 327.8

(50-09-000) Division of Housing

	Salary of Director	\$ 30.1
(18)	Salaries and Wages of Employees (4)	50.7
	Other Employment Costs	17.3
	Personal Services	8.4
	Travel	2.3
	Contractual Services	8.0
	Supplies and Materials	2.1
Sub-Total	\$ 118.9	
Debt Service		
Principal	\$ 42.0	
Interest	39.5	
TOTAL -- Division of Housing	\$ 200.4	

(50-10-000) Division of Libraries

Salary of State Librarian	\$ 21.3
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Year Ending June 30, 1979

(4)	Salaries and Wages of Employees (8)	86.1
	Other Employment Costs	23.9
	Contractual Services	60.8
	Supplies and Materials	2.0
	Capital Outlay	9.2

TOTAL -- Division of Libraries	\$	203.3
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(50-11-000) Division of Consumer Affairs

	Salary of Director	\$	21.8
(2)	Salaries and Wages of Employees (11.5)		139.8
	Salaries of Board Members (3)		3.5
	Other Employment Costs		35.0
	Personal Services		2.1
	Travel		3.1
	Contractual Services		7.0
	Supplies and Materials		4.9
	Capital Outlay		1.1

TOTAL -- Division of Consumer Affairs	\$	218.3
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TOTAL -- DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT	\$	1,684.9
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(55-00-000) DEPARTMENT OF TRANSPORTATION(55-01-000) Office of the Secretary

	Salary of the Secretary	\$	34.1
(3)	Salaries and Wages of Employees (3)		45.8
	Other Employment Costs		15.0
	Travel		.3
	Contractual Services		3.7
	Supplies and Materials		1.0

TOTAL -- Office of the Secretary	\$	99.9
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(55-02-000) Office of Administration

	Salary of Chief	\$	26.7
(21)	Salaries and Wages of Employees (39)		503.8
	Salaries - Overtime		.4
	Other Employment Costs		109.9
	Travel		.5
	Contractual Services		30.7
	Supplies and Materials		4.6
	Capital Outlay		1.6
	Central Data Processing Services (State Funds \$120.0)		

Year Ending June 30, 1979(All Other Funds \$18.0) 120.0

TOTAL -- Office of Administration \$ 798.2

(55-05-000) Division of Highways

	Salary of Director	\$ 33.1
(438.5)	Salaries and Wages of Employees (672.5)	7,144.4
	Salaries - Casual and Seasonal	12.6
	Salaries - Overtime	127.8
	Other Employment Costs	1,576.0
	Capital Outlay	500.0
	Operations (State Funds \$2,325.0)	
	(Delaware Transportation Authority Support \$1725.0)	<u>2,325.0</u>

Sub-Total \$ 11,718.9

Debt Service	
Principal	14,507.0
Interest	<u>8,415.7</u>

TOTAL -- Division of Highways \$ 34,641.6

(55-06-000) Delaware Transportation

Salary of Director	\$ 28.6
Authority Operations (9)	281.6
Kent and Sussex Transportation	100.0
Freight Operation	117.7
DART Operations	1,006.0
DART - Commuter Route and Loop Route	18.9
DAST Operations	270.0
TURNPIKE Operations (96)	2,629.2
Deposits to Turnpike Reserve Maintenance Fund 50.0	
Support Office of the Secretary DOT	75.0
Support Division of Highways	1,725.0
Delaware Transportation Authority Regulatory Revolving Fund	5.6
Rail Commuter Subsidy	136.1
Airport Safety Program	24.8
Taxi Services Support	100.0
Purchase Rail Lines	807.0
DART (Capital)	150.0
DAST (Capital)	75.0
Claymont Station	125.0
Wilmington Station	526.0
Contingency	<u>25.0</u>

Sub-Total \$ 8,276.5

Year Ending June 30, 1979

## Debt Service

Principal - State Obligations	79.0
Interest - State Obligations	87.9
Principal - Authority Obligations	3,100.0
Interest - Authority Obligations	<u>406.3</u>

TOTAL -- Delaware Transportation Authority \$11,949.7\*

\*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 \$ 35,539.7

(60-00-000) DEPARTMENT OF LABOR(60-01-000) Office of the Secretary

Salary of the Secretary (State Funds \$11.3)	
(All Other Funds \$20.9)	\$ 11.3
(2.5) Salaries and Wages of Employees (.5)	10.4
Other Employment Costs	4.1
Travel	.7
Contractual Services	1.4
Supplies and Materials	.7
Contingency - Displaced Homemakers (3.0)	50.0
Central Data Processing Services (State Funds \$.0)	
(All Other Funds \$50.0)	<u>---</u>

TOTAL -- Office of the Secretary \$ 78.6

(60-05-000) Division of Employment Services

(20) Salaries and Wages of Employees	\$ -0-
TOTAL -- Division of Employment Services	\$ -0-

(60-06-000) Division of Unemployment Insurance

(319) Salaries and Wages of Employees	\$ -0-
Unemployment Compensation	<u>333.0</u>
TOTAL -- Division of Unemployment Compensation	\$ 333.0

(60-07-000) Division of Industrial Affairs(60-07-001) Administration

Salary of Director	\$ 24.2
Salaries and Wages of Employees (5)	63.0

Year Ending June 30, 1979

Salaries - Overtime	.5
Other Employment Costs	18.0
Travel	.7
Contractual Services	6.3
Supplies and Materials	1.2
Capital Outlay	.5

TOTAL -- Administration	\$ 114.4
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(60-07-002) Inspection

Salaries and Wages of Employees (7)	\$ 89.0
Other Employment Costs	17.7
Travel	1.0
Contractual Services	4.5
Supplies and Materials	1.2
Capital Outlay	.5

TOTAL -- Inspection	\$ 113.9
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(60-07-003) Safety

Salaries and Wages of Employees (5)	\$ 68.5
Other Employment Costs	13.6
Travel	1.1
Contractual Services	3.5
Supplies and Materials	2.1
Capital Outlay	.6

TOTAL -- Safety	\$ 89.4
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(60-07-004) Statistics

(1.5) Salaries and Wages of Employees (1.5)	\$ 16.5
Other Employment Costs	3.6
Travel	1.0
Contractual Services	9.4
Supplies and Materials	.3
Capital Outlay	.3

TOTAL -- Statistics	\$ 31.1
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(60-07-005) Equal Employment Opportunity

(.7) Salaries and Wages of Employees (2)	\$ 26.4
Other Employment Costs	5.5
Personal Services	.6
Travel	.8
Contractual Services	6.8
Supplies and Materials	1.3

Year Ending June 30, 1979

Capital Outlay		<u>.3</u>
TOTAL -- Equal Employment Opportunity	\$	41.7
<u>(60-07-006) Apprenticeship and Training</u>		
(1) Salaries and Wages of Employees (3)	\$	33.8
Other Employment Costs		7.3
Travel		1.1
Contractual Services		1.9
Supplies and Materials		.5
Capital Outlay		<u>.3</u>
TOTAL -- Apprenticeship and Training	\$	44.9
<u>(60-07-007) Industrial Accident Board</u>		
Salaries of Board Members (3)	\$	24.0
(2) Salaries and Wages of Employees (7)		60.3
Other Employment Costs		16.7
Personal Services		23.2
Travel		3.7
Contractual Services		11.6
Supplies and Materials		2.6
Capital Outlay		<u>.6</u>
TOTAL -- Industrial Accident Board	\$	142.7
TOTAL -- Division of Industrial Affairs	\$	578.1
<u>(60-08-000) Division of Vocational Rehabilitation</u>		
(151) Salaries and Wages of Employees	\$	---
Personal Services		89.7
Contractual Services		484.0
Supplies and Materials		<u>12.7</u>
TOTAL -- Division of Vocational Rehabilitation	\$	586.4
TOTAL -- DEPARTMENT OF LABOR	\$	1,576.1
<u>(65-00-000) DEPARTMENT OF AGRICULTURE</u>		
<u>(65-01-000) Office of the Secretary</u>		
Salary of the Secretary	\$	24.0
Salaries and Wages of Employees (4)		56.1
Other Employment Costs		15.9
Travel		.8
Contractual Services		3.0

Year Ending June 30, 1979

Supplies and Materials	1.9
Capital Outlay	<u>.6</u>
Sub-Total	\$ 102.3
Debt Service	
Principal	41.3
Interest	<u>9.9</u>
TOTAL -- Office of the Secretary	\$ 153.5
<u>(65-03-000) Division of Standards and Inspections</u>	
Salary of Director	\$ 21.6
Salaries and Wages of Employees (43)	535.4
Salaries - Casual and Seasonal	5.3
Salaries - Overtime	18.1
Other Employment Costs	125.2
Personal Services	22.0
Travel	7.0
Contractual Services	24.9
Supplies and Materials	20.0
Capital Outlay	<u>12.2</u>
TOTAL -- Division of Standards and Inspections	\$ 791.7
<u>(65-04-000) Division of Production and Promotion</u>	
Salary of Director	\$ 21.6
(8) Salaries and Wages of Employees (15)	181.8
Salaries - Casual and Seasonal	3.6
Other Employment Costs	44.3
Travel	1.0
Contractual Services	18.9
Supplies and Materials	6.0
Capital Outlay	<u>.3</u>
Sub-Total	\$ 277.5
Debt Service	
Principal	10.0
Interest	<u>5.3</u>
TOTAL -- Division of Production and Promotion	\$ 292.8
TOTAL -- DEPARTMENT OF AGRICULTURE	\$ 1,238.0

(70-00-000) DEPARTMENT OF ELECTIONSYear Ending June 30, 1979(70-01-000) Commissioner of Elections

Salary of Election Commissioner	\$	17.1
Salaries and Wages of Employees (4)		45.7
Salaries - Casual and Seasonal		22.8
Salaries - Overtime		6.1
Other Employment Costs		15.1
Travel		.8
Contractual Services		26.3
Supplies and Materials		4.3
Capital Outlay		.4
Central Data Processing Services		35.0
Contingency - Direct Primary		10.1
Vote Tabulation		14.1

TOTAL -- Commissioner of Elections	\$	197.8
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(70-02-000) New Castle County Department of Elections

Salaries of Board Members (10)	\$	10.5
Salary of Administrative Director		18.0
Salary of Deputy Administrative Director		17.5
Salaries and Wages of Employees (9)		97.2
Salaries - Casual and Seasonal		63.7
Salaries - Overtime		35.7
Other Employment Costs		35.1
Personal Services		122.2
Travel		.6
Contractual Services		
Rent - Voting Machines Storage		33.5
Other Contractual Services		112.8
Supplies and Materials		5.0
Capital Outlay		11.0
Mobile Registration		32.5

TOTAL -- New Castle County Department of Elections	\$	595.3
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(70-03-000) Kent County Department of Elections

Salaries of Board Members (6)	\$	6.5
Salary of Administrative Director		17.1
Salary of Deputy Administrative Director		16.6
Salaries and Wages of Employees (2)		22.4
Salaries - Casual and Seasonal		6.2
Salaries - Overtime		3.5
Other Employment Costs		12.9
Personal Services		23.2
Travel		.5
Contractual Services		40.6

Year Ending June 30, 1979

Supplies and Materials	2.7
Mobile Registration	<u>5.7</u>

TOTAL -- Kent County Department of Elections \$ 157.9

(70-04-000) Sussex County Department of Elections

Salaries of Board Members	\$ 6.5
Salary of Administrative Director	17.1
Salary of Deputy Administrative Director	16.6
Salaries and Wages of Employees (2)	22.4
Salaries - Casual and Seasonal	9.9
Salaries - Overtime	2.6
Other Employment Costs	12.7
Personal Services	29.9
Travel	1.2
Contractual Services	33.8
Supplies and Materials	2.8
Capital Outlay	2.3
Mobile Registration	12.5
Absentee Ballot Expense	<u>1.8</u>

TOTAL -- Sussex County Department of Elections \$ 172.1

TOTAL -- DEPARTMENT OF ELECTIONS \$ 1,123.1

(75-00-000) FIRE PREVENTION COMMISSION(75-01-000) Office of Fire Marshal

Salary of Fire Marshal	\$ 21.1
(1.5) Salaries and Wages of Employees (16.5)	203.4
Salaries - Casual and Seasonal	1.5
Salaries - Shift Differential	1.5
Other Employment Costs	48.3
Personal Services	.5
Travel	6.0
Contractual Services	15.9
Supplies and Materials	18.1
Capital Outlay	29.7
Fire Prevention Conferences	1.5
Computerized System	4.7
Contingency - Surety Bonds, Other Court Bonds	<u>1.5</u>

TOTAL -- Office of Fire Marshal \$ 353.7

(75-02-000) State Fire School

Salary of Director	\$ 21.1
(1) Salaries and Wages of Employees (10)	121.3

Year Ending June 30, 1979

Other Employment Costs	29.9
Personal Services	45.4
Travel	
Meals - Fire School	15.5
Other Travel	4.8
Contractual Services	11.9
Supplies and Materials	29.8
Capital Outlay	5.6

Sub-Total \$ 285.3

Debt Service	
Principal	37.0
Interest	11.8

TOTAL -- State Fire School \$ 334.1

(75-03-000) State Fire Prevention Commission

Salary and Wages of Employee (1)	\$ 7.8
Other Employment Costs	1.9
Travel	3.0
Contractual Services	.6
Supplies and Materials	.3
Capital Outlay	1.2

TOTAL -- State Fire Prevention Commission \$ 14.8

TOTAL -- FIRE PREVENTION COMMISSION \$ 702.6

(76-00-000) DELAWARE NATIONAL GUARD(76-01-000) Delaware National Guard

Salary of Adjutant General	\$ 27.9
(111.25) Salaries and Wages of Employees (26.95)	395.9
Widow's Compensation	3.5
Other Employment Costs	90.4
Personal Services	.2
Travel	1.5
Contractual Services	300.5
Supplies and Materials	75.6
Capital Outlay	45.3
United Fund Allowance	15.0
Minor Capital Improvements	277.9

Sub-Total \$ 1,233.7

Debt Service	
Principal	75.0

Year Ending June 30, 1979

Interest	70.0
TOTAL -- DELAWARE NATIONAL GUARD	\$ 1,378.7
<u>(77-00-000) ADVISORY COUNCIL FOR EXCEPTIONAL CHILDREN</u>	
Salary and Wages of Employee (1)	\$ 5.6
Other Employment Costs	1.6
Personal Services	.5
Travel	3.2
Contractual Services	3.6
Supplies and Materials	.2
TOTAL -- ADVISORY COUNCIL FOR EXCEPTIONAL CHILDREN	\$ 14.7
<u>(79-00-000) COMMISSION ON MASSAGE ESTABLISHMENTS</u>	
Salaries of Commissioners	\$ 9.6
Salary and Wages of Employee (1)	8.9
Other Employment Cost	1.7
Travel	4.3
Contractual Services	4.4
Supplies and Materials	.6
Capital Outlay	2.5
TOTAL -- COMMISSION ON MASSAGE ESTABLISHMENTS	\$ 32.0
<u>(90-00-000) HIGHER EDUCATION</u>	
<u>(90-01-001) University of Delaware</u>	
Operations	\$ 21,256.4
Diagnostic Poultry Service	15.0
General Scholarships	1,024.0
Aid to Needy Students	542.0
Scholarship	150.0
Occupational Teachers Education	79.5
Sea Grant Program	200.0
Other Employment Costs	4,095.4
Pensions Fund (TIAA)	1,310.0
Sub-Total	\$ 28,672.3
Debt Service	
Principal	2,990.5
Interest	1,948.7
TOTAL -- University of Delaware	\$ 33,611.5

Year Ending June 30, 1979(90-01-002) State Geologist

Salaries - Casual and Seasonal	\$ 2.5
Salaries and Wages of Employees (9.5)	173.3
Other Employment Costs	16.1
Travel	3.0
Contractual Services	
River Master Program	35.7
Federal Co-Op Program	50.0
Supplies and Materials	15.5
Capital Outlay	<u>2.0</u>
TOTAL -- State Geologist	\$ 298.1
TOTAL -- University of Delaware	\$ 33,909.6

(90-02-000) Delaware Institute of Medical Education  
and Research

Operations	
Subvention Allowance	\$ 800.0
Scholarships	<u>50.0</u>
TOTAL -- Delaware Institute of Medical Education and Research	\$ 850.0

(90-03-000) Delaware State College

(141.9) Salaries and Wages of Employees (299.5)	\$ 4,294.4
Other Employment Costs	897.6
Personal Services	
Work Study Program	25.0
Other Personal Services	5.5
Travel	3.3
Contractual Services	765.0
Supplies and Materials	175.0
Capital Outlay	130.0
Scholarships	56.0
Athletic Scholarships	10.0
State Matching Grants-In-Aid	50.0
Occupational Teacher Education (2)	51.2
S. Lowan Pitts Memorial Scholarship Fund	<u>1.0</u>
Sub-Total	\$ 6,464.0
Debt Service	
Principal	852.0
Interest	<u>468.8</u>
TOTAL -- Delaware State College	\$ 7,784.8

Year Ending June 30, 1979(90-04-000) Delaware Technical and Community College(90-04-001) Administration

Salaries and Wages of Employees (34)	\$ 634.5
Other Employment Costs	121.8
Personal Services	41.0
Travel	2.0
Contractual Services	
Computer Operations	20.0
Other Contractual Services	16.0
Supplies and Materials	11.5
Capital Outlay	13.7
Occupational Teacher Education	<u>33.3</u>
Sub-Total	\$ 893.8
Debt Service	
Principal	1,301.0
Interest	<u>1,084.3</u>
TOTAL -- Administration	\$ 3,279.1

(90-04-002) Southern Campus

(13) Salaries and Wages of Employees (129)	\$ 2,300.0
Salaries - Casual and Seasonal	74.7
Other Employment Costs	418.6
Personal Services	
Work Study Program	10.0
Other Personal Services	3.4
Travel	2.1
Contractual Services	
Utilities	176.4
University of Delaware	228.0
Computer Operations	60.0
Other Contractual Services	95.4
Supplies and Materials	76.7
Capital Outlay	33.0
Aid to Needy Students	5.0
Federal/State Matching	<u>4.0</u>
TOTAL -- Southern Campus	\$ 3,487.3

(90-04-004) Wilmington Campus

Salaries and Wages of Employees (99)	\$ 1,631.0
Salaries - Casual and Seasonal	90.0
Other Employment Costs	321.8

Year Ending June 30, 1979

Personal Services	
Work Study Program	20.0
Other Personal Services	6.7
Travel	2.0
Contractual Services	
Utilities	189.6
University of Delaware	228.0
Computer Operations	55.0
Other Contractual Services	100.0
Supplies and Materials	75.0
Capital Outlay	21.0
Aid to Needy Students	10.0
Federal/State Matching	10.0
	<hr/>
TOTAL -- Wilmington Campus	\$ 2,760.1

(90-04-005) Stanton Campus

Salaries and Wages of Employees (129)	\$ 2,263.5
Salaries - Casual and Seasonal	74.7
Other Employment Costs	466.9
Personal Services	
Work Study Program	10.0
Other Personal Services	3.3
Travel	2.1
Contractual Services	
Utilities	169.8
Computer Operations	30.0
Other Contractual Services	118.0
Supplies and Materials	76.5
Capital Outlay	20.8
Aid to Needy Students	5.0
Federal/State Matching	4.0
	<hr/>
TOTAL -- Stanton Campus	\$ 3,244.6

(90-04-006) Charles L. Terry Campus

Salaries and Wages of Employees (74)	\$ 1,212.5
Salaries - Casual and Seasonal	74.2
Other Employment Costs	263.5
Personal Services	
Work Study Program	10.0
Other Personal Services	3.3
Travel	2.0
Contractual Services	
Utilities	133.2
Computer Operations	50.0
Other Contractual Services	84.9
Supplies and Materials	67.8

Year Ending June 30, 1979

Capital Outlay	43.0
Aid to Needy Students	5.0
Federal/State Matching	<u>4.0</u>
TOTAL -- Charles L. Terry Campus	\$ 1,953.4
TOTAL -- Delaware Technical and Community College	\$ 14,724.5
<u>(90-05-000) Delaware Postsecondary Education Commission</u>	
Salary of Executive Director (State Funds \$13.6)	
(All Other Funds \$13.6)	\$ 13.6
Salaries of Commission Members	2.4
(.5) Salary and Wage of Employee (1)	10.0
Other Employment Costs	4.7
Travel	.4
Contractual Services	3.8
Supplies and Materials	<u>.5</u>
TOTAL -- Delaware Postsecondary Education Commission	\$ 35.4
<u>(90-06-000) Delaware Higher Education Loan Program</u>	
Salaries -- Board Members	\$ .3
Travel	.5
Contractual Services	9.6
Supplies and Materials	.4
Scholarship Incentive Program	<u>150.0</u>
TOTAL -- Delaware Higher Education Loan Program	\$ 160.8
<u>(90-07-000) Delaware Institute of Veterinary Medical Education</u>	
Subvention	\$ <u>36.0</u>
TOTAL -- Delaware Institute of Veterinary Medical Education	\$ 36.0
TOTAL -- HIGHER EDUCATION	\$ 57,501.1
<u>(95-00-000) PUBLIC EDUCATION</u>	
<u>(95-01-000) State Board of Education and</u>	
<u>State Board for Vocational Education</u>	
<u>(95-01-001) Administration</u>	
<u>Division I - Salaries</u>	
Board Members	\$ 8.4

Year Ending June 30, 1979

Superintendent (State Funds \$41.4)	
(All Other Funds \$14.0)	41.4
Deputy Superintendent	
All Other Funds (1)	---
Assistant Superintendents (3)	124.6
Directors (6)	
State and Other (6)	105.1
Supervisors (46)	
State Funds (15)	431.8
State and Others (10)	140.0
All Other Funds (21)	---
Specialists (16)	
State Funds (2)	47.5
All Other Funds (14)	---
Others	
Statistician Research (All Other Funds)	---
Librarian (All Other Funds)	---
Clerical (54.5)	
State Funds (20)	230.4
State and Other (16)	77.5
All Other Funds (18.5)	---
Other Employment Costs	229.9
TOTAL -- Division I and Other Employment Costs	\$ 1,436.6
<u>Division II - Other Costs</u>	
Personal Services	\$ 1.5
Travel	
State Board	3.7
Staff	4.0
Contractual Services	80.6
Supplies and Materials	24.4
Capital Outlay	2.0
Central Data Processing Services	40.0
TOTAL -- Division II - Other Costs	\$ 156.2
TOTAL -- Administration	\$ 1,592.8

(95-01-002) Services to School Districts and OthersDivision I - Salaries

Teachers	
Homebound	\$ 150.0
Substitutes in Districts	750.0
Vocational Programs	218.4
Apprenticeship Program	150.0
Other	

Year Ending June 30, 1979

Student Work-Study Program	25.0
Nonpublic and Summer Driver Education	171.0
Other Employment Costs	<u>360.8</u>

TOTAL -- Division I and Other Employment Costs \$ 1,825.2

Division II - Other Costs

Travel	
Homebound	\$ 6.0
Contractual Services	
Tuition - Deaf Program	14.6
James H. Groves High School	336.0
Pregnant Students	102.0
Adult Basic Education	65.0
Supplies and Materials	
Adult Trade Extension	96.0
Apprentice Program	110.0
Capital Outlay	
Films	22.0
Tuition - Military and State Police Children	28.9
Scholarship Fund	200.0
Youth Organization	36.0
Evaluation of Institutions of Higher Education	2.0
Assessment of Educational Progress	70.0
Private Business and Trade School	2.0
Education in Science and Math - Del Mod	20.0
Computer Education	63.0
School Pupil Transportation	11,898.9
Optometric Institutional Aid	16.0
Program for Gifted and Talented	30.0
Delaware Educational Council Compact	12.0
Career Guidance Systems	<u>10.0</u>

Sub-Total \$ 13,140.4

Debt Service	
Principal	\$ 741.8
Interest	<u>598.4</u>

TOTAL -- Division II and Debt Service \$ 14,480.6

Division III - Equalization Funds

Regular Formula	\$ 4,530.9
Other Employment Costs	<u>649.1</u>

TOTAL -- Division III \$ 5,180.0

TOTAL -- Services to School Districts and Others \$ 21,485.8

(95-01-003) Educational Contingency      Year Ending June 30, 1979

General Contingency	\$ 140.0
Growth and Upgrading - Negative Growth	(1,427.2)
Summer School Occupational Vocational Program	346.0
Operation and Maintenance	
Driver Education Cars	77.0
Delmar Tuition	145.0
Supportive Service for Autistic	56.0
Private Placement for Handicapped	763.0
Learning Disabilities - Tuition	15.0
Other Employment Costs	98.7
(Other Employment Costs - Negative Growth)	(225.7)
Cafeteria Managers	<u>170.0</u>

TOTAL -- Educational Contingency      \$ 157.8

TOTAL -- State Board of Education and State Board for  
Vocational Education      \$ 23,236.4

(95-04-000) Delaware State Advisory Council on Career  
Education

(.6) Salaries and Wages of Employees (1.4)	\$ 28.6
Other Employment Costs	<u>5.3</u>

TOTAL -- Delaware State Advisory Council on Career  
Education      \$ 33.9

(95-10-000) Caesar RodneyDivision I - Salaries

Chief School Officer (1)	\$ 22.8
Assistant Superintendent (.99)	20.0
Directors (1.06)	37.6
Supervisors (1.97)	28.7
Principals (7)	118.1
Assistant Principals (7)	106.0
Administrative Assistant (1)	17.7
Clerical (25)	191.5
Teachers (276)	3,138.5
Teacher Psychologists (1.97)	21.5
Teachers - Speech and Hearing (2)	19.5
Teachers - Visiting (1)	11.4
Teachers - Drivers Education (3.5)	40.3
Custodial (45)	341.0
Nurses (6)	57.7
Supervisor of Transportation (.629)	11.0
Superviosr of School Lunch (1)	12.3
Cafeteria Workers	<u>56.0</u>

TOTAL -- Division I      \$ 4,251.6

Year Ending June 30, 1979

Other Employment Costs	<u>1,030.9</u>
TOTAL -- Division I and Other Employment Costs	\$ 5,282.5
<u>Division II - Other Costs (317)</u>	684.7
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 354.4
Interest	<u>136.0</u>
TOTAL -- All Other Costs	\$ 1,175.1
TOTAL -- Caesar Rodney	\$ 6,457.6
<u>(95-11-000) John S. Charlton School</u>	
(Administered by Caesar Rodney School District)	
<u>Division I - Salaries</u>	
Principal (1)	\$ 17.1
Clerical (1)	6.5
Teachers (13)	134.9
Custodial (1)	7.9
Nurse (1)	7.9
Aides and Attendants (13)	78.0
Therapists - Physical (.46)	5.0
Therapists - Occupational (.46)	5.0
Therapists - Speech (.46)	<u>4.8</u>
TOTAL -- Division I	\$ 267.1
Other Employment Costs	<u>57.6</u>
TOTAL -- Division I and Other Employment Costs	\$ 324.7
<u>Division II - Other Costs (20)</u>	43.2
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 12.0
Interest	<u>1.5</u>
TOTAL -- All Other Costs	\$ 56.7
TOTAL -- John S. Charlton School	\$ 381.4
<u>(95-12-000) Claymont</u>	

Year Ending June 30, 1979Division I - Salaries

Chief School Officer (1)	\$ 22.1
Supervisor (1)	13.5
Principal (5)	86.9
Assistant Principals (3)	48.8
Administrative Assistant (1)	18.0
Clerical (14)	107.4
Teachers (154)	1,733.9
Teacher Psychologist (1)	13.0
Teacher - Speech and Hearing (1)	8.6
Teacher - Visiting (.6)	7.3
Teachers - Driver Education (1.6)	18.6
Custodial (33)	253.0
Nurses (3)	29.0
Supervisor of School Lunch (1)	13.1
Cafeteria Workers	<u>19.2</u>
TOTAL -- Division I	\$ 2,392.4

Other Employment Costs	<u>616.9</u>
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TOTAL -- Division I and Other Employment Costs	\$ 3,009.3
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<u>Division II - Other Costs (177)</u>	382.3
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All Other Costs

Debt Service	
Principal	\$ 205.1
Interest	<u>88.7</u>
TOTAL -- All Other Costs	\$ 676.1

TOTAL -- Claymont	\$ 3,685.4
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(95-13-000) CapitalDivision I - Salaries

Chief School Officer (1)	\$ 23.4
Assistant Superintendent (1)	20.6
Directors (2)	38.6
Supervisors (2)	28.1
Principals (8)	132.3
Assistant Principals (7)	111.6
Administrative Assistant (1)	17.7
Clerical (28)	214.6
Teachers (316)	3,745.8

Year Ending June 30, 1979

Teacher Psychologists (2)	25.9
Teachers - Speech and Hearing (2)	24.6
Teacher - Visiting (1)	10.8
Teachers - Driver Education (3.8)	45.1
Custodial (63)	469.9
Nurses (8)	75.2
Aides and Attendants (11)	63.8
Supervisor of Transportation (.764)	13.1
Supervisor of School Lunch (1)	13.4
Cafeteria Workers	49.6
Therapist - Physical (.32)	4.6
Therapist - Occupational (.32)	4.6
Therapist - Speech (.32)	4.6
<b>TOTAL -- Division I</b>	<b>\$ 5,137.9</b>
Other Employment Costs	<u>1,438.6</u>
<b>TOTAL -- Division I and Other Employment Costs</b>	<b>\$ 6,576.5</b>
<u>Division II - Other Costs (333)</u>	719.3
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 483.0
Interest	<u>161.8</u>
<b>TOTAL -- All Other Costs</b>	<b>\$ 1,364.1</b>
<b>TOTAL -- Capital</b>	<b>\$ 7,940.6</b>

(95-14-000 Alexis I. duPontDivision I - Salaries

Chief School Officer (1)	\$ 22.1
Supervisor (1)	14.2
Principals (5)	84.8
Assistant Principals (2)	30.0
Administrative Assistant (1)	18.0
Clerical (16)	120.5
Teachers (173)	1,958.5
Teacher Psychologist (1)	12.7
Teacher - Speech and Hearing (1)	12.7
Teacher - Visiting (.692)	8.0
Teachers - Driver Education (2)	22.1
Custodial (46)	352.9
Nurses (4)	39.4
Supervisor of Transportation (.451)	3.5

Year Ending June 30, 1979

Supervisor of School Lunch (1)	12.6
Cafeteria Workers	<u>28.9</u>
TOTAL -- Division I	\$ 2,740.9
Other Employment Costs	881.0
TOTAL -- Division I and Other Employment Costs	3,621.9
<u>Division II - Other Costs (192)</u>	\$ 414.7
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 455.8
Interest	<u>258.7</u>
TOTAL -- All Other Costs	\$ 1,129.2
TOTAL -- Alexis I. duPont	\$ 4,751.1

(95-15-000) Lake ForestDivision I - Salaries

Chief School Officer (1)	\$ 21.5
Supervisor (1)	14.4
Principals (5)	83.4
Assistant Principals (3)	45.1
Administrative Assistant (1)	17.7
Clerical (16)	123.3
Teachers (176)	1,991.7
Teacher Psychologist (1)	11.8
Teacher - Speech and Hearing (1)	10.8
Teacher - Visiting (.7)	8.2
Teachers - Driver Education (2)	22.0
Custodial (28)	216.4
Nurses (4)	34.9
Supervisor of Transportation (.452)	7.1
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>26.9</u>
TOTAL -- Division I	\$ 2,647.5
Other Employment Costs	<u>673.0</u>
TOTAL -- Division I and Other Employment Costs	\$ 3,320.5
<u>Division II - Other Costs (198)</u>	427.7

Year Ending June 30, 1979All Other Costs

Debt Service	
Principal	189.8
Interest	<u>64.2</u>
TOTAL -- All Other Costs	\$ 681.7
TOTAL -- Lake Forest	\$ 4,002.2

(95-16-000) LaurelDivision I - Salaries

Chief School Officer (1)	\$ 20.6
Supervisor (1)	12.2
Principals (3)	50.0
Assistant Principals (2)	30.6
Administrative Assistant (1)	17.7
Clerical (10)	78.0
Teachers (107)	1,229.0
Teacher Psychologist (1)	9.7
Teacher - Speech and Hearing (1)	11.9
Teacher - Driver Education (1)	12.7
Custodial (26)	199.8
Nurses (2)	20.2
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>20.7</u>
TOTAL -- Division I	\$ 1,725.4
Other Employment Costs	<u>386.9</u>
TOTAL -- Division I and Other Employment Costs	\$ 2,112.3

<u>Division II - Other Costs (125)</u>	270.0
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All Other Costs

Debt Service	
Principal	127.5
Interest	<u>68.0</u>
TOTAL -- All Other Costs	\$ 465.5
TOTAL -- Laurel	\$ 2,577.8

(95-17-000) Cape HenlopenDivision I - Salaries

Year Ending June 30, 1979

Chief School Officer (1)	\$ 21.8
Supervisor (1)	14.2
Principals (7)	118.1
Assistant Principal (1)	15.9
Administrative Assistant (1)	17.7
Clerical (16)	122.0
Teachers (174)	2,034.0
Teacher Psychologist (1)	13.0
Teacher - Speech and Hearing (1)	10.5
Teacher - Visiting (1)	10.8
Teachers - Driver Education (2)	24.6
Custodial (42)	305.3
Nurses (4)	36.7
Aides and Attendants (1)	5.2
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	32.6
<b>TOTAL -- Division I</b>	<b>\$ 2,794.7</b>
Other Employment Costs	830.3
<b>TOTAL -- Division I and Other Employment Costs</b>	<b>\$ 3,625.0</b>
<u>Division II - Other Costs (190)</u>	410.4
<u>All Other Costs</u>	
Debt Service	
Principal	329.5
Interest	272.5
<b>TOTAL -- All Other Costs</b>	<b>\$ 1,012.4</b>
<b>TOTAL -- Cape Henlopen</b>	<b>\$ 4,637.4</b>
<u>(95-18-000) Milford</u>	

Division I - Salaries

Chief School Officer (1)	\$ 22.1
Supervisor (1)	14.4
Principals (5)	86.6
Assistant Principals (4)	60.4
Administrative Assistant (1)	17.4
Clerical (17)	129.9
Teachers (186)	2,101.1
Teacher Psychologist (1)	13.0
Teacher - Speech and Hearing (1)	8.4
Teacher - Visiting (1)	11.9
Teachers - Driver Education (2.6)	27.2

Year Ending June 30, 1979

Custodial (35)	269.3
Nurses (4)	36.9
Supervisor of Transportation (.936)	13.1
Supervisor of School Lunch (1)	13.1
Cafeteria Workers	<u>41.1</u>
TOTAL -- Division I	\$ 2,865.9
Other Employment Costs	<u>674.0</u>
TOTAL -- Division I and Other Employment Costs	\$ 3,539.9
<u>Division II - Other Costs (206)</u>	445.0
<u>All Other Costs</u>	
Debt Service	
Principal	207.9
Interest	<u>87.2</u>
TOTAL -- All Other Costs	\$ 740.1
TOTAL -- Milford	\$ 4,280.0

(95-19-000) Mount PleasantDivision I - Salaries

Chief School Officer (1)	\$ 21.5
Director (1)	19.0
Supervisor (1)	13.3
Principals (6)	99.5
Assistant Principals (6)	94.8
Administrative Assistant (1)	17.7
Clerical (21)	159.4
Teachers (237)	2,674.6
Teacher Psychologist (1)	13.0
Teacher - Speech and Hearing (1)	10.1
Teacher - Visiting (.948)	11.3
Teachers - Driver Education (3)	35.4
Custodial (40)	306.2
Nurses (5)	51.0
Supervisor of Transportation (.354)	4.4
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>35.0</u>
TOTAL -- Division I	\$ 3,378.5
Other Employment Costs	<u>1,040.5</u>
TOTAL -- Division I and Other Employment Costs	\$ 4,619.0

Year Ending June 30, 1979

Division II - Other Costs (268) 578.9

All Other Costs

Debt Service	
Principal	327.1
Interest	<u>112.7</u>

TOTAL -- All Other Costs \$ 1,018.7

TOTAL -- Mount Pleasant \$ 5,637.7

(95-20-000) New Castle-Gunning BedfordDivision I - Salaries

Chief School Officer (1)	\$ 23.1
Assistant Superintendent (1)	20.6
Directors (3)	56.6
Supervisors (2)	28.4
Principals (10)	169.8
Assistant Principals (10)	157.6
Administrative Assistant (1)	17.4
Clerical (36)	273.4
Teachers (422)	4,590.1
Teacher Psychologists (2)	25.7
Teachers - Speech and Hearing (3)	30.8
Teacher - Visiting (1)	10.8
Teachers - Driver Education (4.4)	50.4
Custodial (72.5)	534.3
Nurses (10)	100.2
Supervisor of Transportation (.878)	15.5
Supervisor of School Lunch (1)	13.4
Cafeteria Workers	<u>54.4</u>

TOTAL -- Division I \$ 6,172.5

Other Employment Costs 1,676.4

TOTAL -- Division I and Other Employment Costs \$ 7,848.9

Division II- Other Costs (482) 1,041.1

All Other Costs

Debt Service	
Principal	780.0
Interest	<u>411.5</u>

TOTAL -- All Other Costs \$ 2,232.6

Year Ending June 30, 1979

TOTAL -- New Castle-Gunning Bedford \$ 10,081.5

(95-21-000) NewarkDivision I - Salaries

Chief School Officer (1)	\$ 23.4
Assistant Superintendents (2)	41.8
Directors (6)	116.6
Supervisors (5)	72.4
Principals (23)	393.0
Assistant Principals (16)	249.9
Administrative Assistant (1)	18.0
Clerical (68)	522.3
Teachers (797)	8,823.7
Teacher Psychologists (5)	62.7
Teachers - Speech and Hearing (6)	62.2
Teachers - Visiting (3)	33.8
Teachers - Driver Education (9)	100.8
Custodial (134)	1,003.2
Nurses (19)	181.9
Aides and Attendants (2)	11.5
Supervisor of Transportation (1)	16.0
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	103.5
TOTAL -- Division I	\$ 11,849.0

Other Employment Costs 3,551.0

TOTAL -- Division I and Other Employment Costs \$ 15,400.0

Division II - Other Costs (891) 1,924.6

All Other Costs

Debt Service	
Principal	\$ 1,538.7
Interest	816.5
TOTAL -- All Other Costs	\$ 4,279.8

TOTAL -- Newark \$ 19,679.8

(95-22-000) Margaret S. Sterck  
(Administered by Newark District)

Division I - Salaries

Principal (1)	\$ 17.4
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Year Ending June 30, 1979

Division II - Other Costs (268) 578.9

All Other Costs

Debt Service	
Principal	327.1
Interest	<u>112.7</u>

TOTAL -- All Other Costs \$ 1,018.7

TOTAL -- Mount Pleasant \$ 5,637.7

(95-20-000) New Castle-Gunning BedfordDivision I - Salaries

Chief School Officer (1)	\$ 23.1
Assistant Superintendent (1)	20.6
Directors (3)	56.6
Supervisors (2)	28.4
Principals (10)	169.8
Assistant Principals (10)	157.6
Administrative Assistant (1)	17.4
Clerical (36)	273.4
Teachers (422)	4,590.1
Teacher Psychologists (2)	25.7
Teachers - Speech and Hearing (3)	30.8
Teacher - Visiting (1)	10.8
Teachers - Driver Education (4.4)	50.4
Custodial (72.5)	534.3
Nurses (10)	100.2
Supervisor of Transportation (.878)	15.5
Supervisor of School Lunch (1)	13.4
Cafeteria Workers	<u>54.4</u>

TOTAL -- Division I \$ 6,172.5

Other Employment Costs 1,676.4

TOTAL -- Division I and Other Employment Costs \$ 7,848.9

Division II- Other Costs (482) 1,041.1

All Other Costs

Debt Service	
Principal	780.0
Interest	<u>411.5</u>

TOTAL -- All Other Costs \$ 2,232.6

Year Ending June 30, 1979

TOTAL -- New Castle-Gunning Bedford \$ 10,081.5

(95-21-000) NewarkDivision I - Salaries

Chief School Officer (1)	\$ 23.4
Assistant Superintendents (2)	41.8
Directors (6)	116.6
Supervisors (5)	72.4
Principals (23)	393.0
Assistant Principals (16)	249.9
Administrative Assistant (1)	18.0
Clerical (68)	522.3
Teachers (797)	8,823.7
Teacher Psychologists (5)	62.7
Teachers - Speech and Hearing (6)	62.2
Teachers - Visiting (3)	33.8
Teachers - Driver Education (9)	100.8
Custodial (134)	1,003.2
Nurses (19)	181.9
Aides and Attendants (2)	11.5
Supervisor of Transportation (1)	16.0
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>103.5</u>

TOTAL -- Division I \$ 11,849.0

Other Employment Costs 3,551.0

TOTAL -- Division I and Other Employment Costs \$ 15,400.0

Division II - Other Costs (891) 1,924.6

All Other Costs

Debt Service	
Principal	\$ 1,538.7
Interest	<u>816.5</u>

TOTAL -- All Other Costs \$ 4,279.8

TOTAL -- Newark \$ 19,679.8

(95-22-000) Margaret S. Sterck  
(Administered by Newark District)

Division I - Salaries

Principal (1)	\$ 17.4
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Year Ending June 30, 1979

Clerical (2)	15.0
Teachers (22)	277.3
Teacher - Audiologist (1)	13.0
Teacher - Speech and Hearing (1)	10.5
Custodial (5)	37.0
Nurse (1)	10.5
Aides and Attendants (18)	102.4
Salaries - Resident Supervision (11)	104.5
Salaries - Interpreter - Tutors (8)	<u>72.4</u>

TOTAL -- Division I \$ 660.0

Other Employment Costs 170.5

TOTAL -- Division I and Other Employment Costs \$ 830.5

Division II - Other Costs (22) 47.5

Residence -- Other Cost 11.5  
Consultant Services 57.0

All Other Costs

Debt Service	
Principal	48.6
Interest	<u>26.9</u>

TOTAL -- All Other Costs \$ 191.5

TOTAL -- Margaret S. Sterck \$ 1,022.0

(95-23-000) SeafordDivision I- Salaries

Chief School Officer (1)	\$ 22.1
Supervisor (1)	14.2
Principals (5)	84.1
Assistant Principals (3)	46.9
Administrative Assistant (1)	17.7
Clerical (16.5)	126.1
Teachers (178)	2,031.7
Teacher Psychologist (1)	13.0
Teacher - Speech and Hearing (1)	9.5
Teacher - Visiting (.569)	10.0
Teachers - Driver Education (2.4)	26.5
Custodial (32)	245.7
Nurses (4.625)	44.1
Aides and Attendants (5)	29.7
Supervisor of Transportation (1)	17.0

Year Ending June 30, 1979

Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>37.7</u>
TOTAL -- Division I	\$ 2,788.3
Other Employment Costs	<u>686.8</u>
TOTAL -- Division I and Other Employment Costs	\$ 3,475.1
<u>Division II - Other Costs</u> (202)	436.3
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 181.4
Interest	<u>47.5</u>
TOTAL -- All Other Costs	\$ 665.2
TOTAL -- Seaford	\$ 4,140.3

(95-24-000) SmyrnaDivision I - Salaries

Chief School Officer (1)	\$ 21.8
Supervisor (1)	14.4
Principals (5)	84.1
Assistant Principals (3)	45.6
Administrative Assistant (1)	17.4
Clerical (15)	113.9
Teachers (161)	1,774.3
Teacher Psychologist (1)	12.7
Teacher - Speech and Hearing (1)	10.0
Teacher - Visiting (.644)	7.7
Teacher - Driver Education (1.8)	20.3
Custodial (31)	236.5
Nurses (4)	39.0
Supervisor of Transportation (.318)	4.5
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>25.1</u>
TOTAL -- Division I	\$ 2,439.6
Other Employment Costs	<u>588.0</u>
TOTAL -- Division I and Other Employment Costs	\$ 3,027.6
<u>Division II - Other Costs</u> (181)	391.0

Year Ending June 30, 1979All Other Costs

Debt Service	
Principal	\$ 247.6
Interest	<u>137.9</u>
TOTAL -- All Other Costs	\$ 776.5
TOTAL -- Smyrna	\$ 3,804.1

(95-25-000) WilmingtonDivision I - Salaries

Chief School Officer (1)	\$ 23.4
Assistant Superintendents (2)	41.5
Directors (5)	94.7
Supervisors (4)	57.2
Principals (19)	319.7
Assistant Principals (9)	140.1
Administrative Assistant (1)	18.0
Clerical (54)	428.1
Teachers (632)	7,877.4
Teacher Psychologists (4)	47.3
Teachers - Speech and Hearing (6.5)	77.5
Teachers - Visiting (2)	25.4
Teachers - Driver Education (7.0)	77.6
Custodial (135)	1,051.7
Nurses (16)	162.0
Aides and Attendants (18)	108.0
Supervisor of Transportation (.206)	3.4
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	119.6
Americanization of Foreign Born	<u>54.1</u>
TOTAL -- Division I	\$ 10,739.0
Other Employment Costs	<u>3,764.3</u>
TOTAL -- Division I and Other Employment Costs	\$ 14,503.3
<u>Division II - Other Costs (752)</u>	1,624.3
Americanization - Other Costs	9.3

All Other Costs

Debt Service	
Principal	\$ 1,717.3
Interest	<u>1,185.3</u>

Year Ending June 30, 1979

TOTAL -- All Other Costs	\$ 4,536.2
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TOTAL -- Wilmington	\$ 19,039.5
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(95-26-000) Alfred I. duPontDivision I - Salaries

Chief School Officer (1)	\$ 23.4
Assistant Superintendent (1)	20.9
Directors (3)	57.3
Supervisors (2)	28.1
Principals (14)	230.0
Assistant Principals (6)	93.3
Administrative Assistant (1)	17.4
Clerical (37)	282.6
Teachers (433)	5,046.7
Teacher Psychologists (2)	25.7
Teachers - Speech and Hearing (2)	25.7
Teacher - Visiting (1)	13.2
Teachers - Driver Education (5.6)	66.8
Custodial (105)	799.8
Nurses (10)	102.0
Aides and Attendants (3)	16.8
Supervisor of Transportation (.614)	8.6
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>51.8</u>

TOTAL -- Division I	\$ 6,922.4
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Other Employment Costs	<u>2,245.6</u>
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TOTAL -- Division I and Other Employment Costs	\$ 9,168.0
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<u>Division II - Other Costs (480)</u>	1,036.8
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All Other Costs

Debt Service	
Principal	\$ 865.9
Interest	<u>304.6</u>

TOTAL -- All Other Costs	\$ 2,207.3
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TOTAL -- Alfred I. duPont	\$ 11,375.3
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(95-27-000) Charles W. Bush Trainable  
(Administered by Alfred I. duPont District)

Division I - Salaries

Year Ending June 30, 1979

Principal (1)	\$ 17.1
Clerical (1)	7.5
Teachers (14)	173.3
Custodial (2)	15.5
Nurse (1)	10.5
Aides and Attendants (12)	70.1
Therapist - Physical (.48)	5.2
Therapist - Occupational (.48)	5.2
Therapist - Speech (.48)	5.2
TOTAL -- Division I	\$ 309.6
Other Employment Costs	90.5
TOTAL -- Division I and Other Employment Costs	\$ 400.1
<u>Division II - Other Costs (18)</u>	38.9
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 49.5
Interest	25.2
TOTAL -- All Other Costs	\$ 113.6
TOTAL -- Charles W. Bush Trainable	\$ 513.7

(95-28-000) Marshallton-McKeanDivision I - Salaries

Chief School Officer (1)	\$ 22.1
Supervisor (1)	14.5
Principals (5)	85.0
Assistant Principals (4)	63.5
Administrative Assistant (1)	17.4
Clerical (16)	121.8
Teachers (173)	1,918.2
Teacher Psychologist (1)	11.9
Teacher - Speech and Hearing (1)	8.6
Teacher - Visiting (.692)	9.0
Teachers - Driver Education (2.2)	25.6
Custodial (35)	267.5
Nurses (4)	39.7
Supervisor of School Lunch (1)	11.5
Cafeteria Workers	19.6
TOTAL -- Division I	\$ 2,635.9

Year Ending June 30, 1979

Other Employment Costs	849.8
TOTAL -- Division I and Other Employment Costs	\$ 3,485.7
<u>Division II - Other Costs</u> (203)	438.5
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 217.0
Interest	76.0
TOTAL -- All Other Costs	\$ 731.5
TOTAL -- Marshallton-Mckean	\$ 4,217.2

(95-29-000) AppoquiniminkDivision I - Salaries

Chief School Officer (1)	\$ 20.9
Supervisor (.873)	11.7
Principals (4)	67.2
Assistant Principals (3)	48.2
Administrative Assistant (1)	18.0
Clerical (12)	93.3
Teachers (131)	1,443.6
Teacher Psychologist (.873)	11.3
Teacher - Speech and Hearing (.9357)	9.1
Teacher - Visiting (.524)	5.7
Teachers - Driver Education (1.2)	13.6
Custodial (24)	183.6
Nurses (3)	28.5
Supervisor of Transportation (.282)	5.0
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	18.1

TOTAL -- Division I	\$ 1,990.1
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Other Employment Costs	503.9
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TOTAL -- Division I and Other Employment Costs	\$ 2,494.0
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<u>Division II - Other Costs</u> (151)	326.2
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All Other Costs

Debt Service	
Principal	\$ 278.2
Interest	191.5

Year Ending June 30, 1979

TOTAL -- All Other Costs	\$ 795.9
TOTAL -- Appoquinimink	\$ 3,289.9

(95-30-000) Conrad AreaDivision I- Salaries

Chief School Officer (1)	\$ 21.8
Director (1)	19.6
Supervisor (1)	14.4
Principals (8)	134.8
Assistant Principals (2)	32.0
Administrative Assistant (1)	17.4
Clerical (21)	158.0
Teachers (244)	2,754.2
Teacher Psychologist (1)	12.7
Teacher - Speech and Hearing (1)	10.8
Teacher - Visiting (1)	12.1
Teachers - Driver Education (2.0)	23.5
Custodial (40)	297.1
Nurses (6)	59.2
Supervisor of Transportation (.20)	2.9
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	42.3

TOTAL -- Division I	\$ 3,625.1
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Other Employment Costs	<u>1,066.5</u>
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TOTAL -- Division I and Other Employment Costs	4,691.6
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<u>Division II - Other Costs (281)</u>	607.0
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All Other Costs

Debt Service	
Principal	\$ 397.3
Interest	<u>78.8</u>

TOTAL -- All Other Costs	\$ 1,083.1
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TOTAL -- Conrad Area	\$ 5,774.7
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(95-31-000) De La WarrDivision I - Salaries

Chief School Officer (1)	\$ 21.5
Supervisor (1)	14.7

Year Ending June 30, 1979

Principals (5)	83.1
Assistant Principals (2)	31.0
Administrative Assistant (1)	17.7
Clerical (13)	99.1
Teachers (142)	1,578.1
Teacher Psychologist (.947)	12.3
Teacher - Speech and Hearing (1)	10.0
Teacher - Visiting (.568)	5.5
Teachers - Driver Education (1.0)	13.9
Custodial (32)	221.4
Nurses (3)	28.2
Supervisor of Transportation (.178)	2.2
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	31.7

TOTAL -- Division I \$ 2,182.7

Other Employment Costs 529.9

TOTAL -- Division I and Other Employment Costs \$ 2,712.6

Division II - Other Costs (172) \$ 371.5

All Other Costs

Debt Service	
Principal	\$ 231.0
Interest	46.1

TOTAL -- All Other Costs \$ 648.6

TOTAL -- De La Warr \$ 3,361.2

(95-32-000) John G. Leach  
(Administered by De La Warr)

Division I - Salaries

Principal (1)	\$ 16.5
Clerical	7.5
Teachers (14)	162.0
Custodial (2)	15.6
Nurse (1)	9.8
Aides and Attendants (14)	76.5

TOTAL -- Division I \$ 287.9

Other Employment Costs 68.2

TOTAL -- Division I and Other Employment Costs \$ 356.1

Year Ending June 30, 1979

<u>Division II - Other Costs</u> (14)	\$ 30.2
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All Other Costs

Debt Service	
Principal	\$ 21.0
Interest	<u>.6</u>

TOTAL -- All Other Costs	\$ 51.8
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TOTAL -- John G. Leach	\$ 407.9
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(95-33-000) StantonDivision I - Salaries

Chief School Officer (1)	\$ 22.8
Director (1)	16.7
Supervisor (1)	15.6
Principals (8)	133.4
Assistant Principals (4)	62.5
Administrative Assistant (1)	17.4
Clerical (20)	151.5
Teachers (220)	2,533.1
Teacher Psychologist (1)	12.7
Teacher - Speech and Hearing (1)	10.8
Teacher - Visiting (.88)	9.4
Teachers - Driver Education (2.2)	27.5
Custodial (49)	366.1
Nurses (5)	48.7
Supervisor of Transportation (.909)	14.6
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>29.0</u>

TOTAL -- Division I	\$ 3,484.1
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Other Employment Costs	<u>1,038.3</u>
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TOTAL -- Division I and Other Employment Costs	\$ 4,522.4
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<u>Division II - Other Costs</u> (254)	\$ 548.6
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All Other Costs

Debt Service	
Principal	\$ 471.2
Interest	<u>143.2</u>

TOTAL -- All Other Costs	\$ 1,163.0
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TOTAL -- Stanton	\$ 5,685.4
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(95-34-000) Meadowood TrainableYear Ending June 30, 1979Division I - Salaries

Principal (1)	\$ 17.4
Clerical (2)	15.0
Teachers (15)	198.1
Custodial (3)	23.2
Nurse (1)	9.7
Aides and Attendants (21)	142.8
Therapist - Physical	12.0
Therapist - Occupational	10.7
Therapist - Speech	<u>13.0</u>

TOTAL -- Division I	\$ 441.9
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Other Employment Costs	<u>116.5</u>
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TOTAL -- Division I and Other Employment Costs	\$ 558.4
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<u>Division II - Other Costs (21)</u>	\$ 45.4
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All Other Costs

Debt Service	
Principal	\$ 10.0
Interest	<u>1.8</u>

TOTAL -- All Other Costs	\$ 57.2
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TOTAL -- Meadowood Trainable	\$ 615.6
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(95-35-000) WoodbridgeDivision I - Salaries

Chief School Officer (1)	\$ 20.6
Supervisor (.633)	8.1
Principals (3)	49.8
Assistant Principal (1)	13.0
Administrative Assistant (1)	17.7
Clerical (9)	70.5
Teachers (95)	1,050.3
Teacher Psychologist (.633)	7.5
Teacher - Speech and Hearing (.679)	6.1
Teacher - Driver Education (1)	10.8
Custodial (15)	116.7
Nurses (2)	19.2
Cafeteria Workers	<u>19.8</u>

TOTAL -- Division I	\$ 1,410.1
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Year Ending June 30, 1979

Other Employment Costs	<u>368.5</u>
TOTAL -- Division I and Other Employment Costs	\$ 1,778.6
<u>Division II - Other Costs</u> (104)	\$ 224.6
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 52.5
Interest	<u>11.3</u>
TOTAL -- All Other Costs	\$ 288.4
TOTAL -- Woodbridge	\$ 2,067.0

(95-36-000) Indian RiverDivision I - Salaries

Chief School Officer (1)	\$ 22.8
Assistant Superintendent (1)	20.3
Directors (2)	38.3
Supervisors (2)	28.6
Principals (10)	167.7
Assistant Principals (4)	61.3
Administrative Assistant (1)	17.4
Clerical (30)	226.0
Teachers (311)	3,482.5
Teacher Psychologists (2)	25.0
Teacher - Speech and Hearing (2)	21.9
Teacher - Visiting (1)	10.8
Teachers - Driver Education (3.8)	42.6
Custodial (46)	355.5
Nurses (7)	68.7
Supervisor of Transportation (.85)	13.3
Supervisor of School Lunch (1)	12.3
Cafeteria Workers	<u>63.2</u>

TOTAL -- Division I \$ 4,678.2

Other Employment Costs 1,271.5

TOTAL -- Division I and Other Employment Costs \$ 5,949.7

Division II - Other Costs (360) \$ 777.6

All Other Costs

Debt Service

Year Ending June 30, 1979

Principal	\$ 209.5
Interest	<u>46.8</u>
TOTAL -- All Other Costs	\$ 1,033.9
TOTAL -- Indian River	\$ 6,983.6

(95-37-000) DelmarDivision I - Salaries

Chief School Officer (1)	\$ 19.3
Principal (1)	16.5
Assistant Principal (1)	15.5
Administrative Assistant (1)	17.4
Clerical (3)	27.6
Teachers (43)	490.8
Teacher - Driver Education (.8)	8.6
Custodial (8)	60.1
Nurse (1)	9.7
Cafeteria Workers	<u>8.1</u>
TOTAL -- Division I	\$ 673.6
Other Employment Costs	<u>164.7</u>

TOTAL -- Division I and Other Employment Costs	\$ 838.3
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<u>Division II - Other Costs</u> (56)	121.0
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All Other Costs

Debt Service	
Principal	\$ 40.8
Interest	<u>28.2</u>
TOTAL -- All Other Costs	\$ 190.0
TOTAL -- Delmar	\$ 1,028.3

(95-38-000) New Castle Vocational-TechnicalDivision I - Salaries

Chief School Officer (1)	\$ 20.9
Supervisor (.76)	9.7
Principal (1)	17.7
Assistant Principals (4)	63.7
Administrative Assistant (1)	18.0
Clerical (11)	86.8

Year Ending June 30, 1979

Teachers (114)	1,390.8
Teacher - Psychologist (.76)	9.4
Teachers - Driver Education (4)	43.7
Custodial (18)	138.2
Nurses (2)	18.0
Cafeteria Workers	<u>9.5</u>
TOTAL -- Division I	\$ 1,826.4
Other Employment Costs	<u>560.9</u>
TOTAL -- Division I and Other Employment Costs	\$ 2,387.3
<u>Division II - Other Costs (217)</u>	468.7
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 582.8
Interest	<u>358.7</u>
TOTAL -- All Other Costs	\$ 1,410.2
TOTAL -- New Castle Vocational-Technical	\$ 3,797.5
<u>(95-39-000) Kent Vocational-Technical</u>	
<u>Division I - Salaries</u>	
Chief School Officer (1)	\$ 19.3
Principals (2)	32.9
Assistant Principal (1)	14.5
Administrative Assistant (1)	17.7
Clerical (5)	41.5
Teachers (55)	651.4
Custodial (17)	125.2
Nurse (1)	9.7
Cafeteria Workers	<u>7.0</u>
TOTAL -- Division I	\$ 919.2
Other Employment Costs	<u>245.4</u>
TOTAL -- Division I and Other Employment Costs	\$ 1,164.6
<u>Division II - Other Costs (123)</u>	341.3
<u>All Other Costs</u>	
Debt Service	

Year Ending June 30, 1979

Principal	\$ 454.1
Interest	<u>372.2</u>
TOTAL -- All Other Costs	\$ 1,167.6
TOTAL -- Kent Vocational-Technical	\$ 2,332.2
<u>(95-40-000) Sussex Vocational-Technical</u>	
<u>Division I - Salaries</u>	
Chief School Officer (1)	\$ 16.7
Principal (1)	17.4
Assistant Principal (1)	15.9
Administrative Assistant (1)	17.4
Clerical (4)	34.1
Teachers (45)	545.0
Custodial (12)	92.6
Nurse (1)	<u>9.7</u>
TOTAL -- Division I	\$ 748.8
Other Employment Costs	<u>182.0</u>
TOTAL -- Division I and Other Employment Costs	\$ 930.8
<u>Division II - Other Costs (125)</u>	270.0
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 229.4
Interest	<u>115.1</u>
TOTAL -- All Other Costs	\$ 614.5
TOTAL -- Sussex Vocational-Technical	\$ 1,545.3
<u>(95-42-000) Wallace Wallin School for</u>	
<u>Trainables</u>	
<u>(Administered by New Castle-Gunning Bedford District)</u>	
<u>Division I - Salaries</u>	
Principal (1)	\$ 15.7
Clerical (1)	7.5
Teachers (14)	112.6
Custodial (2.5)	14.8
Nurse (1)	9.7
Aides and Attendants (10)	<u>57.4</u>

Year Ending June 30, 1979

TOTAL -- Division I	\$ 217.7
Other Employment Costs	<u>57.3</u>
TOTAL -- Division I and Other Employment Costs	\$ 275.0
<u>Division II - Other Costs (14)</u>	30.2
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 20.0
Interest	<u>12.9</u>
TOTAL -- All Other Costs	\$ 63.1
TOTAL -- Wallace Wallin School for Trainables	\$ 338.1
<u>(95-43-000) Howard T. Ennis, Sr. Trainable</u>	
<u>(Administered by Indian River)</u>	
<u>Division I - Salaries</u>	
Principal (2)	\$ 34.3
Clerical (2)	13.7
Teachers (45)	515.9
Custodial (3)	22.6
Nurse (1)	9.7
Aides and Attendants (43)	288.4
Therapists - Physical (2)	19.9
Therapists - Occupational (2)	19.6
Therapists - Speech (2)	<u>24.3</u>
TOTAL -- Division I	\$ 948.4
Other Employment Costs	<u>171.0</u>
TOTAL -- Division I and Other Employment Costs	\$ 1,119.4
<u>Division II - Other Costs (45)</u>	97.2
<u>All Other Costs</u>	
Debt Service	
Principal	\$ 29.0
Interest	<u>20.6</u>
TOTAL -- All Other Costs	\$ 146.8
TOTAL -- Howard T. Ennis, Sr. Trainable	\$ 1,266.2

(95-44-000) Paul M. Hodgson Vocational  
School  
(Administered by Newark District)

Year Ending June 30, 1979

Division I - Salaries

Principal (1)	\$ 17.7
Assistant Principal (2)	32.0
Clerical (6)	43.2
Teachers (62)	698.1
Custodial (16)	118.1
Nurse (1)	<u>7.7</u>

TOTAL -- Division I \$ 916.8

Other Employment Costs 271.6

TOTAL -- Division I and Other Employment Costs \$ 1,188.4

Division II - Other Costs (154) 332.6

All Other Costs

Debt Service	
Principal	\$ 574.4
Interest	<u>647.1</u>

TOTAL -- All Other Costs \$ 1,554.1

TOTAL -- Paul M. Hodgson Vocational School \$ 2,742.5

TOTALS

TOTAL AGENCIES \$271,206.9

TOTAL HIGHER EDUCATION \$ 57,501.1

TOTAL PUBLIC EDUCATION 182,730.3

TOTAL EDUCATION 240,231.4

REDUCTION - HEALTH INSURANCE (741.0)

GRAND TOTAL - AGENCIES AND EDUCATION \$510,697.3

Section 2. All dollar amounts in this Act are stated in thousands of dollars, rounded to the nearest one hundred dollars. For example, the amount \$917,350 would be shown as \$917.4, while \$917,349 would be shown as \$917.3.

Section 3. The monies appropriated in Section 1 of this Act shall be paid by the State Treasurer from the General Fund except as otherwise referenced in Section 1.

Section 4. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Section 5. If any provision of this Act, or of any rule, regulation or order thereunder or the application of such provision to any person or circumstances, shall be 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 thereby.

Section 6. 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, 1979, in excess of or other than the amount set forth in this Act or as may be authorized in supplementary appropriation act enacted by the General Assembly.

Section 7. 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 8. (a) Funds appropriated by Section 1 of this Act must remain within the department or agency to which appropriated and may not be transferred for use by another department.

(b) Funds appropriated by Section 1 of this Act may be transferred within a department or agency of the State, subject to the authority and limitations set forth in Part VI, Title 29, Delaware Code, and the approval by the Controller General (except that approval by the Controller General is not required on transfers

from the Budget Commission); provided however, that no funds may be transferred into appropriations for "Salaries" or "Salaries and Wages" from appropriations for non-salary items. Funds appropriated by Section 1 of this Act for "Contingency Funds" shall not be used for the payment of a line-item salary except as otherwise specifically provided by law and for the sole purpose of maintaining the salary schedule set forth for school employees in Chapter 13, Title 14, Delaware Code.

(c) The Budget Director shall make a monthly report to the Controller General of all transfers of funds and positions as appropriated and authorized in Section 1 of this Act.

(d) The provisions of paragraphs (a) and (b) of this Section are waived with respect to the allocation of Central Data Processing services. Requests for reallocation of the total amount appropriated for "Central Data Processing Services" may be made by the Director of the Division of Central Data Processing, subject to the approval of the Budget Director and the Controller General.

(e) The provisions of paragraph (b) 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 9. The Governor shall submit to all members of the General Assembly an estimate 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 fifteenth day of September, December, March, April, May and June.

Section 10. (a) The Delaware State Clearinghouse Committee for Federal Aid Coordination established by Section 75 of the 1978 Budget Appropriation Act is hereby continued. The Committee shall consist of the Chairman and the Vice-Chairman of the Joint Finance Committee, the Controller General, the State Treasurer, the Personnel Director, the Budget 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 applications 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 11. (a) All departments and agencies receiving funds appropriated by this Act shall file an Annual Report by October 15, following the close of the fiscal year. Such Report shall contain such information and be in such form as prescribed by the State Budget Director.

(b) The Budget Director shall consolidate and edit the reports received from all departments and agencies and shall publish a single Annual Report for the State of Delaware. A copy of such Annual Report for the State shall be provided to the Governor, the Lieutenant Governor, each member of the General Assembly, the Controller General and the Auditor of Accounts, and copies shall be made available to the public.

Section 12. All State-owned motor vehicles shall bear on the rear thereof license plates issued by the Division of Motor Vehicles which carry the notation "STATE OWNED", identifying such vehicles as State-owned vehicles. All State-owned boats shall bear promi-

nent identification on the rear thereof identifying such boats as State-owned boats. The automobile used by the Governor; the surveillance vehicles of the State Police, State Detectives, Alcoholic Beverage Control Commission, Capitol Security and the Controlled Substance Program of the Department of Health and Social Services; and certain special use vehicles operated by the Bureau of Adult Corrections and the Bureau of Juvenile Corrections are exempt from the requirements of this section.

Section 13. 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 current fiscal year or any subsequent fiscal year or any part thereof, during which such contract is effective.

Section 14. (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, Delaware Code, is hereby increased to \$4,200 for such new vehicles purchased during the fiscal year ending June 30, 1979.

(b) All vehicles purchased for State use must be purchased from bid lists approved by the Division of Central purchasing.

(c) The purchase of station wagons and other special purpose vehicles in excess of the \$4,200 limit set forth in subsection (a) of this Section, without the written approval of the Budget Director and the Controller General is prohibited.

(d) The special purpose vehicles of the Department of Public Safety - Division of State Police shall be exempt from the provisions of subsections (a) and (c) of this Section and from the provisions of Section 6902, Chapter 69, Title 29, Delaware Code.

Section 15. (a) Pursuant to Title 29, Chapter 63, Section 6340, Delaware Code, Other Employment Costs, including provisions for F. I. C. A. - Employer's Share, Pensions and Health Insurance, are reflected herein within each department or agency budget for the current fiscal year. These Other Employment Costs may be accounted for and disbursed through accounts within the Office of the State Treasurer.

(b) 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 Subsections (c) and (d) 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 "Other Employment Costs" applicable to salaries and wages paid to employees from such special funds. Other Employment Costs shall include, but shall not be limited to F.I.C.A. - Employer's Share, Pension Costs, and Health Insurance.

(c) 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 current fiscal year 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, shall pay to the Treasurer of the State of Delaware, each quarter of the fiscal year, the "Other Employment Costs" of such employee.

(d) 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 local school districts' Boards of Education after June 30, 1977, shall pay to the Treasurer of the State of Delaware each quarter of the fiscal year, the "Other Employment Costs; for the additional salary expenses from non-state funds, provided, however, that this section shall not apply to increases resulting directly from increases in the State or Federal minimum wage laws.

Section 16. All State agencies, except for the Department of Administrative Services - Division of Facilities Management, are prohibited from renting parking spaces in the underground parking facility at the Wilmington State Office Building. It is the intent of this Section to clearly establish that the State employees are liable for the full cost of commuting to and from work, including the cost of parking, and that the State will not participate in the payment of any of that commuting cost, including parking costs. This Section does not alter the existing policy of reimbursing employees for expenses incurred while traveling on State business.

Section 17. In the event the sums appropriated by Section 1 of this Act are insufficient to meet the obligations of the State for F.I.C.A. - Employer's Share or Pension Costs, such additional funds as may be required to meet such obligations are hereby automatically appropriated and shall be paid by the State Treasurer from the General Fund.

Section 18. Section 1 of this Act appropriated an amount to the State Treasurer 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 the Delaware State Law and deposited in the General Fund are hereby appropriated and shall be paid by the State Treasurer from the General Fund.

Section 19. 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 20. 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, and necessary witnesses to the State of Delaware, such additional sum as may be required for the purpose is hereby appropriated and shall be paid by the State Treasurer from the General Fund.

Section 21. (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, 1979. 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 22. (a) During the fiscal year ending June 30, 1979, the pay grade assigned to each job classification 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, 1979, provided that the funds required for such changes shall be appropriated.

(b) During the fiscal year ending June 30, 1979, 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 23. When establishing salaries and wage rates for State employees who are not covered by the Classified System of Personnel Administration or by the provisions of Chapter 13, Title 14, Delaware Code, each Department or Agency shall establish salaries and wage rates which are comparable to salaries and wages paid from funds appropriated by the State to employees with similar training and experience and who are in similar positions in the Classified System of Personnel Administration. In order to assure such comparability, the Department or Agency shall obtain certification from the State Personnel Director of job specifications and rates in comparable positions before the salaries and wage rates become effective and 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 24. Any personnel employed by a Department or Agency to implement a program funded by the Federal Government, or by State special funds, or any person employed to replace an employee who is transferred to such program, shall be considered a temporary employee during the life of such program. Upon notification that such program is terminated or funds therefore are reduced, the head of the Department or Agency, or his designee, shall forthwith reduce proportionately the expenditure of funds from the matching General Fund of the State appropriated to match such Federal or State special funds until such times as the General Assembly shall approve or disapprove the funding of such program. In the event a person subject to this Section is employed by the State on a permanent basis, he shall be entitled to appropriate credit for past service in such program.

Section 25. Any Department employing classified, temporary and/or seasonal personnel from funds other than those appropriated from the General Fund of the State shall pay to the State officers of Personnel from the Special Funds a prorated share of the expense of the Office of Personnel, as approved by the Budget Director. Such payments shall be used by the State Office of Personnel to supplement the funds appropriated to the Office from the General Fund of the State in Section 1 of this Act.

Section 26. 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 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 salary nor to State police recruits during the period of their training. In the event that an employee shall receive 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. In the event the "All Other" part of the line item salary is made up entirely of federal funds, and such federal funds are terminated or reduced, the State appropriation is hereby increased 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 and further provided that the head of the Department or Agency has determined that such location of the employee is necessary to the operation of the Agency and that the employee has no other employment. No Agency shall provide an employee with a housing allowance or compensation for housing.

Section 27. (a) No monies appropriated in Section 1 of this Act shall be used by a Department or 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 28. (a) The amount appropriated by Section 1 of this Act for salaries includes the estimated amount to give each State employee, other than those excepted by the provisions of subsection (b) of this Section and Section 1 of this Act, a 6.7% salary increase effective July 1, 1978.

(b) The provisions of this Section shall not apply to the Justices of the Supreme Court, the Chancellor and Vice-Chancellor the Court of Chancery, judges of the Family, the Superior, and the Common Pleas Courts, Justices of the Peace, the Public Guardian, Uniformed State Police, employees of the University of Delaware, elected officials of the State, and Deputy Attorneys General.

(c) Notwithstanding any other provision of this Act, in the event the appropriation to any Department or Agency for salaries is excessive or inadequate due to variation in anniversary dates of employment or to variation in proportions of employees at the various steps within the paygrades established for such Department or Agency, the Budget Director, with the approval of the Controller General, is authorized to transfer funds appropriated for salaries among the various Departments in order to effectuate the salary increases authorized by this Act. Such authorizations for transfers shall be in writing and shall be fully documented.

(d) For the fiscal year ending June 30, 1979, the salary increase authorized by this Section shall be in lieu of any salary increases authorized by State law based upon years of experience or years of employment by the State. The Uniform Pay Plan or other statutory pay scale is amended to reflect the salary increase authorized by this Act.

Section 29. 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 the fiscal year ending June 30, 1979, are hereby appropriated to the State Treasurer to be used 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 payment received during the fiscal year.

Section 30. 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 the fiscal

year ending June 30, 1979, are hereby appropriated to the State Employees Retirement Fund. The General Fund appropriation in Section 1 of this Act shall be reduced by the amount of entitlement payments received during the fiscal year.

Section 31. For the fiscal year ending June 30, 1979, the amount encumbered by the Office of Budget from fiscal year 1977 appropriations for Management Improvement Program shall be a continuing appropriation and shall not be subject to reversion until June 30, 1979. The disbursement of these funds are subject to approval by the Budget Director, the Secretary of Finance, and the Controller General. These funds shall be used for improving the State's financial management systems.

Section 32. The amount appropriated in Section 1 of this Act to the Governor's Commission on Criminal Justice for "Planning Grants - State Agencies" provides funds to match grants from the Federal Government. This amount shall not revert on June 30, 1979, but shall continue to be available on a matching basis for the life of each program grant, or for three fiscal years, whichever first occurs. Any unexpended funds appropriated from the General Fund of the State which remain unexpended or unencumbered shall revert to the General Fund of the State.

Section 33. (a) In the event that the gross sales of the State Lottery shall exceed the amount specified in Section 1 of this Act, the operating budget set forth in memorandum form in Section 1 of this Act may be amended by the Secretary of Finance, the Budget Director, and the Controller General; provided that the total operating budget for the fiscal year ending June 30, 1979, shall not exceed 20% of gross sales as limited by Chapter 48, Title 29, Delaware Code.

(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 34. All appropriations authorized by Section 1 of this Act and identified within each agency budget for Central Data Processing services shall be credited by the Secretary of Finance to the Division of Central Data Processing as set forth in memorandum form in Section 1 of this Act. Any program or function of any State department or agency which requires the services of the Division of Central Data Processing, which is funded by Federal funds or other State special funds, must include provisions for the anticipated cost of such services and payment therefor must be made by such department or agency to the Division of Central Data Processing.

Section 35. (a) Section 1 of this Act provides an appropriation to the Division of State Police (45-06-000) - Uniform Division for four hundred (400) uniformed employees as follows: Funding for three hundred seventy-eight (378) uniformed employees for twelve months, and ten (10) uniformed employees for nine (9) months who shall be paid solely from Federal funds until September 30, 1978, and twelve (12) uniformed employees who are scheduled to retire on May 1, 1979. When the twelve (12) uniformed employees retire, the positions shall remain vacant for the remainder of the fiscal year ending June 30, 1979.

(b) Section 1 of this Act provides an appropriation to the Division of State Police (45-06-000) - Salaries and Wages of Employees for one hundred and thirty-six (136) employees which represents an increase of seven (7) employees over the number authorized in the 1978 Budget Appropriation Act. The additional seven (7) employees shall relieve seven (7) uniformed employees for appropriate assignment.

(c) In addition to the one hundred and thirty-six (136) employees authorized in Section 1 of this Act to the Division of State Police (45-06-000) - Salaries and Wages of Employees, the Division of State Police are authorized five (5) employees who shall be paid solely from Federal Funds. In the event that Federal Funds for these positions are no longer available, the positions will be authorized and such additional sum as may be required is hereby appropriated and shall be paid from the General Fund. The five (5) employees shall relieve five (5) uniformed employees for appropriate assignment. The Budget Director shall inform the Delaware State Clearinghouse Committee if and when the source of funding changes and the positions are transferred.

Section 36. Section 1 of this Act provides a memorandum budget for the Delaware Transportation Authority which authorized the use of certain Turnpike funds for the Department of Transportation as follows:

(a) The line item appropriation to the Department of Transportation, Division of Highways, for "operations" shall be funded in the amount of \$1,725,000 from the Delaware Transportation Authority in addition to \$2,325,000 appropriated from the General Fund.

(b) The total appropriation to the Department of Transportation, Office of the Secretary, shall be funded in the amount of \$75,000 from the Delaware Transportation Authority in addition to \$99,000 appropriated from the General Fund.

Section 37. (a) The amount appropriated by Section 1 of this Act to the Department of Health and Social Services for "Title XIX Federal Programs - Other Than State Institutions" shall be expended solely in accordance with the following conditions and limitations:

(i) 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;

(ii) 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.

(b) There is hereby appropriated to the Department of Health and Social Services an amount sufficient to pay 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:

(i) 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;

(ii) 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 purpose of this Section.

(iii) 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 38. Funds appropriated in Section 1 of this Act to the Department of Health and Social Services, Division of Public Welfare, for "Emergency and Disaster Assistance" and used for special emergency needs of any welfare-receiving household (all clients, regardless of category, living in a single residential

unit and using the same kitchen facilities) shall not exceed a total of \$150 for any one such household in the fiscal year ending June 30, 1979.

Section 39. 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 40. For the purpose of matching any appropriation made for such educational acts as have been or may be passed by the Congress of the United States, the State Board of Education and the State Board for Vocational Education are hereby directed and empowered to prescribe to each of the local School Boards of Education and to the Boards of Trustees of the 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 41. (a) In the event that any school district shall have more certified units of pupils based on the actual enrollment for September 30, 1978, 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, 1978, 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, 1978, 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, 1978, 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, 1978.

(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, except for \$65,000 for the Kent County Vocational-Technical School District and \$63,000 for the Sussex Vocational-Technical School District which may be used for a 22-day approved summer program for students. 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 42. The State Board of Education and the State Board for Vocational Education shall employ no persons except 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, 1978, except in the event such employee is reduced in classification or in months employed.

Section 43. (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 emotional 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 catchall 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) The total amount of \$750,000 appropriated for substitute teachers shall be allocated to the several school districts in amounts not to exceed each school district's proportion of Division 1 units to the total number of Division 1 units in the State as of September 30, 1978. Any funds not used for the purpose herein referred to by the school district shall be transferred between school districts.

(h) 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.

(1) 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.

Section 44. (a) The sums appropriated in Section 1 of this Act to the various schools as "Division II - Other Costs" shall be used for all school costs except salaries, debt service, and transportation of pupils to and from their regular sessions of school. 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, notwithstanding any laws of the State to the contrary.

(b) Section 1 of this Act provides an appropriation to Services to School Districts and Others (95-01-002) for School Pupil Transportation. Of this appropriation, \$1,848,000 shall be allocated for Nonpublic School Transportation.

(c) Transportation funds for public school districts shall be allocated according to bus contract or district transportation formula approved by the State Board of Education and shall not exceed \$10,050,900. Funds remaining in public school district transportation lines after January 1, 1979, which have not been committed or approved by the State Board of Education, 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 from the State General Fund for the purpose of transportation of said special school students. 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 45. The funds appropriated in Section 1 of this Act to the Department of Public Instruction - Services to School Districts and Others - Contractual Services - James H. Groves High School, shall be allocated by the Department of Public Instruction to the participating school districts in amounts equal to each participating school districts proportion of eligible students to the total number of eligible students as of October 31, 1978, and February 28, 1979.

Section 46. 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 47. (a) If, at any time during the fiscal year ending June 30, 1979, but prior to June 15, 1979, 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 officer 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, 1979, but prior to June 15, 1979, 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, 1979.

Section 48. 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, and the principal

and interest of any revenue anticipation notes issued in the prior fiscal year and including their cost of issuance.

Section 49. For the fiscal year ending June 30, 1979, the 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 50. The total appropriation in Section 1 of this Act to Central Data Processing for fiscal year 1979, 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 1979 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 1979 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 51. The appropriation to Division of State Police (45-06-000) 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 52. 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, 1979.

Section 53. The amount appropriated to the Budget Office entitled, Contingency-Prior Year's Obligations - \$10,000, shall be used to pay debts of minor amounts. Rules and procedures to implement this section will be established by the Budget Director.

Section 54. Three hundred thousand dollars (\$300,000) is hereby advanced from the General Fund of the State to the Division of Maintenance and Communications (30-05-000) in order that telephone charges can be paid on a reasonable timely basis.

Section 55. All monies received by the Division of Highways (55-05-000) during the fiscal year as reimbursement for motor fuels supplied to other Departments and Agencies shall be credited to the proper General Fund appropriation account as an expenditure-reducing item regardless of the year in which the motor fuels were supplied. All billings shall be at State purchase price only.

Section 56. Section 1 of this Act provides appropriations to the Office of the Controller General (01-08-002) for Salaries - Casual and Seasonal for Standing Legislative Committees and Personal Services. 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 appropriations and as provided by guidelines established by the Legislative Council.

Section 57. Fifty thousand dollars (\$50,000) is hereby advanced from the General Fund of the State to the Division of Maintenance and Communications (30-05-000), in order that postage charges can be paid on a reasonable timely basis.

Section 58. 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 1979 to the Lieutenant Governor.

Section 59. Section 1 of this Act provides an appropriation for Youth Conservation Program to (40-06-000) 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 60. 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 61. During the fiscal year ending June 30, 1979, 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 62. During the fiscal year ending June 30, 1979, 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 63. Section 1 of this Act provides an appropriation to Educational Contingency (95-01-003) for General Contingency. Of this appropriation \$40,000 shall be allocated immediately for the continuation of the services of the Parent Early Education Center at the Casimir Pulaski Elementary School.

Section 64. (a) The State Board of Education shall revise the salary schedules contained in Subsections 1305, 1310, 1322, and 1324, Chapter 13, Title 14, Delaware Code, as increased by Section 40 (a) (2) and (3) of Chapter 116, Volume 61, Laws of Delaware, and as amended by this Act.

(b) Salary schedules prepared in the fulfillment of this Section and Act for Chapter 13, Title 14, Delaware Code, shall be published and promulgated by the State Board of Education, and shall be referred to the Legislative Council of the State of Delaware and the Code Revisors for inclusion in the legal publications of the State of Delaware.

Section 65. Section 1 of this Act provides appropriations for Salaries and Wages of Employees covering authorized positions in: (02-00-000) Judicial; (15001-000) Department of Justice; (15-02-000) Public Defender; (35-00-000) Department of Health and Social Services; and (90-04-000) Delaware Technical and Community College. For the fiscal year ending June 30, 1979, the authorized positions in the above mentioned State Agencies/Departments shall not be subject to a "personnel freeze" or other restrictions which would act to unreasonably delay the filling of vacant positions.

Section 66. Section 1 of this Act provides appropriations for Salaries and Wages of Employees in a number of State agencies for certain positions in fiscal year 1979 which positions were funded with Federal Funds during the fiscal year ending June 30, 1978. The Office of State Personnel and the Office of the Budget shall assure that no position funded by General Fund appropriations in Section 1 of this Act is used to replace a position funded by Federal Funds in fiscal year 1979. Unless approved by the Controller General, the General Fund appropriations for such positions identified by the Office of State Personnel and the Office of the Budget shall promptly revert to the General Fund, including appropriate Other Employment Costs.

Section 67. Section 1 of this Act provides an appropriation for Personal Services in Public Guardian (02-03-002) for the fiscal year ending June 30, 1979. None of this appropriation shall be used for the payment of legal services.

Section 68. Amend Section 9003, Chapter 90, Title 11, Delaware Code, by striking the last sentence in its entirety as it appears in Section 9003 and substitute in lieu thereof the following sentence:

"The compensation of the Chairman shall be \$5,000 annually; and the compensation of the members shall be \$4,000 annually."

Section 69. For the fiscal year ending June 30, 1978, \$50,000 was authorized for the support of the Intergovernmental Task Force. Any funds unspent or unencumbered shall continue in fiscal year 1979 for the support of the Intergovernmental Task Force and shall not be subject to reversion until June 30, 1979. The disbursement of these funds are subject to approval of the Governor, or at his direction.

Section 70. Section 1 of this Act provides for an appropriation to the Office of State Personnel (10-04-000) for the purpose of making salary payments to Board Members of the State Personnel Commission. For the fiscal year ending June 30, 1979, such salary payments to Board Members shall be at the rate of \$50 per meeting.

Section 71. Section 2506, Chapter 25, Title 29, Delaware Code, is amended by striking subsections (b) - (h) in their entirety and substituting in lieu thereof a new subsection (b) to read as follows:

"(b) The salaries of all attorneys employed by the Attorney General in the Department of Justice shall be fixed by the Attorney General within the appropriations made to the Department of Justice pursuant to a salary plan established by the Attorney General."

Section 72. Section 1 of this Act provides an appropriation as well as deputy attorney positions to the Department of Justice for the year ending June 30, 1979. In addition to those duties and responsibilities as may be assigned by the Attorney General, the Attorney General shall provide services as follows:

- (a) The assignment of two full-time deputy attorneys to the Family Court;
- (b) The assignment of one full-time deputy attorney to the Office of Consumer Affairs; and
- (c) The assignment of one full-time deputy attorney to the Office of the Secretary, Department of Health and Social Services. It is the intent of this authorization that the Deputy Attorney General will be employed on a full time basis with respect to Welfare Fraud Investigations and prosecutions.

Section 73. The Department of Administrative Services will be responsible for developing standards for office furniture and equipment for the Delaware State Office Building. These standards will establish specific classes of furniture and equipment for a given job classification and/or function and will be such as to allow the use of said furniture and equipment anywhere within the facility. Any State agency vacating or who will vacate space in the Delaware State Office Building, shall consult with the Department of Administrative Services and receive their approval prior to the vacating or removal of any office furniture and equipment.

Section 74. Agencies who are recipients of Federal Funds in support of programs or services and who occupy space in a State owned facility, in order that they may perform the program or necessary

services, shall allocate their proper share of these Federal Funds for rent of such space. The agencies shall consult with the Department of Administrative Services and the Department of Finance with regard to the appropriateness of the rental fee and shall remit such rental fee to the State Treasurer for deposit in the General Fund. In the event an agency fails to comply with the provisions of this Section, the agency shall submit a letter of explanation of the failure to act to the Delaware State Clearinghouse Committee for consideration at the time of the agency's future application for Federal Funds.

Section 75. Seventeen (17) of the positions allocated to the Office of Secretary, Department of Health and Social Services, shall comprise the Special Investigations Unit-Welfare and shall be allocated as follows: Administrative Services Officer III, 1, Auditor I, 2; Auditor II, 7; Fiscal Administration Officer, 4; and Clerk Typist III, 3. The employees of this Unit shall be assigned exclusively to investigations and re-determinations of AFDC cases and shall have no other duties except incidental investigations of General Assistance cases. Vacancies in these positions shall be filled as soon as qualified applicants are available and no freeze or other delay shall be permitted. The administrative Services Officer of this Unit shall report all AFCD and General Assistance cases in which evidence is found indicating probable fraud directly to the Attorney General or his designee without veto by any other State employee or officer. The administrative Services Officer of this Unit shall submit a quarterly report of all activities of the Unit by the fifteenth of the succeeding month to the Legislative Council and to the Chairman of the House and Senate Committees on Health and Social Services.

Section 76. Of the total amount appropriated to Personal Services in Section 1 of this Act to Community Health (35-05-002), Division of Public Health, \$20,000 is appropriated for the purpose of providing school nursing services to non-public schools in New Castle County.

Section 77. For the fiscal year ending June 30, 1979, the total number of General Funded positions for Community Health (35-05-002) in Section 1 of this Act, includes two (2) Sanitarian I's. It is the intent of this authorization that these positions will supplement existing environmental health personnel with the specific assignment being the sanitary inspection of public eating places.

Section 78. Of the total amount appropriated in Section 1 of this Act to Public Welfare (35-07-002) for Child Foster Care, \$100,000 has been authorized for the purpose of providing diagnostic services and family counseling for neglected, dependent and abused children.

Section 79. The appropriation for Child Foster Care in Section 1 of this Act to Public Welfare (35-07-002), Division of Social Services, provides for a ten percent (10%) increase in allowance

for private placements, and twenty percent (20%) increase in allowance for placements in institutions. The percentage increase authorized for fiscal year ending June 30, 1979, shall be applicable to the allowances in effect on June 30, 1978.

Section 80. Section 1 of this Act provides line item appropriation to Public Welfare (35-07-002), Division of Social Services, for Statewide Child Protective Services. The Secretary of the Department of Health and Social Services is authorized to expend these additional monies to strengthen and expand the program for Statewide Child Protective Services. The Secretary is further authorized to hire additional staff within the limits of the appropriation for this program. The Secretary shall submit a report on a quarterly basis to the Controller General regarding the program status and achievements.

Section 81. Section 1 of this Act provides for an appropriation of \$150,000 to the Division of Mental Retardation (35-11-000) for Long-Term and Respite Care for the Mentally Retarded subject to the following:

(a) Of the \$150,000 appropriation, \$100,000 is to be used for the purpose of purchasing long-term residential care and/or training for mentally retarded and multiply-handicapped Delawareans whose needs cannot be adequately met in facilities operated by this State. These services shall be purchased at facilities which in the judgement of the Division of Mental Retardation, best suit the needs of the individual handicapped person wherever such facilities may be located.

(b) Of the \$150,000 appropriation, \$50,000 is to be used for the purpose of purchasing short-term (respite) care for mentally retarded and multiply-handicapped Delawareans whose families keep them at home. The purpose of this respite care program is to provide care during family emergencies or to offer relief from the extraordinary demands their families face, since there is not enough capacity in State facilities which, in the judgment of the Division of Mental Retardation, best suit the needs of the individual handicapped person, wherever such facilities may be located.

(c) The Division of Mental Retardation's responsibility to collect payment for services for care and treatment as mandated by Sections 7940 and 7941, Title 29, Delaware Code, is extended so as to include the expenditure of money for purchase of long-term care and respite care by the Department of Health and Social Services at non-State institutions.

Section 82. Section 1 of this Act provides for an appropriation of \$5,000 to the Division of Emergency Planning and Operations

(45-08-000) for the purpose of providing radiation monitoring. It is the intent of the appropriation for this service to Delawareans that the Division of Emergency Planning and Operations (45-08-000), Division of Public Health (35-05-000), and Division of Environmental Control (40-08-000), shall coordinate in providing this radiation monitoring service.

Section 83. Of the appropriation for Supplies and Materials in Section 1 of this Act for the Office of Secretary (50-01-000), Department of Community Affairs and Economic Development, \$3,000 is appropriated for the purpose of purchasing State flags and related items.

Section 84. Section 1 of this Act provides for an appropriation to the Division of Highways (55-05-000), for "Operations". This appropriation shall include sufficient funds to accomplish the following:

- (a) Advance traffic warning signal over Elsmere Viaduct Rt. 2 traveling west; and
- (b) Rt. 100 and Rt. 2 in Elsmere (DuPont Road) Southern approach, overhead traffic direction signs: left turn, right turn, straight.

Section 85. (a) For the fiscal year ending June 30, 1978, \$100,000 of certain Delaware Transportation Authority funds was authorized for the support of Taxi Services. Any funds unspent or unencumbered as of June 30, 1978, shall continue to be available for use in support of Taxi Services program during the fiscal year ending June 30, 1979.

(b) The Delaware Transportation Authority budget set forth in memorandum form in Section 1 of this Act, provides \$100,000 for "Taxi Service Support". It is the intent that these funds will be used to continue and expand the experimental service initiated in fiscal year 1978. The services should be demand responsive and should be designed to serve the areas of most concentrated transportation dependent senior citizens throughout the State utilizing established private taxi systems. In those areas, arrangements will be made to transport handicapped individuals. It is intended that management and direction of these services shall reside with the Delaware Transportation Authority and shall not be delegated to either DART or DAST.

Section 86. The memorandum budget for the Delaware Transportation Authority (55-06-000), in Section 1 of this Act authorizes \$136,100 for "Rail Commuter Subsidy". Any expenditure of funds under this authorization is subject to the commitment and expenditure of matching subsidies from appropriate local governments.

Section 87. The Delaware Transportation Authority budget in memorandum form in Section 1 of this Act authorizes an expenditure for the Wilmington Station. Further, these monies will be used to match Federal Funds for the purpose of renovating the Wilmington Station in the City of Wilmington as well as construction of a public parking area contiguous to the Wilmington Station. It is the intent of this authorization that planning, design, engineering and construction of the parking area shall be subject to Chapter 69, Title 29, Delaware Code. The contracting of the Management of the parking area as a service to the public shall be subject to bidding laws as prescribed in Chapter 69, Title 29, Delaware Code.

Section 88. Of the appropriation for Salaries and Wages of Employees in Section 1 of this Act to State Geologist (90-01-002), \$20,000 is appropriated for the purpose of upgrading the salaries of the professional staff employees.

Section 89. The total amount appropriated for Adult Basic Education in Services to School Districts and Others (95-01-002) 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, 1978, and February 28, 1979.

Section 90. Section 1 of this Act provides an appropriation to Delaware Technical and Community College, Stanton Campus (90-04-005), for Supplies and Materials. Of this appropriation, \$4,000 is provided to cover the cost of erecting a sign denoting Delaware Technical and Community College, Stanton Campus.

Section 91. Section 1 of this Act provides an appropriation to the Division of Alcohol Beverage Control Commission (30-03-000), for Supplies and Materials. Of this appropriation, \$200 is provided for the purpose of obtaining identification cards for inspectors.

Section 92. Section 1 of this Act makes no appropriation for, nor authorization of, the position of Personnel Manager in the Administrative Office of the Courts (02-17-001), for the fiscal year ending June 30, 1979.

Section 93. (a) From the total authorization in Section 1 of this Act for Personal Services in Division of Public Utilities Control (30-11-000), the Budget Director shall transfer \$50,000 from Personal Services to the Office of Public Advocate for "Personal Services - Any Intervenor".

(b) Subsection (a) of this Section authorized \$50,000 in the Office of Public Advocate for "Personal Services - Any Intervenor".

It is the intent of this authorization that the Public Advocate may engage the services of anyone for the purpose of intervening in any matter or proceeding before the Public Service Commission or in a court of law, relating to adjustments in utility rates.

Section 94. The Division of Public Utilities Control (30-11-000), was authorized in fiscal year 1978 to engage an outside consultant for the purpose of conducting a management audit on a certain public utility. The Division was further authorized to expend \$120,000 in fiscal year 1978 to initiate this audit. Section 1 of this Act provides an appropriation of \$120,000 to the Division of Public Utilities Control (30-11-000), under Personal Services for the purpose of continuing this audit in fiscal year 1979.

Section 95. Section 1 of this Act provides an appropriation to the Division of Highways (55-05-000), for "Operations". Of this appropriation, \$250,000 is provided for the purpose of pavement marking.

Section 96. Amend section (d) of Section 5527, Chapter 55, Title 29, Delaware Code, by striking the second paragraph in its entirety as it appears in Section 5527, and substitute in lieu thereof a new paragraph to read as follows:

"Notwithstanding any provisions of this Chapter to the contrary, elected officials and former Delaware elected officials who served for a minimum of five (5) years, which years were served before June 1970, or were served partly before June 1970, and shall be eligible to receive pension awards paid entirely from "Special Pension Fund" established herein, according to the terms and conditions of Chapter 55, Title 29, Delaware Code, and all regulations promulgated thereunder. A special pension fund is hereby established and shall be known as the "Special Pension Fund". Monies appropriated shall be deposited into this Fund and the Board of Pension Trustees shall have exclusive responsibility for the administration of the Special Trust Fund in the same manner and pursuant to the statutes and regulations as set forth in Section 8308, Chapter 83, Title 29, Delaware Code. The Board is hereby authorized to commingle the assets of the Special Pension Fund with the assets of the State Employees' Pension Fund for investment purposes only and shall maintain separate books and accounts for the Special Pension Fund and shall allocate all income and expenses on a proportionate basis between the two Funds. If and when there are no special pension payments payable, and there are no special pension liabilities due and there exist unexpended funds in the Special Pension Fund, such funds shall revert to the General Fund of the State of Delaware. An amount sufficient to fully fund the pension awards granted the elected officials and former Delaware elected officials who are eligible for benefits under this Chapter is hereby appropriated from General Fund monies not otherwise appropriated. The State Treasurer is hereby directed to deposit said amount in the Special Pension Fund as each such special pension award becomes payable."

Section 97. (a) Each school district shall continue to use salary schedules not less than those in Section 1322, Title 14, Delaware Code, for all cafeteria employees.

(b) Section 28 of this Act stipulates that each State employee, other than those excepted in said Section, will receive a 6.7% salary increase effective July 1, 1978, and further provides that appropriate pay schedules will be amended to reflect this salary increase. The aforementioned salary increase of 6.7% is applicable to cafeteria employees effective July 1, 1978.

(c) Effective July 1, 1978, the State shall pay 10% of the salary rate for Cafeteria Managers as set forth in the salary schedule in Section 1322, Title 14, Delaware Code. The remaining 90% of the salary rate for Cafeteria Managers shall be paid from local funds. Section 1 of this Act provides an appropriation under Educational Contingency (95-01-003) for the purpose of making the 10% salary payment. The Department of Public Instruction is authorized to make the appropriate allocation to each school district eligible to receive such entitlement under Title 14 of the Delaware Code.

(d) Section 15 of this Act to the contrary notwithstanding, for the fiscal year ending June 30, 1979, each school district employing cafeteria employees shall transfer or pay, at least quarterly, to the Treasurer of the State of Delaware appropriate sums from local funds to cover total Other Employment Costs on cafeteria employees.

(e) No provision in this Act shall be construed as affecting the eligibility of cafeteria employees as an employee under Section 5501, Title 29, Delaware Code.

Section 98. Section 1 of this Act provides appropriations for Salaries and Wages of Employees to Delaware Technical and Community College (90-04-000). Subsection (a) of this Section lists positions which have been included in the number of authorized General Fund positions for the respective budgets for fiscal year 1979. Subsection (b) of this Section lists those positions which have been deleted from the General Fund authorization for fiscal year 1979 for the listed respective budgets.

(a)

POSITIONS ADDED

<u>Accounting Code</u>	<u>Agency/Title of Position</u>	<u>No. of Positions</u>
90-04-001	Administration	
	Technical Writer	1
	Coordinator of Alumni Affairs	1
	Administrative Assistant for Records Management	1
	Clerk Typist	1

(a)

POSITIONS ADDED

<u>Accounting Code</u>	<u>Agency/Title of Position</u>	<u>No. of Positions</u>
90-04-002	Southern Campus Coordinator - Industrial Training	1
90-04-004	Wilmington Campus Instructor	2
	Coordinator - Grants and Proposals	1
	Security Officer	1
90-04-005	Stanton Campus Instructor	7
	Lab Technician	1
	Secretary	1
	Counselor	1
90-04-006	Terry Campus Instructor	2
	Photographer	1
	Maintenance Supervisor	1
	Custodian	1

(b)

POSITIONS DELETED

<u>Accounting Code</u>	<u>Agency/Title of Position</u>	<u>No. of Positions</u>
90-04-001	Administration Maintenance Supervisor	1
	Photographer	1
	Custodian	1

Section 99. Section 1 of this Act authorizes three (3) Correctional Officers for the Women's Correctional Institution (38-08-005), in order that one of the two cottages (Driftwood or Maple) at the Women's Correctional Institution may be used to relieve overcrowding and permit increased programming and treatment.

Section 100. The sum of \$35,000 appropriated to Legislative Council (01-08-001) shall be expended solely in accordance with the following conditions and limitations:

(a) Staff employed under the provisions of this Section shall be nominated and recommended by the standing committees of each House and approved by Legislative Council.

(b) The primary duties of staff hired under the provisions of this Section shall be to serve the standing committees of each House to conduct research and clerical functions for standing committees.

(c) Staff shall be answerable to the Director of Research of Legislative Council or his designee.

(d) Staff shall include three secretaries and three professionals and shall be hired on a strictly non-partisan basis. The exact job descriptions shall be developed by the Director of Research of Legislative Council.

(e) This program is to become operational at the inception of the 130th General Assembly.

Section 101. With respect to the S.E.R.V.E. Nutrition Program in operation at certain senior centers, cash receipts shall be deposited on a daily basis. At the time of pick up of daily cash by the delivery person, the cash shall be counted in the presence of the site manager by the delivery person, and a receipt indicating the amount shall be signed in duplicate by the delivery person and the site manager. The original copy of the receipt shall be retained by the site manager.

Section 102. (a) Amend Chapter 13, Title 14, Delaware Code, by striking Section 1308 in its entirety as it appears in said Chapter 13 and substituting in lieu thereof a new section as follows:

"Section 1308. Salary schedules for administrative secretaries, financial secretaries, senior secretaries, secretaries, and clerks.

(a) Each administrative secretary, financial secretary, senior secretary, secretary and clerk having the qualifications required by the State Board of Education and who works and is paid for twelve months per year shall be paid in accordance with the following schedule:

<u>Yrs. of Exp.</u>	<u>Clerk</u>	<u>Secretary</u>	<u>Senior Secretary</u>	<u>Financial Secretary</u>	<u>Administrative Secretary</u>
0	\$5,504	\$6,283	\$6,724	\$6,996	\$ 7,394
1	5,793	6,572	7,013	7,284	7,682
2	6,081	6,861	7,303	7,573	7,970
3	6,369	7,149	7,592	7,861	8,259
4	6,657	7,437	7,880	8,149	8,547
5	6,945	7,725	8,168	8,437	8,836
6	7,233	8,013	8,456	8,725	9,123
7	7,521	8,301	8,744	9,013	9,412
8	7,809	8,589	9,032	9,301	9,700
9	8,097	8,877	9,320	9,589	9,988
10					10,277

(b) For purposes of implementing the salary schedule, for the position of Clerk, the years of experience line of 6 years shall become effective July 1, 1979; the years of experience line of 7 years shall become effective July 1, 1980; the years of experience line of 8 years shall become effective July 1, 1981; and the years of experience line of 9 years shall become effective July 1, 1982. For position of Secretary, Senior Secretary and Financial Secretary, the years of experience line of 7 years shall become effective July 1, 1979; the years of experience line of 8 years shall become effective July 1, 1980; and the years of experience line of 9 years shall become effective July 1, 1981.

(c) One-twelfth of the salary rate set forth under subsection (a) of this section shall be deducted for each month that the employee is not employed.

(d) These same classifications and pay rates shall apply to the State Board of Education and the State Board of Vocational Education, except that the Board shall be authorized to revise the schedule annually to enable the Board to pay salary supplements up to the equivalent of the average of the 3 highest salaries for like positions paid by school districts.

(e) At least 25% of the positions provided in each school district with pay rates set forth in this section shall be classified as "Clerks" as nearly as is mathematically possible.

(f) During the fiscal year beginning July 1, 1972, a reorganized school district may employ personnel to be paid pursuant to this section in a number equal to 1 of each full 10 state units of pupils for the first 100 such full state units of pupils and 1 additional for each additional full 12 state units of pupils."

(b) The provisions of Section 28 of this Act notwithstanding the salary schedule set forth in subsection (a) of this Section reflects a 6.7% salary increase effective July 1, 1978.

Section 103. Amend Section 1309, Chapter 13, Title 14, Delaware Code, by striking subsection (b) in its entirety as it appears in said Section 1309 and substituting in lieu thereof a new subsection (b) as follows:

"(b) An administrative secretary, financial secretary, senior secretary, secretary, or clerk shall receive as a salary the amount for which she qualifies under Section 1308 (a) of this Chapter, plus an annual amount for additional training as defined by the State Board of Education as follows:

Bachelor's Degree	\$541
Certified Secretary Degree	407
Senior Secretary Certificate	207"

CHAPTER 410

FORMERLY SENATE BILL NO. 426

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DIVISION OF CONSUMER AFFAIRS OF THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT, FOR THE PURPOSE OF PAYING THE SALARY OF THE BOARD MEMBERS.

WHEREAS, inadvertently the Consumer Affairs Board was omitted from the fiscal 1978 Budget Act; and

WHEREAS, the provisions of Title 29, Section 8613 (a)(4) provide that the Chairman shall be paid a salary of \$1,500 annually and the other two Board members shall receive \$1,000 each; and

WHEREAS, the members of the Board have not been paid because there is no money in the Budget Act to pay them.

NOW, THEREFORE:

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

Section 1. The sum of \$3,500 is hereby appropriated to the Division of Consumer Affairs, Department of Community Affairs and Economic Development for the purpose of paying the salary of the Consumer Affairs Board.

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.

Became law without signature July 1, 1978.

## CHAPTER 411

FORMERLY SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 535  
AS AMENDED BY  
SENATE AMENDMENT NOS. 1 & 2  
AND  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 65, TITLE 29, DELAWARE CODE, TO PROVIDE A LIMITATION ON APPROPRIATIONS BY THE GENERAL ASSEMBLY.

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

Section 1. Amend Chapter 65, Title 29, Delaware Code, by adding thereto a new section to read as follows:

"§6532. Limitation on appropriations

(a) No appropriation, supplemental appropriation, or budget act shall cause the aggregate State General Fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State General Fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year. An Act approved pursuant to the provisions of Article VIII, Section 3 of the Delaware Constitution of 1897 shall not be considered an appropriation for the purpose of this section. Estimated unencumbered funds are calculated by taking the estimated General Fund cash balance at the end of the fiscal year less estimated revenue anticipation bonds or notes, estimated encumbrances, estimated continuing appropriations and the amount of the Budget Reserve Fund as established in subsection (c) of this section at the end of said fiscal year. The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent joint resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor.

(b) Notwithstanding subsection (a) of this section, any portion of the amount between 98 and 100 percent of the estimated State General Fund revenue for any fiscal year as estimated in accordance with subsection (a) of this section may be appropriated in any given fiscal year in the event of emergencies involving the health, safety, or welfare of the citizens of the State of Delaware, such appropriations to be approved by three-fifths of the members elected to each House of the General Assembly.

(c) There is hereby established a Budget Reserve Account within the General Fund. Within forty-five (45) days after the end of any fiscal year, the excess of any unencumbered funds remaining from the said fiscal year shall be paid by the Secretary of Finance into

the Budget Reserve Account; provided, however, that no such payment will be made which would increase the total of the Budget Reserve Account to more than five percent (5%) of only the estimated State General Fund revenues as set by the provisions of subsection (a) of this section. The excess of any unencumbered funds shall be determined by subtracting from the actual unencumbered funds at the end of any fiscal year an amount which together with the latest estimated General Fund revenues is necessary to fund the ensuing fiscal year's General Fund budget including the required estimated supplemental and automatic appropriation for said ensuing fiscal year less estimated reversions. The General Assembly by three-fifths vote of the members elected to each House may appropriate from the Budget Reserve Account such additional sums as may be necessary to fund any unanticipated deficit in any given fiscal year or to provide funds required as a result of any revenue reduction enacted by the General Assembly.

(d) For purposes of calculating the estimated cash balance as of June 30, 1978, the carry-over deficit from the fiscal year ending June 30, 1977, shall be assumed to be zero."

Section 2. If any provisions of this Act, or of any rule, regulation or order thereunder or the application of such provision to any person or circumstance, shall be invalid, the remainder of this Act and the application of such provisions of this Act or of such rule, regulations or order to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Approved July 1, 1978.

## CHAPTER 412

## FORMERLY HOUSE BILL NO. 1139

## 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 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>Organization/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	\$ 27,900 172,100
(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	25,000
(35-01-000)	<u>Dept. of Health &amp; Social Services - Secretary</u> Adolescent Program	250,000
(35-06-008)	<u>Div. of Mental Health - Bureau of Substance Abuse</u> Crittenton Home - Education Program 1212 Program Limen House	10,000 10,000 10,000
(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 50,000

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(35-14-000)	<u>Division of Aging</u>	
	<u>Senior Centers</u>	
	Absolom Jones Senior Center	\$ 31,300
	Bi-County Adult Center	27,750
	Brandywine Senior Center	27,000
	Canby Park - Fraim Senior Center	64,150
	Cape Henlopen Social Center	22,500
	Church of Our Savior Senior Center	30,000
	Eastside Senior Center	32,000
	Elsmere Senior Center	30,000
	Frederica Senior Center	8,000
	Harrington Senior Center	8,450
	Howard Weston Senior Center	30,000
	Jimmy Jenkins Senior Center	25,800
	Julia Tallman Golden Age Center	30,000
	Laurel Senior Center	29,800
	Mid-County Senior Center	30,000
	M.O.T. Senior Center	30,000
	Modern Maturity Center	60,900
	Nanticoke Senior Center	22,000
	Newark Senior Center	43,500
	St. Anthony's Community Center	43,800
	St. Hedwig's Senior Center	57,400
	St. Patrick's Senior Center	31,800
	St. Peter's Adult Center	39,650
	St. Thomas Senior Center	43,000
	Smyrna - Clayton Senior Center	8,000
	West Center City Senior Activity Center	33,400
	Wilmington Senior Center	89,428
	<u>Miscellaneous</u>	
	Church of Our Savior Senior Center - Bus	15,000
	Community Legal Aid	27,025
	Georgetown CHEER Project	60,000
	Howard Weston Senior Center - Bus	15,000
	Recreational Oppor. for Nursing Home Resid.	12,220
	St. Hedwig's Senior Center - Bus	15,000
	St. Peter's Adult Center - Bus	10,000
	St. Thomas Senior Center - Bus	15,000
	South Wilmington Recreational Program	12,500
	Sussex County Home Services	10,000
(40-05-002)	<u>Div. of Fish and Wildlife - Wildlife</u>	
	Delaware S.P.C.A.	112,800
	Kent County Dog Control	18,000
(40-06-001)	<u>Div. of Parks and Recreation - Management &amp; Support</u>	
	Recreation Funds Local Government	226,000
(50-01-003)	<u>Office of Secretary - Economic Opportunity</u>	
	Opportunities Industrialization Center	192,000

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(50-08-001)	<u>Div. of Economic Development - Industrial Development, Tourism &amp; Management</u> Miss Delaware Pageant	\$ 1,200
(50-10-000)	<u>Div. of Libraries</u> Public Library Grants	66,800
(65-04-000)	<u>Div. of Production and Promotion</u> Peninsula Horticultural Society Crop Improvement Association	800 800
TOTAL -- SECTION 1		<u>\$4,364,773</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.	\$ 18,000
Delaware Guidance Services for Children & Youth, Inc.	30,000
WHYY, Inc.	125,000
Big Brothers Association of Northern Delaware, Inc.	21,000
Geriatric Services of Delaware, Inc.	25,000
Delaware Safety Council, Inc.	30,000
Diamond State Youth, Inc.	52,800
Delaware State Fair, Inc.	25,000
People's Place II	27,000
Delaware Association of Chiefs of Police - Camp Barnes	10,000
Delaware Disadvantaged Foundation	35,000
Turning Point Ranch for Boys	20,000
Turnabout Counseling Center	35,000
Mary Campbell Center	200,000
New Castle Separation Day	5,000
Children's Home Remedial Education Programs	20,000
Grand Opera House	100,000
West End Neighborhood House - Youth Opportunities Unlimited Project	30,737
West Center City Community Center - Senior Citizens Physical Fitness Program	8,000
Wilmington Housing Authority - Security Program	93,800
Spanish Pentecostal Church - Youth Program	15,000
Sussex County Community Action - Nutrition Program	10,000
Walnut Street YMCA - Physical Fitness Program	8,000
City of Seaford - Promotion of Commercial Television	3,500
Opportunity Center, Inc.	1,000
St. Ann's Neighborhood Service	5,000
Bowers Beach Maritime Museum	5,000

Item/Description	Amount
Child, Inc.	\$ 10,000
Project Information East Side	15,000
Childhood Village	10,000
TOTAL -- SECTION 2	<u>\$ 993,837</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	\$ 14,400
Veterans of Foreign Wars, Department of Delaware	14,400
Disabled American Veterans, Department of Delaware	12,000

(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	3,000

(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 \$3,000 is hereby appropriated to the American Legion, Department of Delaware, for the bearing of expenses incident to the holding of Boys' State.

(e) The sum of \$3,000 is hereby 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 \$1,200 is hereby 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 -- SECTION 3	<u>\$ 60,500</u>
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Section 4. The sums of \$172,100 and \$27,900 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, 1979, 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 5. 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. In the event WHYY, Inc., does not conduct an extensive fund raising campaign within Delaware and does not provide its services to Sussex County, future appropriation to such corporation may not be forthcoming.

Section 6. 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 7. 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 8. 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 9. 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 of the receiving agency, covering the operation for the preceding fiscal year.

Section 10. In the event that funds are not provided to the Retired Senior Volunteer Program for fiscal year beginning July 1, 1978, through either the operating budget, any bill which amends such operating budget, or any supplemental appropriation passed by the 129th General Assembly and enacted into law, there is hereby appropriated the following:

(50-00-000) Department of Community Affairs and Economic Development

(50-01-001) Office of the Secretary - Administration

Retired Senior Volunteer Program

\$8,500

Section 11. In the event that funds are not provided to the Delmarva Advisory Council for fiscal year beginning July 1, 1978, through either the operating budget, any bill which amends such operating budget, or

any supplemental appropriation passed by the 129th General Assembly and enacted into law, there is hereby appropriated the following:

(50-00-000) Department of Community Affairs and Economic Development

(50-08-001) Industrial Development, Tourism and Management

Delmarva Advisory Council

\$19,353

Section 12. In the event that funds are not provided to the Delaware State Advisory Council on Career Education, Education Resources Association Program for fiscal year beginning July 1, 1978, through either the operating budget, any bill which amends such operating budget, or any supplemental appropriation passed by the 129th General Assembly and enacted into law, there is hereby appropriated the following:

(95-04-000) Delaware State Advisory Council on Career Education

Education Resources Association Program

\$57,000

Section 13. The appropriation in Section 2 of this Act to the West End Neighborhood House - Youth Opportunities Unlimited Project shall be used for the purposes of continuing funding for staff positions. These staff positions, prior to fiscal year 1979, were funded through the CETA program. The CETA funds for these positions are due to expire during fiscal year 1979. In the event that CETA funds do not expire during fiscal year 1979 any unspent appropriation made under Section 2 of this Act to the West End Neighborhood House - Youth Opportunities Unlimited Project will revert at such time as CETA funds are provided to the General Fund of the State of Delaware. Funding to be provided for one year only.

Section 14. The appropriation in Section 2 of this Act to the Wilmington Housing Authority - Security Program shall be used to provide security guards at the five high rise complexes of the Wilmington Housing Authority. The State funds appropriated for this purpose shall revert to the General Fund on June 30, 1979, in an amount equal to any federal funds which become available for this purpose.

Section 15. Section 2 of this Act provides an appropriation to the West Center City Community Center - Senior Citizens Physical Fitness Program. Of the total appropriation, \$3,600 shall be used to provide transportation for senior citizens to attend the program offered.

Section 16. 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 \$27,025 for the purpose of defraying, in part, the cost of aiding eligible community legal aid clients in resolving Social Security and Supplementary Security Income problems for

senior citizens.

(b) Provide an amount of \$10,000 for the purpose of purchasing a bus for the St. Peter's Adult Center.

(c) Provide an amount of \$15,000 for the purpose of purchasing a bus for the St. Hedwig's Senior Center.

(d) Provide an amount of \$15,000 for the purpose of purchasing a bus for the Howard Weston Senior Center.

(e) Provide an amount of \$15,000 for the purpose of purchasing a bus for the St. Thomas Senior Center.

(f) Provide an amount of \$15,000 for the purpose of purchasing a bus for the Church of Our Savior Senior Center.

(g) 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 17. The appropriation in Section 1 of this Act to the Georgetown CHEER Project shall be used as matching funds for funding nutrition sites in Sussex County.

Section 18. 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.

\$112,800

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 19. 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 4 of this Act, any funds remaining unexpended or unencumbered as of June 30, 1979, shall revert to the General Fund of the State of Delaware.

Approved July 1, 1978.

## CHAPTER 413

## FORMERLY HOUSE BILL NO. 1140

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION TO FIRE COMPANIES AND TO OTHER ORGANIZATIONS WHICH OPERATE AMBULANCES.

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) 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
Mill Creek Fire Co.	Marshallton	4,000
Minquadale Fire Co.	Minquadale	4,000
Minquas Fire Co. No. 1	Newport	4,000
Odessa Fire Co., Inc.	Odessa	4,000
Port Penn Volunteer Fire Co., Inc.	Port Penn	4,000
Talleyville Fire Co., Inc.	Talleyville	4,000
Townsend Fire Co., Inc.	Townsend	4,000
Volunteer Hose Co., Inc.	Middletown	4,000
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	4,000

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. No. 1, Inc.	Dover	4,000
Farmington Volunteer Fire Co.	Farmington	4,000
Felton Community Fire Co.	Felton	4,000
Frederica Volunteer Fire Co.	Frederica	4,000

Kent County (continued)

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
Seaford Volunteer Fire Dept., Inc.	Seaford	4,000
Selbyville Vol. Fire Co., Inc.	Selbyville	4,000
Slaughter Beach Memorial Fire Co.	Slaughter Beach	4,000

TOTAL

\$240,000

(b) There is appropriated to the 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	1,250

TOTAL

\$ 47,500

(c) There is appropriated to the 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
Blades Vol. Fire Company	Blades	1,250
Bowers Volunteer Fire Co., Inc.	Bowers	1,250
Brandywine Hundred Fire Co. No. 1	Bellefonte	1,250
Bridgeville Volunteer Fire Co.	Bridgeville	1,250
Camden-Wyoming Fire Co.	Camden	1,250
Carlisle Fire Co.	Milford	1,250
Cheswold Volunteer Fire Co.	Cheswold	1,250
Christiana Fire Co.	Christiana	1,250
Citizens' Hose Co. No. 1, Inc.	Smyrna	1,250
Claymont Fire Co.	Claymont	1,250
Clayton Fire Co.	Clayton	1,250
Dagsboro Volunteer Fire Co.	Dagsboro	1,250
Delaware City Fire Co.	Delaware City	1,250
Delmar Fire Department	Delmar	1,250
Robbins Hose Co. (Dover Fire Dept.)	Dover	1,250
Elsmere Fire Co.	Elsmere	1,250
Farmington Volunteer Fire Co.	Farmington	1,250
Felton Community Fire Co.	Felton	1,250
Five Points Fire Co. No. 1	Richardson Park	1,250

Frederica Volunteer Fire Co.	Frederica	\$ 1,250
Georgetown Fire Co., Inc.	Georgetown	1,250
Greenwood Fire Co. No. 1	Greenwood	1,250
Goodwill Fire Co. No. 1	New Castle	1,250
Harrington Fire Co.	Harrington	1,250
Hartly Volunteer Fire Co., Inc.	Hartly	1,250
Hockessin Fire Co.	Hockessin	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
Minquadale Fire Co.	Minquadale	1,250
Minquas Fire Co. No. 1	Newport	1,250
Odessa Fire Co., Inc.	Odessa	1,250
Port Penn Volunteer Fire Co., Inc.	Port Penn	1,250
Rehoboth Beach Vol. Fire Co., Inc.	Rehoboth Beach	1,250
Roxanna Volunteer Fire Co.	Roxanna	1,250
Seaford Volunteer Fire Dept., Inc.	Seaford	1,250
Selbyville Volunteer Fire Co., Inc.	Selbyville	1,250
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,250
South Bowers Fire Co.	South Bowers	1,250
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

\$ 70,000

(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 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
Elsmere Fire Co.	Elsmere	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
Wilmington Manor Vol. Fire Company	New Castle	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	<u>2,000</u>

TOTAL	<u>\$36,000</u>
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(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 extinguishing highrise fires throughout the City of Wilmington. \$ 6,000

GRAND TOTAL	<u>\$447,500</u>
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(f) 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>
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Section 2. The provisions of Section 6508, Title 29, Delaware Code, to the contrary notwithstanding, all recipients of grants-in-aid who receive an appropriation under this Act shall file an annual report within 90 days after the close of the grantee's fiscal year, for the operation for the preceding fiscal year. One copy of the said report shall be filed with the Chairman of the House Overview Committee.

Section 3. This is a supplementary appropriation and the monies appropriated shall be paid by the State Treasurer from the General Fund from monies not otherwise appropriated. Any funds remaining unexpended or unencumbered as of June 30, 1979, shall revert to the General Fund.

Approved July 1, 1978.

CHAPTER 414

FORMERLY SENATE BILL NO. 298

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

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

Section 1. Amend §5162, Chapter 51 of Title 30, Delaware Code by striking the second sentence in its entirety and substituting a new second sentence to read as follows:

"The sum so appropriated shall be transferred to State Municipal Street Aid Fund by the State Treasurer, and distributed to municipalities as provided in this subchapter."

Section 2. Amend §5163 and §5164 of Title 30, Delaware Code by striking the words "Public Safety" wherever they may appear therein and in their place substitute the word "Transportation".

Section 3. Amend §5164, Chapter 51 of Title 30, Delaware Code by striking the second sentence in its entirety and substituting a new second sentence to read as follows:

"Such certification shall be used by the Secretary to advise the State Treasurer as to distribution of the monies as provided in this subchapter not later than 30 days from the date of receiving the certification."

Approved July 8, 1978.

CHAPTER 415

FORMERLY SENATE BILL NO. 368

AN ACT TO AMEND CHAPTER 46, TITLE 31, DELAWARE CODE, RELATING TO REPEAL  
OF THE MOBILE HOME SAFETY ACT.

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

Section 1. Amend Chapter 46, Title 31, Delaware Code, by repealing  
said Chapter in its entirety.

Approved July 8, 1978.

## CHAPTER 416

FORMERLY SENATE BILL NO. 455  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE JUSTICE OF THE  
PEACE COURTS FOR THE PURPOSE OF CORRECTING A SALARY UNDERPAYMENT.

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

Section 1. The sum of \$225.05 is hereby appropriated to the Justice of the Peace Courts for payment to Audrey Ford, which sum represents the amount due her in salary but not paid after her promotion. Such appropriation shall be expended in the following manner:

Salary	\$191.29
F.I.C.A. - Employer's Share	11.57
Pension	<u>22.19</u>
TOTAL	\$225.05

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, 1978 shall revert to the General Fund of the State of Delaware.

Approved July 8, 1978.

## CHAPTER 417

FORMERLY SENATE BILL NO. 461  
AS AMENDED BY  
SENATE AMENDMENT NO. 1  
AND  
HOUSE AMENDMENT NOS. 1 & 4

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE, RELATING TO THE REQUIREMENT OF INSURANCE FOR ALL MOTOR VEHICLES IN THE STATE.

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 (j), Chapter 21, Title 21, Delaware Code, by striking subsection (j) in its entirety and by substituting in lieu thereof the following:

"(j) 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 its continued transaction of such business with this State a form approved by the Insurance Commissioner stating that its motor vehicle liability policies wherever issued shall be deemed to provide the insurance required by this section when the vehicle is operated in this state. A nonadmitted 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) A motor vehicle owner shall, upon request of the Division of Motor Vehicles, offer proof of insurance in full force and effect as a condition of registration or continued registration of a motor vehicle. 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 a vehicle, the owner shall return the registration plate and certificate to the Division of Motor Vehicles or produce proof of replacement insurance. 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 plate or certificate that has been suspended. Any person whose vehicle registration has been suspended under this subsection shall pay a fee of \$50.00 at the end of such suspension for the return of the registration plate and certificate.

(4) 'Insurance Identification Card' shall mean a card issued by or on behalf of an insurance company or bonding company duly authorized to transact business in this State, stating in such form as the Insurance Commissioner may prescribe or approve that such company has issued a vehicle insurance policy meeting the requirements of this Title. The Insurance Commissioner shall require all insurance companies transacting such business within this State to provide with each vehicle insurance policy an insurance identification card for each vehicle describing the vehicle covered. Such card shall contain such information and shall be valid during such period as may be prescribed by the Insurance Commissioner. If an owner shall have filed a financial security deposit, or shall have qualified as a self-insurer, the term 'insurance identification card' shall mean a card issued by the Office of the Insurance Commissioner which evidences that such deposit has been filed or that such owner has so qualified.

(5) The Insurance Identification Card issued for a vehicle required to be registered under this Title shall at all times, while the vehicle is being operated upon a highway within this State, be in the possession of the operator thereof or carried in the vehicle and shall be produced upon the request of a police officer or Justice of the Peace or any other party involved in accident with the insured. However, an operator shall not be convicted under the provisions of this paragraph if, prior to conviction, he shall produce to the court in which the offense is to be tried, the insurance identification card or in lieu thereof other sufficient proof of insurance showing such insurance to be in full force and effect at all pertinent times when the motor vehicles is being operated within this State.

(6) 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."

Section 2. Amend §2118 (k), Chapter 21, Title 21, Delaware Code, by striking subsection (k) in its entirety and by substituting in lieu thereof the following:

"(k) Whoever violates any subsection of this section shall be fined for the first offense not less than \$150.00 nor more than \$1,000.00 and shall have his driving license and/or privileges suspended for three months. For each subsequent offense occurring within three years of a former offense, he shall be fined not less than \$500.00 nor more than \$2,000.00. The minimum fine levied for a violation of subsection (a) or (j) of this subsection shall not be subject to suspension.

Failure of the owner or operator to produce an insurance identification card for insurance which is in full force and effect

at the time the insurance identification card is produced shall be presumptive evidence that such person is operating his vehicle without having insurance required by the provisions of this Title.

Notwithstanding the penalties specified above, anyone convicted of driving without minimum insurance as required in this section shall have his privilege of driving revoked in this State until such time as he has furnished proof of insurance to the Division of Motor Vehicles."

Approved July 8, 1978.

## CHAPTER 418

FORMERLY SENATE BILL NO. 567  
AS AMENDED BY  
SENATE AMENDMENT NOS. 1 & 4  
AND  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO PURPOSE AND MEANING OF ELECTION LAWS, DEFINITIONS OF "POLITICAL PARTY", "PRIMARY ELECTION" AND "UNAFFILIATED CANDIDATE," DEADLINE FOR CHANGE OF PARTY DESIGNATION, BALLOT QUALIFICATIONS, NOTIFICATION AND WITHDRAWAL OF CANDIDACY, REQUIREMENT FOR DIRECT PRIMARY ELECTIONS IN MAJOR POLITICAL PARTIES, NOTIFICATION OF FILING FEES, NOMINATING CONVENTIONS AND FORM OF BALLOTS.

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

Section 1. Amend Title 15 of the Delaware Code by redesignating Chapter 1 thereof as Chapter 2 and renumbering §102 through §120 inclusively of said Chapter 1 as §201 through §219, respectively, of the new Chapter 2.

Section 2. Amend Chapter 1, Title 15 of the Delaware Code by adding thereto a new §101A to read as follows:

"CHAPTER 1. PURPOSE AND MEANING OF ELECTION LAWS

§101A. Purpose

The purpose of this Title is to assure the people's right to free and equal elections, as guaranteed by our State Constitution. To that end, the full exercise of that right demands that the people be afforded the means to form political parties, nominate candidates and cast ballots for whomever they choose. At the same time, however, lengthy ballots which list a profusion of political parties and unaffiliated candidates, many of which are not serious contenders and lack even a modicum of community support, tend to create voter confusion and to clog the election machinery.

To secure the right to free and equal elections and to preserve the integrity of the democratic political process, it is essential that an orderly system be established:

(1) For the registration of voters and the preservation of voter registration records;

(2) To encourage public participation in political parties and to demonstrate sufficient community support of these parties by permitting voters to affiliate with the party of their choice, if they so desire, on their voter registration records;

(3) To provide a means by which political parties and unaffiliated candidates, which have demonstrated a meaningful level of community support, may qualify for listing on the general election ballot;

(4) For the orderly and fair selection of party nominees by primary election or political party convention, and for the filling of vacancies among such nominees;

(5) To provide for the free exercise of the write-in vote for both politically affiliated and unaffiliated candidates who may not qualify for listing on the general election ballot;

(6) For the conduct of primary and general elections;

(7) For the certification of election results and the resolution of election contests;

(8) To provide criminal penalties and civil liability for violation of the laws set forth in this Title;

(9) To provide for all such other matters, related to the electoral process, as may be set forth herein."

Section 3. Amend §101 (13), Title 15 of the Delaware Code by striking said subparagraph in its entirety and substituting in lieu thereof a new subparagraph to read as follows:

"(13) 'Party' or 'political party' means any political organization which elects a state committee and officers of a state committee, by a state convention composed of delegates elected from each representative district in which the party has registered members, and which nominates candidates for electors of President and Vice-President, or nominates candidates for offices to be decided at the General Election. All political parties shall be divided into two classes:

(a) 'Major political party' means any political party which, as of December 31 of the year immediately preceding any general election year, has registered in the name of that party voters equal to at least five percent (5%) of the total number of voters registered in the State.

(b) 'Minor political party' means any political party which does not qualify as a major political party."

Section 4. Amend §101 (15), Title 15 of the Delaware Code by striking said subparagraph in its entirety and substituting in lieu thereof a new subparagraph to read as follows:

"(15) 'Primary election' means an election at which voters registered as members of a major political party may vote to determine the nominees of that political party for the general election."

Section 5. Amend §101, Title 15 of the Delaware Code by inserting a new subparagraph (22) to read as follows:

"(22) 'Unaffiliated candidate' means any individual who files a declaration as a candidate for any office to be decided at the general election and who is not affiliated with any political party and has not been thus affiliated for at least three (3) months prior to the filing of his declaration."

Section 6. Amend §1749, Chapter 17, Title 15, Delaware Code by designating the paragraph appearing in said section as subsection (a) and by adding a subsection (b) thereto to read as follows:

"(b) The time limitations set forth in subsection (a) of this section shall not prevent a voter from changing his party designation for purposes of qualifying a minor political party for the 1978 General Election ballot pursuant to §3001 of this Title."

Section 7. Amend Part III, Title 15 of the Delaware Code by inserting therein a new Chapter, to be designated as Chapter 30, which shall read as follows:

#### "CHAPTER 30. BALLOT QUALIFICATIONS

##### §3001. Ballot qualification for political parties

No political party shall be listed on any general election ballot unless, twenty-one (21) days prior to the date of the primary election, there shall be registered in the name of that party a number of voters equal to at least 5/100ths of one percent (0.05%) of the total number of voters registered in the State as of December 31 of the year immediately preceding the general election year.

##### §3002. Ballot qualifications for unaffiliated candidates

(a) No person shall qualify to appear on the general election ballot of this State as a candidate unaffiliated with a political party unless he fulfills the requirements of this Chapter and is so certified by the State Election Commissioner, if a Statewide candidate, or the appropriate county Department of Elections, if not a Statewide candidate.

(b) No individual shall be listed as an unaffiliated candidate on any general election ballot unless he shall have filed, on or before the close of the official business day on September 1 of the general election year, a sworn declaration with the State Election Commissioner, if a Statewide candidate, or the appropriate county department of elections, if a non-Statewide candidate, stating that he is an unaffiliated candidate and has not been affiliated with any political party for at least three (3) months prior to the filing of his declaration, as required by this Title, and shall have filed nominating petitions, as prescribed in this

Chapter, and signed by not less than one percent (1%) of the total number of voters registered, as of December 31 of the year immediately preceding the general election year in the State, or if a non-Statewide candidate, of those voters eligible to vote for that office which he seeks.

(c) The nominating petition shall contain such information and be on a form as prescribed by the State Election Commission. The following information shall, however, be contained in the petition:

(1) Name of the unaffiliated candidate and the office for which he is filing.

(2) Signature, printed name, address at which registered, social security number and date on which signed by signer.

(3) A statement that the signer understands that by intentionally entering false information on the petition he may be subject to prosecution for perjury.

(4) A sworn notarized statement of the person circulating the petition that he witnessed the placing of each signature on the petition.

(d) Such petition shall be circulated and executed between January 1 and August 15 of the year in which the general election is held. Each registered voter signing shall do so upon a petition prepared for the county in which he is registered, and the petition shall be filed with the Department of Elections for the county in which the petitioners reside. The signatures and other information thereon shall be verified by the department receiving the petition.

(e) Signatures may be rejected for the following reasons:

1. The signer was not a registered voter on the date he signed the petition.

2. The signer's place of residence or his social security number do not match those appearing in the permanent registration record.

3. The signer did not list his social security number.

4. It appears that the signature is a forgery.

5. The signer's identity cannot be verified because the information and/or signature submitted is illegible, incomplete or obscured.

(f) Where a petition or a part thereof is rejected, the individual submitting same shall have the right to learn the reason(s) for such rejection and an opportunity to examine the signatures rejected."

Section 9. Amend §3101 (2), Chapter 31, Title 15 of the Delaware Code by striking the words "second Friday in August" as they appear twice in said subparagraph and substituting in lieu thereof the words "first Friday in August".

Section 10. Amend §3101A, Chapter 31, Title 15 of the Delaware Code by striking the words "all political parties" and substituting in lieu thereof the words "all major political parties".

Section 11. Amend §3103 (c), Chapter 31, Title 15 of the Delaware Code by striking the last sentence of said subsection which reads: "The notification shall be prior to the dates set for candidates to file for nomination pursuant to §3101 of this title" and substituting in lieu thereof this sentence: "The notification shall be no later than July 1 of each general election year."

Section 12. Amend §3301 (b), Title 15 of the Delaware Code by adding to said subsection the following paragraph:

"In the case of minor political parties, not required to select candidates pursuant to Chapter 31 of this Title, candidates shall be selected at each party's county nominating convention."

Section 13. Amend §3301 (d)(1), Title 15 of the Delaware Code by striking the word "July" as it appears in said subparagraph and substituting in lieu thereof the word "August".

Section 14. Amend §4502 (a), Title 15 of the Delaware Code by adding thereto the following:

"The names of unaffiliated candidates shall appear in alphabetical order, under the heading 'Unaffiliated Candidates', after the listing of various political parties. Where there are more political parties and unaffiliated candidates than can be accommodated in parallel columns on the voting machine and/or absentee ballot, names of political party candidates or unaffiliated candidates may be placed in the same column, in such manner as may be determined by each county department of elections."

Approved July 8, 1978.

## CHAPTER 419

## FORMERLY SENATE BILL NO. 577

AN ACT TO AMEND CHAPTER 1, TITLE 26 OF THE DELAWARE CODE RELATING TO THE PUBLIC SERVICE COMMISSION AND DISQUALIFICATIONS FOR SERVING AS A MEMBER OR EMPLOYEE OF THE COMMISSION.

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

Section 1. Amend §109, Chapter 1, Title 26 of the Delaware Code by striking the words "more than one percent (1%) of the" as the same appear in the first sentence of said section, and substituting the word "any" in lieu thereof.

Approved July 8, 1978.

CHAPTER 420

FORMERLY SENATE BILL NO. 606

AN ACT TO AMEND CHAPTER 9, PART II, TITLE 29 OF THE DELAWARE CODE  
RELATING TO THE ENACTMENT OR PASSAGE OF BILLS OR RESOLUTIONS.

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

Section 1. Amend Chapter 9, Part II, Title 29 of the Delaware Code by adding thereto a new section, designated as §910, which new section shall read as follows:

"§910. Deliberative process

(a) Each bill, resolution or other legislative matter assigned to a standing committee shall pass through a prescribed deliberative process before being brought to the floor of either House, unless it is sooner petitioned out of committee. Such deliberative process shall include regularly scheduled, pre-announced meetings whereby the committee receives testimony from the general public, including those affected by the proposed legislation; considers an analysis of the proposed legislation; and by notice to the sponsor, makes time available for each formal sponsor to explain the legislation and answer possible committee questions.

(b) Each Thursday each standing committee shall release a Committee Agenda which shall include, among other things, all matters to be considered by the committee at its next meeting; a listing of all bills being held in committee; and any other announcements from the committee including the times, places and dates of future meetings.

(c) Minutes shall be taken at each formal standing committee meeting, and the results of any committee votes shall be recorded. Committee members who dissent from any committee decision shall be permitted, in the minutes, to state such dissent and the reasons therefor."

Approved July 8, 1978.

## CHAPTER 421

## FORMERLY SENATE BILL NO. 614

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 were provided for enlarging and equipping the Charlton School; and

WHEREAS, Senate Bill No. 315 was signed by the Governor which appropriated \$607,000 to enlarge and equip the Charlton School; and

WHEREAS, as of May 24, 1978, the balances in the respective school construction bond accounts (\$7515, Title 29, Delaware Code) totaled more than \$202,552; and

WHEREAS, it is estimated that the proposed cost of the Charlton School project will require an additional \$91,000 beyond that amount presently appropriated; 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 \$91,000 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 8, 1978.

## CHAPTER 422

## FORMERLY SENATE BILL NO. 617

AN ACT AUTHORIZING AND DIRECTING THE BOARD OF PENSION TRUSTEES TO GRANT STANLEY ANTKIEWICZ SURVIVOR'S BENEFITS; AND FURTHER PROVIDING A SUPPLEMENTARY APPROPRIATION THEREFOR.

WHEREAS, in January of 1977, Mrs. Ellen Antkiewicz, an employee with the Department of Community Affairs and Economic Development for approximately 8 years, requested and was granted a medical leave of absence without pay; and

WHEREAS, on March 26, 1977 while on medical leave, Mrs. Antkiewicz died; and

WHEREAS, Mrs. Antkiewicz was not properly advised by her superiors that she had five (5) years of creditable service which would have made her eligible to make application for disability pension benefits; and

WHEREAS, when Mr. Antkiewicz made application for survivor's pension benefits, not necessarily for himself but for the future education of his teenage child, he was advised by the Board of Pension Trustees that his late wife, Ellen Antkiewicz was not an employee of the State at the time of her death by virtue of her medical leave of absence without pay, and consequently, was ineligible for survivor's pension benefits; and

WHEREAS, the State should honor this error which was no fault of Mrs. Antkiewicz as she was not properly instructed as to the proper type of leave she should take to protect her accrued pension benefits.

NOW, THEREFORE:

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

Section 1. The Board of Pension Trustees is hereby authorized and directed to grant Mr. Stanley Antkiewicz a survivor's pension based on the eight (8) years of service with the Department of Community Affairs and Economic Development, any provision of Chapter 55, Title 29, Delaware Code to the contrary notwithstanding.

Section 2. The sum of \$7,825.41 is hereby appropriated to the Pension Fund for the purpose of implementing the provisions of Section 1 of this Act.

Section 3. This is a supplementary appropriation and the funds hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 8, 1978.

## CHAPTER 423

## FORMERLY SENATE BILL NO. 636

AN ACT TO AMEND §121, CHAPTER 1, TITLE 5, DELAWARE CODE, RELATING TO SUPERVISION OVER BANKS AND OTHER FINANCIAL INSTITUTIONS.

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

Section 1. Amend §121, Chapter 1, Title 5, Delaware Code, by adding a new subsection (c) as follows:

"(c) The Commissioner may issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him in any matter over which he has jurisdiction, control or supervision. The Commissioner may administer oaths and affirmations to any person whose testimony is required."

Section 2. Amend §121, Chapter 1, Title 5, Delaware Code, by adding a new subsection (d) as follows:

"(d) If any person shall fail to comply with any subpoena issued by the Commissioner, or to testify with respect to any matter concerning which he may be lawfully interrogated, the Superior Court, on application of the Commissioner, may issue an order requiring the attendance of such person and the giving of testimony or production of evidence. Any person failing to obey the Court's order may be punished by Court as for contempt."

Approved July 8, 1978.

## CHAPTER 424

## FORMERLY SENATE BILL NO. 714

AN ACT TO ESTABLISH A CONSTRUCTION OVERVIEW COMMITTEE FOR THE DEPARTMENT OF CORRECTION AND MAKE APPROPRIATION THEREFOR.

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

Section 1. There is hereby established a Construction Overview Committee. The members of this Committee shall be as follows:

1. Warren J. Gehrt, former Commissioner
2. Raymond W. Anderson, former Warden
3. Harry Towers, former Acting Commissioner
4. Chief of Police, City of Wilmington, or his designee.

The members of the Committee shall select a Chairman from among the members. It shall be the function of this Committee to review all plans and specifications for prison construction funded in the Annual Capital Improvements Acts of 1978 and 1979, to make recommendations thereon to the Department of Correction, and to report periodically to the Chairmen and members of the House and Senate Correction Committees and any other interested members of the General Assembly and Governor's office. The Department of Correction and the Department of Administrative Services are hereby directed to provide this Committee with such information and assistance as it may require from time to time.

Section 2. This Act shall become null and void on and after December 31, 1980.

Section 3. There is hereby appropriated to the Construction Overview Committee the sum of \$2,000 for expenses in carrying out the provisions of this Act, and this sum shall be paid by the State Treasurer from the General Fund of the State of Delaware.

Approved July 8, 1978.

## CHAPTER 425

FORMERLY HOUSE BILL NO. 375  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

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

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

Section 1. Amend §1912 (a), Chapter 19, Title 30, Delaware Code by striking the figure "\$500" as the same appears in said subsection (a) and inserting in lieu thereof the figure "\$3,000".

Section 2. Amend §1912 (b), Chapter 19, Title 30, Delaware Code by striking the figure "\$500" as the same appears in said subsection (b) and inserting in lieu thereof the figure "\$3,000".

Section 3. Amend §1912, Chapter 19, Title 30, Delaware Code, by striking the sum "\$500" as it appears in subsection (c) and substituting the sum "\$3,000".

Section 4. Amend §1912, Chapter 19, Title 30, Delaware Code, by striking the number "5" and the number "25" as they appear in subsection (d) and substituting the number "10" and the number "50".

Approved July 8, 1978.

CHAPTER 426

FORMERLY HOUSE BILL NO. 446

AN ACT TO AMEND CHAPTERS 31 AND 33, TITLE 19, DELAWARE CODE, RELATING TO UNEMPLOYMENT COMPENSATION, TO INCREASE THE PENALTY FOR FAILING TO FILE REPORTS AND THE INTEREST ON PAST-DUE ASSESSMENTS.

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

Section 1. Amend subsection (c) of Section 3125, Chapter 31, Part III, Title 19, Delaware Code, by striking the penalty amount of "\$5.00" in the first sentence, and inserting in lieu thereof the penalty amount "\$15.00".

Section 2. Amend Section 3357, Chapter 33, Title 19, Delaware Code, by striking the rate of interest, "one half of 1 per cent" as it appears in the first sentence of said section and substituting in lieu thereof the rate of interest "1 per cent per month".

Approved July 8, 1978.

## CHAPTER 427

## FORMERLY HOUSE BILL NO. 448

AN ACT TO AMEND SECTION 31, TITLE 19, DELAWARE CODE, TO MAKE THE STATE TREASURER THE TREASURER AND CUSTODIAN OF THE UNEMPLOYMENT COMPENSATION FUND AND SPECIAL ADMINISTRATION FUND.

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

Section 1. Amend Sections 3162, 3163, 3164 and 3166, Title 19, Delaware Code, by substituting the words "State Treasurer" whenever the words "Secretary of Finance" appear.

Approved July 8, 1978.

## CHAPTER 428

FORMERLY HOUSE BILL NO. 461  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 75, TITLE 15, OF THE DELAWARE CODE RELATING TO MUNICIPAL ELECTIONS.

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

Section 1. Amend §7521, Chapter 75, Title 15 of the Delaware Code by striking said section in its entirety and by substituting in lieu thereof the following:

"§7521. Elections in the City of Wilmington

Registration and elections in the City of Wilmington for the Mayor, Council and other officers of the City of Wilmington shall in all respects be conducted in conformity with the provisions governing general elections as provided under this title, except that the canvass of the vote shall be conducted by the Department of Elections for New Castle County, which shall certify those candidates elected to office."

Section 2. Amend §7522, Chapter 75, Title 15 of the Delaware Code by striking said section in its entirety and by substituting in lieu thereof a new §7522, to read as follows:

"§7522. Definition of political party for City of Wilmington only

A political party existing only within the City of Wilmington shall be qualified to nominate candidates for the municipal election if it is a bona fide organization of registered voters of the City of Wilmington who:

- (1) Elect a city committee and officers of the city committee;
- (2) Nominate candidates for the municipal election by a secret ballot of those enrolled for purposes of the municipal election as members of the party taken at a convention or by some other method of polling the party membership;
- (3) Not later than August 15 of the year of the municipal election, file with the Department of Elections for New Castle County petitions certifying that the party exists and desires to have its candidates placed on the ballot for the forthcoming election. These petitions shall be signed by a number of registered voters of the City of Wilmington not less than five percent (5%) of the total number of registered voters within the city as of December 31 of the year immediately preceding the municipal

election. These petitions shall be prepared between January 1 and August 15 of the year of the election. They shall include the signature, printed name, address at which registered, and social security number of each qualified voter signing the petition. Each petition shall also include the following declaration subscribed to under oath by each person signing the petition:

'By dating and affixing my signature to this petition, I hereby swear (or affirm) that: (1) My full name, address at which registered, and social security number are as stated herein; (2) I am a duly registered voter of the State of Delaware, New Castle County, and the City of Wilmington; (3) for the purposes of the municipal election only, I am a member of the \_\_\_\_\_

(name of party)

and I support its efforts to have its name, party device and candidates listed on the next municipal election ballot; (4) the date entered opposite my signature is the date on which I signed this petition; and (5) I have read and understand this petition, and I understand that by intentionally entering false information hereon I shall be subject to prosecution for perjury.'

The petition shall also include a sworn statement, signed by the person gathering the signatures and sworn to before a notary public, that such person witnessed the placing of each signature on the petition and, to the best of his knowledge or belief, all those who signed the petition were duly registered voters of the City of Wilmington. This statement shall be followed by a warning that any person who knowingly signs a statement which contains falsehoods shall be subject to prosecution for perjury."

Section 3. Amend §7523, Chapter 75, Title 15 of the Delaware Code, by striking said section in its entirety and by substituting in lieu thereof a new §7523, to read as follows:

"§7523. Certificates of nomination

The nominations made under this subchapter for the various offices of the City of Wilmington, together with the name of the party and its device, shall be certified to the Department of Elections for New Castle County by the presiding officer and secretary of each political party on the date and in the manner prescribed for other nominations for the general election made under this title."

Section 4. Amend §7524, Chapter 75, Title 15 of the Delaware Code, by striking said section in its entirety and by substituting in lieu thereof a new §7524, to read as follows:

"§7524. Title and device of party

No party shall use the name of another party appearing

anywhere on the ballot either in whole or in part, or any variation thereof, in its own title. The words 'Independent' or 'Decline,' being terms employed in this title, or any variation thereof, shall not be used as the title, or part of the title, of any party. Each party shall select an appropriate figure or device to designate that party, but the coat of arms, seal or flag of the United States, this State, or the City of Wilmington, or any part or variation thereof, shall not be used as such figure or device.

In case of a division in any party qualified under this subchapter and a claim by 2 or more factions to the same party name or title, figure or device, the Board of Elections for New Castle County shall determine to which faction the name and device properly belongs. If, within 5 days thereafter, the other faction fails to present and certify some other party title and/or device, the Board shall select some suitable title and/or device to represent that party upon the ballot."

Section 5. Amend §7526, Chapter 75, Title 15 of the Delaware Code, by striking said section in its entirety and by substituting in lieu thereof a new §7526, to read as follows:

"§7526. Supplemental certificates of nominations

Supplemental certificates of nomination for offices of the City of Wilmington shall be issued as prescribed in §3306 of this title."

Approved July 8, 1978.

## CHAPTER 429

## FORMERLY HOUSE BILL NO. 566

AN ACT TO AMEND CHAPTER 47, TITLE 29, DELAWARE CODE RELATING TO THE BURIAL OF BODY BY THE STATE.

Section 1. Amend §4710, Chapter 47, Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new §4710 to read as follows:

"§4710. Disposition of unclaimed body or remains of indigent person

(a) In any case where there is an unclaimed body or there are remains of indigent persons and it is incumbent on the State or any political subdivision thereof to bury such person found dead, the Chief Medical Examiner or his duly authorized representative shall notify the Division of Social Services of the Department of Health and Social Services to arrange for the burial unless the case falls within the category described in subsection (b).

(b) When there is a written consent of the next of kin, the remains of an infant may be cremated at the facilities of the office of the Chief Medical Examiner."

Approved July 8, 1978.

CHAPTER 430

FORMERLY HOUSE BILL NO. 578

AN ACT TO PROVIDE PAYMENT FOR UNUSED VACATION DUE TO TERMINATION OF EMPLOYMENT.

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

Section 1. The Department of Public Instruction is hereby authorized to compensate Howard S. Parsons from the Educational Contingency Fund the amount of \$1,241 for 11-1/4 days of unused vacation due to termination of employment as of June 30, 1977.

Approved July 8, 1978.

## CHAPTER 431

## FORMERLY HOUSE BILL NO. 579

AN ACT TO AMEND TITLE 10, DELAWARE CODE, BY ADDING A NEW CHAPTER 40 THERETO PROVIDING FOR LIMITATIONS ON THE CIVIL LIABILITY OF THE STATE, ITS SUBDIVISIONS AND ITS PUBLIC OFFICERS AND EMPLOYEES, AND BY PROVIDING FOR THE INDEMNIFICATION OF PUBLIC OFFICERS AND EMPLOYEES IN CERTAIN INSTANCES.

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

Section 1. Amend Title 10, Delaware Code, by adding a new Chapter 40 to read as follows:

"CHAPTER 40. TORT CLAIMS ACT

\$4001. Limitation on civil liability

(a) Except as otherwise provided by the Constitution or laws of the United States or of the State, as the same may expressly require or be interpreted as requiring by a court of competent jurisdiction, no claim or cause of action shall arise, and no judgment, damages, penalties, costs or other money entitlement shall be awarded or assessed against the State or any public officer or employee, including the members of any board, commission, or agency of the State, whether elected or appointed, and whether now or previously serving as such, in any civil suit or proceeding at law or in equity, or before any administrative tribunal, where the following elements are present:

(1) the act or omission complained of arose out of and in connection with the performance of an official duty requiring a determination of policy, the interpretation or enforcement of statutes, rules or regulations, the granting or withholding of publicly created or regulated entitlement or privilege, or any other official duty involving the exercise of discretion on the part of the public officer, employee or member, or anyone over whom the public officer, employee or member shall have supervisory authority; and

(2) the act or omission complained of was done in good faith and in the belief that the public interest would best be served thereby; and

(3) the act or omission complained of was done without gross or wanton negligence;

provided that the immunity of judges, the Attorney General and deputy attorneys general, and members of the General Assembly shall, as to all civil claims or causes of action founded upon an

act or omission arising out of the performance of an official duty, be absolute; provided further that in any civil action or proceeding against the State or a public officer, employee or member of the State, the plaintiff shall have the burden of proving the absence of one or more of the elements of immunity as set forth in this subsection.

\$4002. Indemnification of public officers and employees

In addition to the right of representation provided for in §3925 of this Title, any public officer, employee or member who, but for the application of any provision of the Constitution or laws of the United States or the State to the contrary, would be entitled to immunity in accordance with Section 4001 of this Chapter, shall be indemnified by the State against any expenses (including attorneys fees and disbursements), judgments, fines and costs, actually and reasonably incurred by such public officer, employee or member in defending against the action, suit or proceeding giving rise thereto.

\$4003. Political subdivisions; limitations on liability

Any political subdivision of the State, including the various school districts, and their officers and employees shall be entitled to the same privileges and immunities as provided in this Chapter for the State and its officers and employees; provided that the public officers and employees of any such political subdivision shall only be indemnified if the governing body of the subdivision shall expressly so provide, and then only to the extent that the subdivision shall appropriate all funds necessary therefor.

\$4004. Establishing right to indemnification: procedure

The right to indemnification provided for in Section 4002 of this Chapter shall automatically obtain upon the final determination of any court or administrative tribunal of competent jurisdiction that no claim or cause of action existed, or but for the application of the provisions of the Constitutions or laws of either the United States or the State, that no such claim or cause of action would have existed or upon a verdict or ruling in favor of the public officer, employee or member. If a court or administrative tribunal shall determine that no right to indemnification exists because of the absence of one or more of the elements of immunity set forth in Section 4001 of this Chapter, said determination shall be final and binding at such time as any and all rights of appeal from the decision giving rise to such determination shall have been exhausted. If, for whatever reason, including a settlement agreed upon by the parties, the court or administrative tribunal having jurisdiction shall fail or refuse to make the determination required by this subsection, then the indemnification shall only be granted as to public officers, employees or members of the State upon the affirmative recommendation of the appropriate department head, or a majority of the members of the

governing body of the board, commission or agency, whichever shall apply, and the concurrence of the Governor and the Attorney General or their designees. Any political subdivision of the State which shall hereafter provide indemnification as authorized by this Chapter, shall establish its own procedure for determining eligibility for its officer and employees in the absence of the determination of a court of competent jurisdiction.

\$4005. Authorization to purchase liability insurance

The State or any of its departments, agencies, boards, commissions or political subdivisions are hereby authorized to obtain from funds appropriated for such purpose a policy or policies of insurance sufficient to provide coverage for its public officers, employees or members which is coextensive with the standards for indemnification as provided for in this Chapter. No public officer, employee or member shall be entitled to indemnification under this section for any act or omission, not otherwise protected herein, the provisions of any applicable policy of insurance to the contrary notwithstanding."

Approved July 8, 1978.

CHAPTER 432

FORMERLY HOUSE BILL NO. 584  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 & SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 74, TITLE 16, DELAWARE CODE, RELATING TO THE  
STORAGE OF RADIOACTIVE MATERIAL.

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

Section 1. Amend Chapter 74, Title 16, Delaware Code, by adding  
the following section:

"§7417. Storage of radioactive material

(a) No facility for deposit, storage, reprocessing, or disposal  
of spent nuclear fuel elements or high-level radioactive waste  
material shall be constructed or established in this State unless  
the Authority on Radiation Protection first finds that it promotes  
the general good of the State and approves, after a public hearing,  
a petition for the approval of such facility.

(b) No radioactive waste material shall be held in temporary  
storage for longer than 5 years.

(c) Whenever the Authority on Radiation Protection finds that  
the continued presence of a facility for the deposit, storage,  
reprocessing, or disposal of materials in (a) above is injurious  
to the public welfare, the Authority shall issue its order  
shutting the facility and requiring immediate removal of such  
material.

§7418.

The Authority on Radiation Protection shall not permit the  
deposit in Delaware for any period of time of spent nuclear fuel  
elements or radioactive waste material originating in any other  
state."

Approved July 8, 1978.

CHAPTER 433

FORMERLY HOUSE BILL NO. 742

AN ACT TO REPEAL CHAPTER 200, VOLUME 61, LAWS OF DELAWARE, RELATING TO  
A SHORT-TERM CORRECTIONAL FACILITY.

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

Section 1. Chapter 200, Volume 61, Laws of Delaware, is hereby  
repealed and all unencumbered funds appropriated thereunder are hereby  
reverted to the General Fund.

Approved July 8, 1978.

## CHAPTER 434

FORMERLY HOUSE BILL NO. 752  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1, 2, 3 & 5

AN ACT TO AMEND CHAPTER 27, TITLE 24, DELAWARE CODE, RELATING TO PROFESSIONAL LAND SURVEYORS.

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

Section 1. Amend Subchapter I of Chapter 27, Title 24, Delaware Code, by striking §2702, §2705, and §2706 in their entirety and substituting in lieu thereof the following new sections:

"§2702. Board of Registration for Professional Land Surveyors;  
appointments; qualifications; terms of office; vacancies

(a) The State Board of Registration for Professional Land Surveyors, heretofore established, shall administer the provisions of this Chapter.

(b) The Board shall consist of five (5) professional land surveyors who shall be appointed by the Governor. At least one (1), but not more than two (2), professional land surveyors shall be appointed from each of the three counties of this State. Not more than three (3) members shall be appointed from any one political party.

(c) Each member of the Board shall:

(1) Be a citizen of the United States and a resident of this State at the time of his appointment and for the duration of his tenure; and

(2) Have been engaged in the practice of land surveying as a professional land surveyor for at least twelve (12) consecutive years immediately preceding his appointment; and

(3) Have been in responsible charge of land surveying projects for at least six (6) consecutive years immediately preceding his appointment.

(d) The term of office for members of the Board is three (3) years beginning in each case from the first day of July in the year of appointment. A member may be reappointed to succeed himself.

(e) Vacancies on the Board occurring for any reason other than the expiration of term shall be filled by the Governor for the unexpired term. If such a vacancy is not filled within three (3) months after it occurs, the Board may appoint a provisional member to serve in the interim until the Governor acts.

(f) Sixty (60) days prior to the expiration of any term or as soon as a vacancy otherwise occurs, the Board may submit to the Governor the names of three (3) professional land surveyors who are qualified and willing to fill the vacancy along with the recommendation that the Governor appoint one of the three persons so named. The Board shall also provide an explanation of the manner in which the names were chosen.

(g) Each member of the Board shall receive a commission of his appointment from the Governor and, before beginning his term of office, shall file with the Secretary of State his written oath or affirmation for the faithful discharge of his official duty.

§2705. Meetings; officers; quorum

The Board shall hold at least one (1) regular meeting each year. Special meetings shall be held at such times as the rules and regulations of the Board may provide. Notice of all meetings shall be given in such manner as the rules and regulations may provide.

The Board shall elect or appoint annually a chairman, a vice-chairman and a secretary from its members.

A quorum of the Board shall consist of not less than three (3) members.

§2706. Board powers

(a) The Board shall have the power to adopt, amend and repeal all rules and regulations not inconsistent with the Constitution or laws of this State, including the adoption and promulgation of Rules of Professional Conduct for Land Surveyors, which may be reasonably necessary

(1) for the proper performance of its duties and the regulation of its procedures, meetings, records, examinations and the conduct thereof, and

(2) to carry out the objectives and intent of this Chapter.

(b) The Board shall adopt and have an official seal, which shall be affixed to each certificate issued.

(c) The Board may establish minimum technical or general standards to regulate the practice of land surveying within the State and may establish minimum requirements for the continuing education of registrants.

(d) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(e) In carrying into effect the provisions of this Chapter, the Board under the hand of its chairman and the seal of the Board,

may subpoena witnesses and compel their attendance and also may require the submission of books, papers, documents or other pertinent data in any disciplinary matter or in any case wherever a violation of this Chapter is alleged. Upon failure or refusal to comply with any such order of the Board or upon failure to honor its subpoena as herein provided, the Board may present its petition to the Superior Court setting forth the facts. Thereupon the Court shall, in a proper case, issue its subpoena to such person, requiring his attendance and testimony before such Court and the submission of such books, papers, documents or other pertinent data as may be deemed necessary and pertinent by the Board.

Any person failing or refusing to obey the subpoena or order of the Court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the Superior Court.

(f) The Board may establish a fee schedule as follows:

(1) each application for registration, not to exceed \$150.00;

(2) each examination, not to exceed \$125.00;

(3) each re-examination, not to exceed \$100.00;

(4) each certificate of registration, not to exceed \$100.00;

(5) each renewal of registration, not to exceed \$125.00;

(6) each revalidation of a certificate of registration after suspension or revocation not to exceed \$400.00;

(7) each replacement of a certificate of registration, not to exceed \$75.00;

(8) each temporary permit for an out-of-state registrant, not to exceed \$250.00; and

(9) publications or any other purpose as deemed reasonable by the Board."

Section 2. Amend Subchapter II of Chapter 27, Title 24, Delaware Code, by striking Sections 2722, 2724, 2725, 2728, 2729, 2731 and 2733 in their entirety and substituting in lieu thereof the following new sections:

"§2722. Qualifications for registration

In order to qualify for registration, an applicant must show that:

(a) He is at least twenty-three (23) years of age;

(b) He is of good character and reputation;

(c) He has successfully completed an examination in accordance with the applicable provisions of this Chapter; and

(d) He has satisfied one of the following requirements:

(1) The applicant is a graduate of a surveying curriculum of four (4) years or more and has had at least three (3) years of combined office and field experience in responsible charge of land surveying projects under the direct supervision of a professional land surveyor in the active practice of land surveying. The required experience shall not be achieved concurrently with the education requirement.

(2) The applicant is a graduate of a surveying or related science curriculum of four (4) years or more and has had at least five (5) years of combined office and field experience in responsible charge of land surveying projects under the direct supervision of a professional land surveyor in the active practice of land surveying. The required experience shall not be achieved concurrently with the education requirement.

(3) The applicant has successfully completed a thirty-two (32) semester hour, or its academic equivalent, course of study in land surveying or survey-related subjects and has had at least six (6) years of combined office and field experience in responsible charge of land surveying projects under the direct supervision of a professional land surveyor in the active practice of land surveying.

(4) The applicant has had at least ten (10) years of combined office and field experience in responsible charge of land surveying projects under the direct supervision of a professional land surveyor in the active practice of land surveying.

#### §2724. Comity or endorsement

A person holding a certificate of registration to engage in the practice of land surveying on the basis of comparable qualifications issued by a proper authority of a state, territory or possession of the United States or any foreign country and an experience record satisfactory to the Board, will be given comity consideration upon application to the Board. However, he may be required to take such examinations as the Board deems necessary to determine his qualifications, but in any event, he shall be required to pass a written examination of not less than four (4) hours duration, which shall include questions on laws, procedures and practices pertaining to the practice of land surveying in the State of Delaware. Every application shall be accompanied by a non-refundable application fee established by the Board.

#### §2725. Examinations

(a) The Board shall conduct at least one examination per

12-month period and such examinations shall be held at a time and place determined by the Board.

(b) The examination of all applicants for registration shall include a written examination of at least sixteen (16) hours duration. The examination shall be broken down into at least two (2) sessions and shall include testing in the following areas:

(1) The Fundamentals of Land Surveying; and

(2) The Principles and Practice of Land Surveying.

An applicant shall not be admitted to the examination in the Principles and Practice of Land Surveying until he has first received credit from the Board for having successfully completed the examination in the Fundamentals of Land Surveying or its academic equivalent.

(c) The scope and duration of each examination or any part thereof, as well as the procedure for taking and grading the examination, shall be prescribed by the Board.

(d) An applicant failing an examination may apply for re-examination, which may be granted at the discretion of the Board.

(e) A non-refundable examination fee established by the Board shall be submitted by an applicant prior to any examination or re-examination.

#### §2728. Temporary permit

The Board may grant to a professional land surveyor who is currently registered in another state, territory or country whose requirements for registration are comparable to those of this State a temporary permit to engage in one (1) specified project, for one (1) client, and at one (1) location in this State, for a period not to exceed thirty (30) consecutive days. No person shall be granted more than one (1) such permit within any 365-day period.

Any person seeking a temporary permit shall apply to the Board in writing and shall pay a non-refundable application fee established by the Board.

A temporary permit shall not authorize the practice of professional land surveying in connection with any work not set forth in said permit.

#### §2729. Expiration and renewals

Certificates of registration shall be valid until the last day of June of each year whereupon they shall become invalid unless renewed. Renewal may be effected at any time prior to July 1 of each year by payment to the Board of the prescribed renewal fee. The secretary of the Board shall notify every registrant of the

date of expiration of his certificate, at least one month prior to the expiration thereof, and the amount of the fee that shall be required for its renewal. Failure to give or receive such notice shall not prevent the certificate from becoming invalid after its expiration date.

Any registrant whose registration lapses as a result of his failure to renew may regain his registration within twelve (12) months after such lapse upon payment to the Board of an amount equal to two (2) times the current renewal fee. Otherwise, registration may be regained solely by filing a new application for registration with the Board in accordance with the applicable provisions of this Chapter.

Renewal shall be evidenced by the issuance of an annual registration card, bearing the date of expiration and the signature of the chairman and secretary of the Board.

§2731. Reissuance, revalidation, and replacement of certificates of registration

(a) The Board, for reasons it may deem sufficient, may reissue or revalidate the certificate of registration of any person whose certificate has been revoked or suspended, provided that three (3) or more members of the Board vote in favor of such reissuance or revalidation. Reissuance or revalidation shall be evidenced by the issuance of a new registration card upon payment of a fee established by the Board.

(b) A new certificate of registration may be issued by the Board to replace any unexpired certificate which has been lost, destroyed or mutilated upon payment of a fee established by the Board.

§2733. Persons not affected by this chapter

This chapter shall not be construed to prevent, affect or apply to:

(a) persons registered to practice engineering or architecture in Delaware;

(b) persons engaged in the practice of land surveying under the direct supervision of a professional land surveyor who is registered in this State and assumes responsibility for their activities;

(c) persons engaged in the practice of land surveying as employees under the direct supervision of a person who has been issued a temporary permit in accordance with the provisions of this chapter;

(d) the practice of employees of the government of the United States while engaged within this State in the practice of land sur-

veying for said government; and

(e) persons engaged solely in the teaching of a surveying curriculum or courses related to land surveying."

Section 3. Amend §2723 of Subchapter II, Chapter 27, Title 24, Delaware Code, by adding thereto a new paragraph to be designated as paragraph (4) which shall read as follows:

"(4) Be accompanied by a non-refundable application fee established by the Board."

Section 4. Amend §2726 (a) of Subchapter II, Chapter 27, Title 24, Delaware Code, by striking the words "registration fee as provided for in Section 2724 of this title" as the same appear in said paragraph (a) and substituting in lieu thereof the following words:

"a prescribed and non-refundable registration fee"

Section 5. Amend §2730 (e) of Subchapter II, Chapter 27, Title 24, Delaware Code, by striking the word "two" in said paragraph (e) and substituting in lieu thereof the word "three".

Section 6. Amend Section 2734, Title 24 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§2734. Public works

Neither this State, nor any of its political subdivisions, such as counties, incorporated cities and towns or other political entities or legally constituted boards, commissions or authorities, or officials or employees thereof shall permit the commencement or continuance of any public work involving land surveying unless the field surveying shall be directly supervised by, and all drawings and documents as a result thereof shall be prepared or certified by, a Professional Land Surveyor registered hereunder or a person authorized under Chapter 28 of this Title to practice professional engineering in this State."

Approved July 8, 1978.

## CHAPTER 435

FORMERLY HOUSE BILL NO. 756  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 5, DELAWARE CODE, ESTABLISHING A REGULATORY REVOLVING FUND FOR THE REVENUES AND EXPENSES OF THE OFFICE OF THE STATE BANK COMMISSIONER.

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

Section 1. Amend §105, Chapter 1, Title 5, Delaware Code, by numbering the first paragraph thereof as subsection "(a)".

Section 2. Amend §105, Chapter 1, Title 5, Delaware Code, by deleting the second paragraph thereof in its entirety.

Section 3. Amend §105, Chapter 1, Title 5, Delaware Code, by adding the following subsections:

"(b) There is hereby created within the State Treasury a special fund to be designated as the State Bank Commissioner Regulatory Revolving Fund which shall be used in the operation of the Office of the State Bank Commissioner in the performance of the various functions and duties required of the Office by law.

(c) All supervisory assessments, examination fees and any investigation fees collected by the Commissioner pursuant to this Title shall be deposited in the State Treasury to the credit of said State Bank Commissioner Regulatory Revolving Fund to be used in the operation of the office as authorized by the General Assembly in its annual operating budget. All other fees and/or taxes collected by the Commissioner shall not be deposited in said fund but shall be deposited in the General Fund of the State.

(d) Money reposing in the State Bank Commissioner Regulatory Revolving Fund shall be used by the Commissioner in the performance of his 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 office. The Council on Banking shall submit comments on the Budget Request of the Commissioner to the Secretary of Administrative Services, the Governor and members of the General Assembly.

(e) The maximum unencumbered balance which shall remain in the State Bank Commissioner Regulatory Revolving Fund at the end of any fiscal year shall be \$50,000 and any amount in excess thereof shall be reverted to each financial institution in an amount proportionate to the sum paid by that financial institution in the previous calendar year pursuant to §127 (b) of this Chapter in such a manner as prescribed by the State Bank Commissioner and

approved by the Council on Banking."

Section 4. The sum of fifty thousand dollars (\$50,000) is hereby advanced from the General Fund of the State to the Office of State Bank Commissioner to provide operating funds until the Revolving Fund established by Section 3 of this Act is operable. Such sum shall not be utilized in computing the unencumbered balance as set forth in Section 3 of this Act. The advance shall revert to the General Fund of the State on June 30, 1980.

Section 5. The effective date of this Act is July 1, 1978.

Approved July 8, 1978.

## CHAPTER 436

FORMERLY HOUSE BILL NO. 771  
AS AMENDED BY  
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 1, TITLE 5, DELAWARE CODE, RELATING TO FEES FOR EXAMINATION.

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

Section 1. Amend §127, Chapter 1, Title 5, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"§127. Fees for examination and supervisory assessment

(a) The Commissioner shall charge each institution examined by him or by his direction an examination fee based on the actual costs of the examination. Costs of the examination are to include direct salaries paid and fringe benefits for salaries, charges and fees for filing, copying, inspecting, and other services rendered. The Commissioner shall submit to the Council on Banking by May 1, 1978, and May 1st each year thereafter the calculated daily rate of pay for each examiner class. The rates for examinations, as approved by the Council shall be the basis for the charges to the institutions and shall be utilized during the ensuing fiscal year.

(b) The Commissioner shall assess annually each institution examined by him or by his direction a supervisory assessment based on total assets of said institutions as of December 31 of each year. The supervisory assessments is to provide for the balance of the budget of the Office of the Commissioner not covered under subsection (a) of this section. The assessment shall not exceed 3.5 cents for each \$1,000.00 of an institution's total assets. In no event shall the assessment to any institution be less than \$300.00. The Commissioner shall compute the rate per \$1,000.00 of assets required for the ensuing fiscal year and submit such data to the Council on Banking by May 1, 1978, and May 1st each year thereafter. The rates as approved by the Council shall be invoiced to the institutions on June 15, 1978, and June 15 each year thereafter and are due and payable on July 1, 1978, and July 1st each year thereafter.

(c) The fees derived from subsections (a) and (b) of this section shall be deposited in the Regulatory Revolving Fund established under §105, Chapter 1, Title 5, Delaware Code, and shall be accounted for by the Commissioner as part of the receipts for his office.

(d) In the event of a lack of agreement on the rates specified

in subsections (a) and (b) of this section, the Commissioner and the Chairman of the Council shall submit the issues upon which there is disagreement to the Secretary of Finance who will act as an independent arbitrator and who shall set the rates for the year in question."

Section 2. Any examination of an institution in process on July 1, 1978, shall be charged in accordance with §127, Chapter 1, Title 5, Delaware Code, as it was constructed prior to enactment of this Act with the exception that the fees received therefrom shall be deposited in the Regulatory Revolving Fund established under §105, Chapter 1, Title 5, Delaware Code.

Approved July 8, 1978.

## CHAPTER 437

## FORMERLY HOUSE BILL NO. 789

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 Office of State Personnel and Council 81 have mutually agreed that Mr. Thomas E. Heard, Electronics Technician, should be compensated for the delay in receiving a deserved promotion due to a change in job specification; 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 1975.

NOW, THEREFORE:

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

Section 1. The sum of one thousand fifty-three dollars and twenty-three cents (\$1,053.23) is hereby appropriated to the Department of Transportation (55-04-030) for the salary due Mr. Thomas E. Heard for the period July 1, 1974, to June 30, 1975, 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, 1979, shall thereupon revert to the General Fund of the State of Delaware.

Approved July 8, 1978.

CHAPTER 438

FORMERLY HOUSE BILL NO. 795  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 53, PART III, TITLE 25 OF THE DELAWARE CODE  
RELATING TO LANDLORD OBLIGATIONS AND TENANT REMEDIES.

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

Section 1. Amend §5307, Chapter 53, Part III, Title 25 of the Delaware Code by striking subsection (a) of said section in its entirety and substituting in lieu thereof the following:

"(a) If the landlord substantially fails to provide hot water, heat or water in violation of the rental agreement or in violation of an applicable housing code to a tenant for 48 hours, in the first occurrence of such failure during the period of the rental agreement or for 24 hours in the case of any subsequent similar occurrence after the tenant notifies him in writing of the failure, the tenant may:

(1) Upon written notice to the landlord, immediately terminate the rental agreement; or

(2) Upon written notice to the landlord, keep 1/4 of the rent accruing during any period when hot water, heat or water is not supplied. The landlord may avoid this liability by a showing of impossibility of performance."

Approved July 8, 1978.

## CHAPTER 439

## FORMERLY HOUSE BILL NO. 828

AN ACT TO AMEND CHAPTER 81, TITLE 10 OF THE DELAWARE CODE RELATING TO THE COLLECTION OF INHERITANCE TAXES AND ESTATE TAXES UPON THE ESTATE OF ANY DECEDENT AFTER THE EXPIRATION OF 20 YEARS FROM THE DECEDENT'S DATE OF DEATH.

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

Section 1. Amend Chapter 81, Title 10 of the Delaware Code by adding thereto a new section to read as follows:

"§8129. Inheritance and estate taxes

No action shall be brought by the State of Delaware for the collection of inheritance taxes nor estate taxes upon the estate of any decedent after the expiration of 20 years from the decedent's date of death."

Approved July 8, 1978.

CHAPTER 440

FORMERLY HOUSE BILL NO. 831  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

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 Office of State Personnel has determined that Mr.  
Michael P. Stayton should be compensated for a delay in receiving a  
deserved promotion; 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 1975.

NOW, THEREFORE:

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

Section 1. The sum of five hundred thirty-two dollars and ten  
cents (\$532.10) is hereby appropriated to the Department of Transpor-  
tation (55-05-020) for the salary and payroll-related costs due Mr.  
Michael D. Stayton for the period December 16, 1976, to June 15, 1977,  
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, 1979, shall thereupon revert to the General  
Fund of the State of Delaware.

Approved July 8, 1978.

## CHAPTER 441

FORMERLY HOUSE BILL NO. 838  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO NON-DISCLOSURE OF INCOME TAX RETURN INFORMATION.

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 1241, Chapter 11, Title 30, Delaware Code, relating to secrecy of personal income tax returns and information, is hereby amended by striking said section in its entirety and substituting in lieu thereof a new Section 1241 to read as follows:

"§1241.

(a) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any officer or employee of the Department of Finance, or any other officer or employee of this State who has access to tax returns or information from returns under this section or Section 1242, to disclose or make known to any person in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this Chapter, including any copy of any portion of a Federal income tax return or report, or any information on a Federal return which is required to be attached or included in the State tax return.

(b) Nothing in this section shall be construed to prohibit the publication of statistics classified so as to avoid identification of specific taxpayers, or to prohibit the disclosure of the tax return or return information of any taxpayer to such person or persons as the taxpayer may designate in a written request or consent to such disclosure.

(c) The term 'officer or employee' shall include present and former officers and employees, and any person or persons employed or retained by the State on an independent contract basis. The terms 'return' or 'report' as used in this section shall mean personal income tax return or report.

(d) Any violation of this section shall be a misdemeanor, punishable upon conviction by a fine not to exceed \$1,000.00 or imprisonment not to exceed six months, or both."

Approved July 8, 1978.

CHAPTER 442

FORMERLY HOUSE BILL NO. 877  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND SECTION 2301, CHAPTER 23, TITLE 30, DELAWARE CODE, RELATING TO EXEMPTIONS FROM BUSINESS AND OCCUPATIONAL LICENSES AND TAXES.

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

Section 1. Amend subsection (n) of §2301, Chapter 23, Title 30, Delaware Code, by striking the "." at the end of said subsection and substituting in lieu thereof the following:

"; provided, however, this exemption shall not apply to those activities of the foregoing persons which are required to be licensed under Section 2301 (a)(87) of this Chapter."

Approved July 8, 1978.

## CHAPTER 443

FORMERLY HOUSE BILL NO. 882

AS AMENDED BY

HOUSE AMENDMENT NO. 1 &amp; SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 31, DELAWARE CODE, RELATING TO AID TO CHILDREN UNDER THE STATE PUBLIC ASSISTANCE CODE.

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

Section 1. Amend §505 (6) a., Chapter 5, Title 31 of the Delaware Code by striking said sub-paragraph in its entirety and substituting a new sub-paragraph a. to read as follows:

"a. Are recipients of assistance in any of the categories listed in subsections (1), (2) and (3) of this section; or as aid to the needy blind; or who would be eligible for any such assistance in 1 of such categories except that they do not meet the durational residence requirement prescribed therefor; or are recipients of assistance under subsection (4) and are children under 21 years of age; or"

Section 2. This Act shall take effect July 1, 1978.

Approved July 8, 1978.

CHAPTER 444

FORMERLY HOUSE BILL NO. 912

AN ACT TO AMEND CHAPTER 70, TITLE 9, DELAWARE CODE, TO PERMIT THE SUSSEX COUNTY GOVERNMENT TO BORROW MONEY IN ANTICIPATION OF THE ISSUANCE OF BONDS.

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

Section 1. Amend Section 7002, Chapter 70, Title 9, Delaware Code, by adding the following paragraph to subsection (t):

"The County government may, by resolution, borrow money in anticipation of issuance of bonds in such amounts as it may find necessary and authorize the issue of negotiable notes therefor."

Approved July 8, 1978.

## CHAPTER 445

## FORMERLY HOUSE BILL NO. 913

AN ACT TO AMEND CHAPTER 61, PART V, TITLE 30, DELAWARE CODE, PUBLIC ACCOMMODATION TAXES, TO PROVIDE PROCEDURES FOR OBTAINING AND ENFORCING JUDGMENTS AGAINST DELINQUENT TAXPAYERS.

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

Section 1. Amend Chapter 61, Part V, Title 30, Delaware Code, relating to public accommodation taxes, by adding a new Section 6105 to the end thereof as follows:

"§6105. Judgments

The amount of any tax including interest due under this Part and remaining due after demand for the same shall, until paid, constitute a judgment against the taxpayer, upon the filing by the Secretary of Finance or his delegate of a certificate in the Superior Court of the county where the taxpayer does business or owns real or personal property. Such certificate shall specify the amount of the tax, including interest under this Part, which has become due.

The certificate, upon being docketed in the judgment docket of the Superior Court shall have the full force and effect as any other judgment of the court. The Secretary of Finance or his delegate may, after obtaining a judgment pursuant to this section, issue a warrant directed to the Sheriff of any county of this State, or to his own representative, commanding him to garnish property of the taxpayer or levy upon and sell such real and personal property of the taxpayer for the amount due with the cost of executing the warrant, and to return such warrant to the Secretary of Finance or his delegate and to pay over the money collected by virtue thereof within 60 days after receipt of the warrant, provided, that no less than 10 days before issuance of any warrant, notice of the filing and effect of the certificate shall be sent by certified mail to the taxpayer at his last known address. It is expressly provided that no property, legal or equitable, wages, salaries, deposits, or monies in banks, savings institutions, or loan associations, or other property or income of any taxpayer shall be exempt from execution or attachment process issued upon or for collection of any judgment."

Approved July 8, 1978.

CHAPTER 446

FORMERLY HOUSE BILL NO. 914

AN ACT TO AMEND CHAPTER 65, TITLE 9, DELAWARE CODE, RELATING TO THE TIME  
IN WHICH THE SUSSEX COUNTY GOVERNMENT MUST ACT FOLLOWING AN ELEC-  
TION FAVORING ESTABLISHMENT OF A SANITARY OR WATER DISTRICT.

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

Section 1. Amend §6507, Chapter 65, Title 9 of the Delaware Code  
by striking "30 days" from the first line of subsection (b) and inser-  
ting in lieu thereof "12 months".

Approved July 8, 1978.

## CHAPTER 447

## FORMERLY HOUSE BILL NO. 915

AN ACT TO AMEND CHAPTER 51, TITLE 16, DELAWARE CODE, TO INCREASE THE FEES PAID FOR THE EMERGENCY APPREHENSION OF THE DANGEROUSLY MENTALLY ILL.

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

Section 1. Amend §5122, Chapter 51, Title 16, Delaware Code, by striking subsection (e) and inserting in lieu thereof the following new subsection (e):

"(e) The State Treasurer shall pay constables, sheriffs and deputy sheriffs for service as peace officers under this section at the rate of 15 cents for each mile necessarily traveled and a custody fee of \$25 for the first peace officer and \$15 for each additional peace officer, and shall pay medical doctors for services under this section \$15 for each case."

Approved July 8, 1978.

CHAPTER 448

FORMERLY HOUSE BILL NO. 916

AN ACT TO AMEND CHAPTER 9, TITLE 4, DELAWARE CODE, TO PERMIT THE  
EMPLOYMENT OF A PERSON WHO IS 18 OR 19 YEARS OF AGE BY A LICENSED  
IMPORTER OF ALCOHOLIC LIQUORS.

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

Section 1. Amend §904, Chapter 9, Title 4, Delaware Code, by  
adding a new subsection thereto to read as follows:

"(j) Nothing in this section shall prevent a licensed importer  
from employing a person who is 18 or 19 years of age to:

- (1) Work in an office, warehouse or other facility used  
by the importer in the operation of its business;
- (2) Make or assist in deliveries of alcoholic liquors to  
licensed establishments in this State;
- (3) Transport or assist in the transporting of alcoholic  
liquors to or from the importer's warehouse.

Such person may enter any licensed establishment in this  
State for the purpose of making or assisting the delivery of  
alcoholic liquors thereto or for any purpose related to such  
delivery.

No such person shall be employed by a licensed importer as a  
salesman or sales representative."

Approved July 8, 1978.

## CHAPTER 449

## FORMERLY HOUSE BILL NO. 946

AN ACT TO AUTHORIZE THE BOARD OF EDUCATION OF THE SEAFORD SCHOOL DISTRICT TO TRANSFER CERTAIN FUNDS FROM ITS MINOR CAPITAL IMPROVEMENT FUNDS ACCOUNT TO LOCAL FUNDS ACCOUNT.

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

Section 1. The Board of Education of the Seaford School District is authorized to transfer \$95,000 in minor capital improvement funds to local funds, to be used for maintenance, replacement of equipment and for new equipment. None of the money transferred shall be used for salaries.

Approved July 8, 1978.

CHAPTER 450

FORMERLY HOUSE BILL NO. 952

AN ACT TO GRANT APPROVAL TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO PURCHASE SEVEN TRACTS OF LAND IN KENT AND SUSSEX COUNTIES, 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 has taken steps to purchase seven (7) tracts of land consisting of approximately 3,903 acres known as the Delaware Wild Lands properties located in Kent and Sussex Counties, Delaware; and

WHEREAS, appraisals have been completed on the Delaware Wild Lands properties and the fair market value is \$3,422,480; and

WHEREAS, a land survey will be completed by a registered Delaware land surveyor verifying the tract acreage; and

WHEREAS, the tracts of land are eligible for 50% Federal fund assistance through the Land and Water Conservation Fund Act; and

WHEREAS, the State of Delaware's matching portion will result from a donation of 1,876 acres valued at \$1,172,450 from Delaware Wild Lands, Inc., and \$571,425 from already authorized funds from the 1976 Capital Improvement Bond Act.

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 parcels of land known as the Delaware Wild Lands, Inc., properties in Kent and Sussex Counties, 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 July 8, 1978.

CHAPTER 451

FORMERLY HOUSE BILL NO. 968

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 PROVIDE FOR SALE OF BONDS AT PUBLIC OR PRIVATE SALE.

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 35 (g), Chapter 42, Volume 53, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the second paragraph of said Section 35 (g) and inserting a new second paragraph to read as follows:

"The form of bond or certificate of indebtedness, the interest rate, the time or times of payment of interest, the classes, the time or times of maturity, provisions as to registration, any callable or redeemable provision, the denomination and name and other relative or pertinent matters shall all be determined by Council after said Special Election. The bond or bonds or certificate or certificates of indebtedness may be sold at either public or private sale. The Council shall provide in its budget, and in fixing the rate of tax, for the payment of interest and principal on said bonds at the maturity or maturities thereof, and may establish a sinking fund therefor. The faith and credit of the City of Seaford shall be deemed to be pledged for the due payment of the bonds and interest thereon issued under the provisions hereof, when the same have been properly executed and delivered for value. 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 the principal of any bonded indebtedness whether hereinbefore or hereafter incurred."

Approved July 8, 1978.

## CHAPTER 452

## FORMERLY HOUSE BILL NO. 973

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 subparagraph (9)(B)(1) of Section 3302, Chapter 33, Title 19, Delaware Code, by striking therefrom the clause "and before January 1, 1978".

Section 2. Amend subparagraph (6)(B) of Section 3314, Chapter 33, Title 19, Delaware Code, by striking therefrom the clause "with respect to service performed after December 31, 1977", and substituting in lieu thereof the following:

"with respect to weeks of unemployment beginning after December 31, 1977".

Section 3. Further amend subparagraph (6)(B) of Section 3314, Chapter 33, Title 19, Delaware Code, by striking therefrom the phrase "commencing during the period between two successive academic years, or during a similar period between two regular but not successive terms" and substituting in lieu thereof the following:

"commencing during the period between successive academic years or terms of a similar period between two regular but not successive terms".

Section 4. Amend subparagraph (6)(C) of Section 3314, Chapter 33, Title 19, Delaware Code, by striking therefrom the clause "with respect to services performed after December 31, 1977," and substituting in lieu thereof the following:

"with respect to weeks of unemployment beginning after December 31, 1977,"

Section 5. Further amend Section 3314, Chapter 33, Title 19, Delaware Code, by adding a new subparagraph (6)(D) to read as follows:

"(D) With respect to any services described in subparagraphs (6)(B) and (6)(C), compensation payable on the basis of such services may be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess."

Section 6. Amend Section 3315, Chapter 33, Title 19, Delaware Code, by striking subparagraph (10)(A) in its entirety and inserting in lieu thereof a new subparagraph (10)(A) 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 was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203 (A)(7) or 212 (d)(5) of the Immigration and Nationality Act."

Approved July 8, 1978.

## CHAPTER 453

## FORMERLY HOUSE BILL NO. 1000

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

Section 1. Amend Section 5501 (a), Chapter 55, Title 29, Delaware Code by adding a sentence after subparagraph (4) to read as follows:

"A person who meets the requirements of this subsection shall be regarded as an 'employee' during the period he or she is on an approved medical leave and, for school personnel who do not work on 12-month basis, during the period between the expiration of such leave and the beginning of the next regular school term."

Section 2. Amend Section 5501 (b)(1), Chapter 55, Title 29, Delaware Code by striking said subsection and substituting in lieu thereof a new subsection (b)(1) to read as follows:

"(1) Service as an employee, excluding any period during which an employee is on an approved medical leave or approved sabbatical leave unless service credit for such period or periods of leave is purchased pursuant to subparagraphs (9) or (10) of this section."

Section 3. Amend Section 5501 (b)(9), Chapter 55, Title 29, Delaware Code by striking said subparagraph and substituting in lieu thereof a new subparagraph (b)(9) to read as follows:

"(9) Approved medical leave if the employee subsequently accrues at least one year of credited service under paragraph (1) of this subsection and pays into the Fund prior to the issuance of his or her first pension check, contributions determined by multiplying the rates in effect at the time of payment for employee contributions and State appropriations times the average of the sixty months of creditable compensation used to calculate the individual's pension benefit times the months or fractions thereof so credited. Any credited service purchased for medical leave shall not be used to determine eligibility for benefits under this chapter."

Section 4. Amend Section 5501 (b), Chapter 55, Title 29, Delaware Code by adding a new subparagraph (10) to read as follows:

"(10) Approved sabbatical leave other than that provided by Section 1325, Chapter 13, Title 14, Delaware Code if the employee pays into the Fund, prior to the issuance of his or her first pension check, contributions equal to the sum of the employee contributions and State appropriations which would have been made to the Fund during such periods of sabbatical leave, with the amount

of such contributions to be determined in accordance with rules and regulations adopted by the Board."

Section 5. Amend Section 5501, Chapter 55, Title 29, Delaware Code by adding a new subsection (i) to read as follows:

"(i) 'Approved medical leave; means a leave of absence from covered State employment, without pay, for a definite period of time, authorized by the head of the employee's department or agency, and necessitated by the employee's mental and/or physical condition. Approved medical leaves shall not exceed one year unless extended by the Board of Pension Trustees."

Section 6. Amend Section 5530, Chapter 55, Title 29, Delaware Code by adding immediately at the end of such section the following:

"There shall be a rebuttable presumption that an individual who fails to apply for a withdrawal benefit within five (5) years after the date he or she first becomes eligible to receive such benefits has waived his or her right to the withdrawal benefit."

Section 7. The effective date of this Act shall be July 1, 1978. The provisions of Section 1 shall apply to all persons on approved medical leave on or after the effective date.

Approved July 8, 1978.

## CHAPTER 454

## FORMERLY HOUSE BILL NO. 1105

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

WHEREAS, Chapter 483, Volume 60, Delaware Laws, also known as the 1976 Pension Act, contained provisions that were not adequately defined; and

WHEREAS, the Board of Pension Trustees and the Pension Office have encountered difficulty in faithfully administering the statute in its current form.

NOW, THEREFORE:

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

Section 1. Amend §5501 (b)(5), Chapter 55, Title 29, Delaware Code by striking the phrase "for each month so credited" as the same appears in said subsection and inserting in lieu thereof the following:

"for each month so credited except that individuals who retire prior to December 31, 1981 and who elect not to buy in under the provisions of §5501 (e) shall pay into the fund an amount equal to 5% of his or her prior final average compensation for each month so credited".

Section 2. Amend §5501 (b)(9), Chapter 55, Title 29, Delaware Code, by adding immediately at the end of said subsection the following:

"Any credited service purchased under this paragraph (9) shall not be used to determine eligibility for benefits under this Chapter."

Section 3. Amend §5502 (d), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (d) to read as follows:

"(d) 'Final average compensation' shall mean 1/60 of the compensation paid to an employee during any period of sixty consecutive months or any 60 months comprised of five (5) periods of 12 consecutive months in his or her years of service credited under paragraphs (b)(1), (2) and (3) in which his or her compensation was highest, or the average monthly compensation paid to an employee during the period of his or her service credited under paragraphs (b)(1), (2) and (3) if such period is less than sixty months."

Section 4. Amend §5501 (e), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu

thereof a new subsection (e) to read as follows:

"(e) 'Prior final average compensation' shall mean 1/60 of the compensation paid to an employee during any period of sixty consecutive months or any 60 months comprised of five (5) periods of 12 consecutive months in his or her years of service credited under paragraphs (b)(1), (2) and (3) in which his or her compensation was highest, or the average monthly compensation paid to an employee during the period of his or her service credited under paragraphs (b)(1), (2) and (3) if such period is less than sixty months, except that compensation in excess of \$24,000 during any calendar year or the sum of any partial calendar years in such period of sixty months shall be excluded and total compensation for such period of sixty months shall not exceed \$120,000; provided, however, that for an employee who, prior to the issuance of his first pension check, pays to the fund contributions determined in accordance with the rules and regulations approved by the Board equal to the sum of (1) the additional employee contributions which would have been made to the fund if the maximum limit of \$24,000 per annum for computing employee contributions had not been applied, (2) an amount determined by applying the rate of State appropriations to the fund in effect on December 31, 1976 to his or her earnings from January 1, 1966 to December 31, 1976 in excess of \$24,000 per annum, and (3) interest compounded at the rate of 6% per annum on the sum of (1) and (2) from the end of the calendar year accrued to the date paid, 'prior final average compensation' shall then mean 'final average compensation' as defined in paragraph (d) herein."

Section 5. Amend §5527 (a)(2)(ii), Chapter 55, Title 29, Delaware Code by striking the phrase "final average compensation" as the same appears in said subsection and inserting in lieu thereof the phrase "the average of the sixty (60) months of creditable compensation used to calculate the individual's pension benefit".

Section 6. Amend §5527 (a)(2)(iii), Chapter 55, Title 29, Delaware Code by striking the phrase "final average compensation" as the same appears in said subsection and inserting in lieu thereof the phrase "of the average of the sixty (60) months of creditable compensation used to calculate the individual's pension benefit".

Section 7. Amend §5527 (b)(2), Chapter 55, Title 29, Delaware Code, by striking the last sentence of said subsection beginning with the word "Any" and ending with the word "compensation."

Section 8. Amend §5527 (d), Chapter 55, Title 29, Delaware Code by striking the last sentence.

Section 9. Amend §5527 (e), Chapter 55, Title 29, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection (e) to read as follows:

"(e) Any section of this chapter to the contrary notwithstanding, the amount of the monthly service or disability pension payable to

any regular part-time employee who is not employed on a full time or annual basis, as the term full time or annual basis is defined in rules and regulations adopted by the Board shall be determined in accordance with paragraph (a) herein, provided that no minimum amount shall be payable to any such regular part-time employee; provided, however, that for any public school cafeteria employee who entered State service on or before July 1, 1971, and who accrues 15 years of credited service as an employee under §5501 (b)(1) by the date of his retirement eligibility shall receive, beginning at age 62, a minimum amount which, when combined with his Social Security benefit, shall not be less than \$200 per month."

Section 10. Amend §5528 (a), Chapter 55, Title 29, Delaware Code by striking the phrase "65 years of age" as the same appears in said subsection and inserting in lieu thereof the phrase "62 years of age".

Section 11. Amend §5528 (d)(ii), Chapter 55, Title 29, Delaware Code by striking the phrase "but not age 21" as the same appears in said subsection and inserting in lieu thereof the phrase "but not age 22".

Section 12. Amend §5527 (a)(1)(ii) by striking said subparagraph (ii) in its entirety and substituting in lieu thereof a new subparagraph (ii) to read as follows:

"(ii) 1/60 of his or her final average compensation multiplied by the number of years, taken to the nearest twelfth of a year, in his or her period of credited service after 1976, plus 1/60 of his or her prior final average compensation multiplied by the number of years, taken to the nearest twelfth of a year, in his or her period of credited service before 1977, provided that the maximum limitation specified in paragraph (b) and (c) herein shall not apply."

Section 13. Amend §5543 (a), Chapter 55, Title 29, Delaware Code, by striking said subsection and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) Effective January 1, 1977, employee contributions to the Fund shall be:

(1) In the case of any employee who first entered service after June 30, 1976, either (a) 3% of total monthly compensation in excess of \$500, plus 2% of that portion which exceeds the amount determined by dividing social security wage base by 12; or (b) if any employee receives annual compensation in fewer than 12 months, 3% of total monthly compensation which exceeds the amount determined by multiplying the ratio of 12 over the number of months which he receives annual compensation times \$500, plus 2% of monthly compensation which exceeds the amount determined by dividing the social security wage base by the number of months he or she receives annual compensation. In no event shall total compensation during any calendar year in excess of \$6,000 be exempt from contributions.

(2) in the case of any employee who first entered service before July 1, 1976, either (a) 5% of that portion of his or her compensation during any month which exceeds \$500, or (b) if annual compensation is paid in less than 12 months, 5% of monthly compensation which exceeds the amount determined by multiplying the ratio of 12 over the number of months paid times \$500. In no event shall total compensation during any calendar year in excess of \$6,000 be exempt from contributions."

Section 14. This Act shall become effective retroactive to July 1, 1976, provided that Section 13 shall become effective on January 1, 1978.

Approved July 8, 1978.

## CHAPTER 455

## FORMERLY HOUSE BILL NO. 1107

AN ACT TO AMEND CHAPTER 191, VOLUME 61, LAWS OF DELAWARE BY AWARDING SPECIAL PENSION BENEFITS APPROPRIATING MONIES TO FUND SUCH PENSIONS AND DIRECTING THE BOARD OF PENSION TRUSTEES TO ADMINISTER PAYMENT OF SUCH PENSIONS AS IF THE AWARDS WERE PURSUANT TO CHAPTER 55, TITLE 29, DELAWARE CODE, AWARDING SPECIAL PENSION BENEFITS AND INCREASING CERTAIN OTHER PENSION BENEFITS BY AMENDING CHAPTER 55, TITLE 29, DELAWARE CODE.

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

Section 1. Amend Section 1, Chapter 191, Volume 61, Laws of Delaware by striking the names Edna Wright, Wallace Truitt and A. James Gallo as they appear in said Section and inserting in lieu thereof the following:

<u>Legislative Reference</u> <u>VOL.</u>	<u>CHAPTER</u>	<u>Pensioner</u>	<u>Nature of</u> <u>Pension Benefits</u>	<u>Monthly</u> <u>Benefit</u>
59	501	Wallace Truitt	Service	\$166.50
59	436	A. James Gallo	Service	348.00

Section 2. Amend Section 2, Chapter 191, Volume 61, Laws of Delaware by adding immediately at the end thereof the following:

<u>Legislative Reference</u> <u>VOL.</u>	<u>CHAPTER</u>	<u>Pensioner</u>	<u>Nature of</u> <u>Pension Benefits</u>	<u>Monthly</u> <u>Benefit</u>
60	214	Cathryn M. Shockley	Survivor's	\$ 80.00

Section 3. Amend Section 5532 (d), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (d) to read as follows:

"(d)(1) Any service or survivor pension which became effective before 1975, and is payable on June 30, 1976, and any disability pension which became effective before 1975, and is payable on June 30, 1976 shall be increased effective January 1, 1976, in accordance with the following schedule:

<u>Year pension</u> <u>became effective</u>	<u>Percent increase in</u> <u>pension effective 1/1/76</u>
Prior to 1970 . . . . .	19%
Prior to 1971 . . . . .	16%
Prior to 1972 . . . . .	14%
Prior to 1973 . . . . .	11%
Prior to 1974 . . . . .	5%

(ii) Any pension which became effective before 1960 and is payable on June 30, 1976, to an individual who is not also receiving or eligible for benefits under the Federal Social Security Act (42 U.S.C. §301 et seq.) shall be increased by 35% effective January 1, 1976, provided that such increase shall be in lieu of, and not in addition to, the increases provided in accordance with the above schedule.

(iii) The percentage increases in pensions provided for herein shall be applied to the correct amount determined as a result of audits made between May, 1971, and June, 1972, and shall only be paid to an individual if such correct amount inclusive of such increase, exceeds the amount of any pension being paid in accordance with Section 5533 (b) of this title.

(iv) Any pensioner whose pension became effective before 1975 and whose pension is payable as provided in subsection (d)(i) above, but whose pension benefits are not increased because of the restrictions contained in subsection (d)(iii) above, shall have the pension he or she is receiving increased by 10%."

Section 4. Amend Section 6, Chapter 191, Volume 61, Laws of Delaware by striking said section in its entirety and substituting in lieu thereof a new Section 6 to read as follows:

"6. For fiscal 1978 the sum of \$113,700 is hereby appropriated and shall be paid out of the General Fund of the State of Delaware from funds not otherwise appropriated for the purpose of providing funding for the benefits granted by this Act. Over the next five (5) fiscal years the State's appropriation to fully fund these benefits shall be as follows:

Fiscal 1979	\$254,945
Fiscal 1980	\$254,945
Fiscal 1981	\$254,945
Fiscal 1982	\$254,945
Fiscal 1983	\$254,945 "

Section 5. Amend Section 7, Chapter 191, Volume 61, Laws of Delaware by striking said section in its entirety and substituting in lieu thereof the following:

"7. If and when there are no special pension payments payable, and there are no special pension liabilities due and there exist unexpended funds in the Special Pension Fund, such funds shall revert to the General Fund of the State of Delaware."

Section 6. Amend Section 9, Chapter 191, Volume 61, Laws of Delaware by striking said section in its entirety and substituting in lieu thereof the following:

"9. A special pension fund is hereby established and shall be known as the 'Special Pension Fund'. The monies appropriated in Section 6 shall be deposited into this Fund and the Board of

Pension Trustees shall have exclusive responsibility for the administration of the Special Trust Fund in the same manner and pursuant to the statutes and regulations as set forth in Title 29, Chapter 83, Section 8308. The Board is hereby authorized to commingle the assets of the Special Pension Fund with the assets of the State Employees' Pension Fund for investment purposes only and shall maintain separate books and accounts for the Special Pension Fund and shall allocate all income and expenses on a proportionate basis between the two Funds."

Section 7. Amend Chapter 191, Volume 61, Laws of Delaware, by adding a new section thereto to read as follows:

"Section 10. Notwithstanding any provisions to the contrary contained in Chapter 55, Title 29, Delaware Code, former Delaware elected officials who served for a minimum of five (5) years, which years were served before June 1970, or were served partly before June 1970, and partly after June 1970, shall be eligible to receive pension awards paid entirely from 'Special Pension Fund' established herein, according to the terms and conditions of Chapter 55, Title 29, Delaware Code, and all regulations promulgated thereunder.

An amount sufficient to fully fund the pension awards granted under this section is hereby appropriated from General Fund monies not otherwise appropriated. The State Treasurer is hereby directed to deposit said amount in the Special Pension Fund as each such special pension award becomes payable. The amounts so deposited shall be controlled and administered according to the terms of Sections 7 and 9 of this Act."

Section 8. Amend Section 5527 (d), Chapter 55, Title 29, Delaware Code, by adding at the end thereof a new paragraph to read as follows:

"The minimum pensions provided for in this subsection shall apply to all elected officials retrospectively."

Section 9. This Act shall be effective retroactively to July 1, 1977, except that Section 2 shall be effective retroactively to December 1, 1976, and Section 3 shall be deemed effective at the same time and date as Chapter 483, Volume 60, Laws of Delaware, and Sections 8, 9 and 10 shall be effective on the date of enactment.

Approved July 8, 1978.

CHAPTER 456

FORMERLY HOUSE BILL NO. 1135

AN ACT TO AMEND CHAPTER 83, TITLE 11, DELAWARE CODE TO PROVIDE THAT A RETIRED STATE POLICEMAN MAY COLLECT A PENSION FOR HIS SERVICE AS AN ELECTED OFFICIAL AND CONTINUE TO RECEIVE HIS PENSION AS A RETIRED STATE POLICEMAN.

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

Section 1. Amend §8323 (d)(1), Chapter 83, Title 11, Delaware Code by deleting subsection (c)(1) in its entirety and inserting in lieu thereof the following:

"(1) The employment, except employment as an elected official, may not be used for further retirement benefits; and"

Approved July 8, 1978.

## CHAPTER 457

FORMERLY HOUSE BILL NO. 380  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 2, 4 & 5

AN ACT TO AMEND CHAPTER 5, TITLE 29, CHAPTER 65, TITLE 29, CHAPTER 17, TITLE 2, AND CHAPTER 51, TITLE 14, DELAWARE CODE RELATING TO REIMBURSEMENT FOR COSTS OF GOODS AND SERVICES PROVIDED BY STATE AGENCIES AND DEPARTMENTS.

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

Section 1. Amend Section 501, Title 29, Delaware Code by striking therefrom the phrase "and the operation of a centralized microfilming program, at the cost of material, for the agencies of the State or any political subdivision thereof.", and by substituting in lieu thereof the phrase "and the operation of a centralized microfilming program, at the full cost of such goods and services, in accordance with Title 29, Section 6531."

Section 2. Amend Section 6531 of Title 29 of the Delaware Code by deleting Section 6531 (a) in its entirety and substituting in lieu thereof the following:

"(a) All State agencies and departments which provide goods and services to any other state agency, state department or to any other governmental agency, person, corporation, partnership or business organization on a reimbursement basis shall be reimbursed in amounts which shall not be less than the full cost of such goods and services, provided, however, that if the Governor, or his designate, after receiving a written request from an agency or department, shall indicate to such agency or department that such reimbursement for the full cost of goods or services provided is not in the best interest of the State, then reimbursement for the full cost of any goods or services provided shall not be required until June thirtieth of the next odd year."

Section 3. Amend Section 1709 of Title 2, Delaware Code by deleting Section 1709 in its entirety and substituting in lieu thereof the following:

"§1709. Exemption from certain laws

The provisions of Chapter 1, Title 26 and Parts V and VI, Title 29, with the exception of §6531 of Title 29, shall not apply to a specialized transportation authority."

Section 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved July 11, 1978.

CHAPTER 458

FORMERLY HOUSE BILL NO. 526  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO  
PENALTIES FOR EXCEEDING SPEED LIMITS.

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 §4169, Chapter 41, Title 21 of the Delaware  
Code by striking subsection (c) of said section in its entirety and by  
substituting in lieu thereof a new subsection (c) to read as follows:

"(c) Whoever violates this section shall for the first offense  
be fined \$10, or be imprisoned not less than 10 days nor more than  
30 days or both. For each subsequent offense, he shall be fined  
\$20, or be imprisoned not less than 15 days nor more than 60  
days or both. A subsequent violation, before being punishable  
as such, shall have been committed within 24 months after the  
commission of the prior offense.

Any person violating this section who exceeds the maximum  
speed limit by more than 5 miles per hour but less than 16 miles  
per hour shall pay an additional fine of \$1 per mile, if such  
violation is a first offense or \$2 per mile, if such violation is  
a subsequent offense for each mile in excess of the maximum speed  
limit.

Any person violating this section who exceeds the maximum  
speed limit by more than 15 miles per hour but less than 20 miles  
per hour shall pay an additional fine of \$2 per mile, if such  
violation is a first offense or \$3 per mile, if such violation  
is a subsequent offense, for each mile in excess of the maximum  
speed limit.

Any person violating this section who exceeds the maximum  
speed limit by more than 20 miles per hour shall pay an additional  
fine of \$3 per mile, if such violation is a first offense or \$4  
per mile, if such violation is a second offense, for each mile  
in excess of the maximum speed limit."

Approved July 11, 1978.

## CHAPTER 459

FORMERLY HOUSE BILL NO. 657  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 & 2

AN ACT TO AUTHORIZE THE TRANSFER OF THE ROSS POINT SCHOOL BUILDING,  
IN THE LAUREL SCHOOL DISTRICT, TO THE ROSS POINT IMPROVEMENT CLUB.

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

Section 1. The Governor and the Secretary of State are authorized to transfer by deed and for a nominal consideration the Ross Point School Building and land to the Ross Point Improvement Club in accordance with the provisions of Section 4518 (d), Chapter 45, Title 7 of the Delaware Code.

Section 2. Such transfer shall be subject to the following conditions:

(a) The grantee shall pay to the State of Delaware the sum of one dollar (\$1.00);

(b) Have prepared at its own expense a deed containing a survey description of the lands involved;

(c) Have prepared at its own expense such affidavits and other documents as are required by law to transfer legal title and to comply with applicable recording statutes; and

(d) If the grantee shall no longer use the property in accordance with the terms of this Act, then said real property shall revert to the State of Delaware. The deed shall contain a reverter clause to this effect.

Approved July 11, 1978.

CHAPTER 460

FORMERLY HOUSE BILL NO. 848  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 86, TITLE 9, DELAWARE CODE RELATING TO ALLOWANCE OF AN ABATEMENT OF OR DISCOUNT UPON COUNTY TAXES AND PENALTIES FOR LATE PAYMENT.

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

Section 1. Amend §8604 (a), Chapter 86, Title 9, Delaware Code by striking therefrom the following words:

"shall allow no abatement or discount upon any tax required to be collected by them, and"

Section 2. Amend §8604, Chapter 86, Title 9, Delaware Code by adding a new subsection (c) thereto to read as follows:

"(c) The receiver of taxes and county treasurer or director of finance of each county, upon being authorized by ordinance adopted by County Council or Levy Court, may allow an abatement of or discount upon any tax or penalty for late payment, exclusive of school taxes, required to be collected by them."

Approved July 11, 1978.

## CHAPTER 461

FORMERLY HOUSE BILL NO. 889  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21, DELAWARE CODE, RELATING TO EMERGENCY VEHICLES  
AND WARNING DEVICES USED ON SUCH VEHICLES.

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

Section 1. Amend §4106 (e), Chapter 41, Title 21, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(e) Authorized emergency vehicles within the meaning of this Chapter mean vehicles of a fire department, police vehicles, ambulances, vehicles used by a firechief, assistant firechief, fire engineer or fire policeman of any duly organized fire company in the performance of his duties, and emergency vehicles of state, federal, county or municipal departments, or public service corporations as are designated or authorized by the Secretary."

Section 2. Amend §4307, Chapter 43, Title 21, Delaware Code, by striking the words "of a type approved by the Secretary.", as the same appear in the last line of said section, and substituting in lieu thereof the following:

". A vehicle used by a firechief, assistant firechief, fire engineer or fire policeman of a duly organized fire department in the performance of his duties shall not be equipped with such warning devices."

Approved July 11, 1978.

CHAPTER 462

FORMERLY HOUSE BILL NO. 895

AN ACT TO AMEND CHAPTER 59, TITLE 29, DELAWARE CODE, RELATING TO EXEMPTION FROM THE CLASSIFIED SERVICE.

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

Section 1. Amend §5903, Title 29, Delaware Code, by striking category (17) as it appears therein and by substituting in lieu thereof the following:

"(17) Temporary, casual and seasonal employees employed for less than 130 working days in any fiscal year and students employed as part of an internship program."

Approved July 11, 1978.

## CHAPTER 463

## FORMERLY HOUSE BILL NO. 896

AN ACT TO AMEND CHAPTER 59, TITLE 29, DELAWARE CODE, RELATING TO THE SELECTION OF EMPLOYEES FROM ELIGIBILITY LISTS.

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

Section 1. Amend §5921, Title 29, Delaware Code, by adding at the end thereof the following:

"The rules shall not require the employing agency to interview more than one person on such list. In no case shall the rules require the employing agency to give a reason for rejecting names on said list unless all names are rejected. When the appointing authority selects an applicant for hire from said list the applicant may, at the discretion of the appointing authority, start work immediately and be placed on the payroll forthwith and any additional approvals or paperwork required by the rules shall be performed subsequently."

Approved July 11, 1978.

CHAPTER 464

FORMERLY HOUSE BILL NO. 925  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AUTHORIZE AND DIRECT THE TRANSFER OF CERTAIN PROPERTY IN CEDAR CREEK HUNDRED.

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

Section 1. The Governor and Department of Administrative Services are authorized to transfer by deed, for nominal consideration, that certain tract or parcel of land in Cedar Creek Hundred, Sussex County, known as Slaughter Neck School No. 193, to the Slaughter Neck Community Action Organization, Inc., together with improvements thereon.

Section 2. Such transfer shall be subject to the following conditions:

(a) The grantee shall pay to the State of Delaware the sum of one dollar (\$1.00); and

(b) Have prepared at its own expense a deed containing a survey description of the lands involved; and

(c) Have prepared at its own expense such affidavits and other documents as are required by law to transfer legal title and to comply with applicable recording statutes; and

(d) If the grantee shall no longer use the property in accordance with the terms of its corporate charter, then said real property shall revert to the State of Delaware. The deed shall contain a reverter clause to this effect.

Approved July 11, 1978.

## CHAPTER 465

## FORMERLY HOUSE BILL NO. 933

AN ACT MAKING AN APPROPRIATION TO THE DIVISION OF HIGHWAYS FOR THE REPLACEMENT OF ONE BRIDGE AT MILFORD, DELAWARE.

WHEREAS, Bridge #923, known as the Cedar Creek-Mill Pond Bridge, is in a serious state of disrepair; and

WHEREAS, the condition of the said bridge is detrimental to the health and safety of persons utilizing said bridge; and

WHEREAS, the bridge is in need of immediate repairs.

NOW, THEREFORE:

BE IT RESOLVED by the General Assembly of the State of Delaware

Section 1. There is hereby appropriated to the Division of Highways of the Department of Transportation the sum of \$35,000 as follows:

(a) \$35,000 for the replacement of Bridge #923 at Milford, Delaware.

Section 2. This act is a supplementary appropriation 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 so appropriated shall be used only for the purpose herein specified and any funds appropriated but unexpended by July 1, 1979, shall thereupon revert to the General Fund of the State Treasury.

Approved July 11, 1978.

## CHAPTER 466

HOUSE BILL NO. 982  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO MAKE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE PURPOSE OF PROVIDING BACK PAY TO CERTAIN TEACHERS WHO FAILED TO RECEIVE PROPER PAY BASED UPON DEGREES EARNED.

WHEREAS, certain teachers within the Department of Correction are classed as vocational instructors; and

WHEREAS, as vocational instructors certain provisions of Title 14, Delaware Code, apply regarding pay rates; and

WHEREAS, certain vocational teachers have been paid incorrectly since 1971; and

WHEREAS, certain other members of the teaching staff have earned degrees or advanced degrees; and

WHEREAS, these teachers have not been compensated properly for the degrees earned; and

WHEREAS, the lack of just compensation is a result of administrative error and/or insufficient funds; and

WHEREAS, said salary discrepancies have been discovered through records audit by Department of Correction staff.

NOW, THEREFORE:

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

Section 1. The sum of \$7,244.93 is hereby appropriated to the Office of the Commissioner, Education of the Department of Correction for the purpose of granting back pay due to teachers based upon degrees earned and the provisions regarding the payment of vocational teachers as set forth in Title 14, Delaware Code. The amount appropriated shall be as set forth below:

Education (38-01-003)

Salaries and Wages of Employees	\$6,090.73
F.I.C.A.	368.49
Pension	<u>785.71</u>
TOTAL	\$7,244.93

Section 2. The sums appropriated herein shall be considered a supplemental appropriation and shall be paid by the State Treasurer

from funds of the General Fund not otherwise appropriated. Any funds appropriated herein remaining unexpended on June 30, 1979, shall revert to the General Fund.

Approved July 11, 1978.

## CHAPTER 467

## FORMERLY HOUSE BILL NO. 987

## 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 §2806, Title 24, Delaware Code, by adding at the end of paragraph (e)(3) the following:

"Any member, associate member or holder of a certificate of authorization in inactive status shall be ineligible to practice engineering in the State of Delaware."

Section 2. Amend §2807, Title 24, Delaware Code, by striking the entire section and by substituting in lieu thereof the following:

"§2807. Council of Delaware Association of Professional Engineers

(a) There shall be a Council which will be the governing board of the Association. The Council shall consist of thirteen (13) members, twelve (12) of which shall be elected, and the remaining one (1) appointed by the Governor. A quorum of the Council shall be a majority of the members of the Council. The twelve (12) elected members shall be elected and hold office on the basis of the following constituencies:

(1) One (1) shall be from each of the following five (5) engineering disciplines: Civil, Chemical, Electrical, Mechanical and any other;

(2) One (1) shall be from each of the following four (4) fields of employment: Government, Industry, Private Consulting Practice, and Education; and

(3) One (1) shall be from each of the three counties: New Castle, Kent and Sussex.

(b) A person elected as a Council member shall, at the time of the election, and during the term of office, be a citizen of the United States of America, a resident of the State of Delaware, a member of the Association, and be qualified to represent the constituency from which the person was elected. The appointed member shall be a citizen of the United States of America and a resident of the State of Delaware.

(c) The term of office for members of Council shall be four years. A member of Council, whether appointed or elected, may not serve more than two consecutive terms on the Council.

(d) Three (3) members of Council shall be elected each year for a four-year term to fill vacancies in the field of discipline, field of employment, and county of residence. Each Council vacancy will be designated by discipline, field of employment, or county of residence in accordance with the constituency designation specified in subparagraph (a) above and each designated vacancy will be voted upon separately by members of the Association. A candidate for Council must announce at the time of nomination or petition the vacancy for which that candidate is seeking election and the candidate must be qualified by discipline, field of employment or residence to fill the vacancy for which that candidate is seeking election. For purposes of election, the candidate's discipline shall be that shown on the Roster, the field of employment shall be that held by the candidate, and the county of residence shall be that of the candidate at the time of nomination or petition as well as at the time of election. The terms of office for Council members shall commence on September 1 of the year elected or appointed and shall expire on August 31 of the year ending the term.

(e) The foregoing provisions of this Section 2807 notwithstanding, the members of the Council as of June 15, 1978, whether appointed or elected, shall continue to hold office until their respective terms expire and the membership of the Council as provided above shall be elected pursuant to the provisions of §2808 below."

Section 3. Amend Title 24, Delaware Code, by striking §2808 in its entirety and substituting a new §2808 in lieu thereof:

"§2808. Council election and appointment procedure

(a) As of June 15, 1978, the Council consists of eleven (11) members. Commencing on June 16, 1978, the expiring terms of the then Council members shall be filled by successor Council members for four (4) year terms each as follows:

(1) The one (1) appointed member whose present term expires on June 30, 1978, will be replaced by one (1) elected member representing the constituency of New Castle County. Within 30 days from the date of enactment of this legislation into law, the Council shall adopt a procedure for electing a member to fill the New Castle County constituency vacancy, such procedure shall be duly noticed to the Association members and the election by the Association members shall be held no later than 60 days following the date of the adoption of such election procedures.

(2) In accordance with the nominating and election procedure in effect on April 30, 1978, the other expiring terms will be filled as follows:

(i) The two (2) members whose terms expire August 31, 1978, will be replaced by two (2) members repre-

sending the constituency of: Civil Engineering and Industry.

(ii) The three (3) members whose terms expire in 1979 will be replaced by three (3) members representing the constituency of: Electrical Engineering, Private Consulting Practice and Kent County.

(iii) The three (3) members whose terms expire in 1980 will be replaced by three (3) members representing the constituency of: Mechanical Engineering, Education and Sussex County.

(iv) The two (2) members whose terms expire in 1981 will be replaced by three (3) members representing the constituency of: Chemical Engineering, Government and from any other engineering discipline not previously designated.

(3) The appointed member of Council, as provided in §2807 (a) above, shall be appointed by the Governor in 1978 for a four-year term commencing September 1, 1978.

(b) Thereafter three (3) members of the Council shall be elected each year for a four-year term to fill the same discipline, field of employment or residence vacancies on the Council as were held by members of Council whose terms expired in that year. The appointed member shall likewise be appointed every four years.

(c) Any vacancies occurring in the present Council other than by reason of the expiration of the member's term shall be filled for the balance of that term by a person having the qualifications and representing the same constituency. That person shall be appointed by a majority vote of the Council.

(d) The twelve (12) Council members shall be elected by members of the Association by means of a letter ballot returned within thirty (30) days after the mailing thereof. The members in contest for each elected Council position receiving a plurality of votes from those voting within the prescribed time for that Council position shall be declared elected to that Council position."

Section 4. Amend §2811, Title 24, Delaware Code, by striking the second paragraph thereof and substituting in lieu thereof the following:

"When any member of Council resigns, dies, moves his or her residence from the State or otherwise ceases to be a member, or in the case of an elected member who changes his or her engineering discipline in the roster if elected to fill a discipline position on the Council, or in the case of an elected member who changes his or her field of engineering employment if elected to fill a field of engineering employment position on the Council, or in the case of an elected member who changes his or her county of residence if elected to fill a county residency position, the

office shall be declared vacant."

Section 5. Amend §2817, Title 24, Delaware Code, by striking the sub-title "(2) Science Graduates" and subsection (2)(a) and by substituting in lieu thereof the following:

"(2) Related Science Graduates

(a) Graduation from a Council approved four-year science curriculum related to engineering or from a Council approved four-year baccalaureate degree curriculum in engineering technology."

Section 6. Amend §2817, Title 24, Delaware Code, by striking subsection (5) and by substituting in lieu thereof the following:

"(5) Comity

(a) The Council may, upon application and payment of the required fee and without further examination issue registration as a professional engineer to any person holding a valid certificate of registration as a professional engineer issued to that person by a proper authority of a state, territory or possession of the United States, the District of Columbia, or any foreign country, based on requirements not inconsistent with provisions of this Act and which requirements were of a standard not lower than that specified in the applicable registration act in effect in this State at the time such certificate was issued. A personal interview may be required by Council to ascertain the facts in the case.

(b) A person holding a valid certificate or registration record issued by the National Council of Engineering Examiners, whose qualifications meet the requirements of this Act, may be registered by Council as a professional engineer upon receipt from the National Bureau of Engineering Registration of a certified copy of such certificate together with the usual application form and fee from the applicant, without the requirements for certification of education, experience, and references otherwise required and without further examination.

(c) If the person who has been registered in Delaware pursuant to §2817 (5)(a) has his license to practice revoked in the State in which the person was registered at the time registration in Delaware through comity was sought, then the authorization issued in Delaware shall be automatically revoked following 30 days' written notice from the Council unless the person makes application to the Council for consideration for retaining the Delaware authorization and the Council acts favorably on such application."

Section 7. Amend §2818, Title 24, Delaware Code, by striking the fourth paragraph thereof.

Section 8. Amend §2819, Title 24, Chapter 28, Delaware Code, by

striking the entire section and by substituting in lieu thereof the following:

"§2819. Requirements for certification as an engineer-in-training

The following shall be considered as minimum satisfactory evidence that the applicant is qualified for certification as an engineer-in-training:

(1) Graduation from a Council approved engineering curriculum of four years or more, or graduation from a Council approved science curriculum related to engineering of four years or more, or graduation from a Council approved baccalaureate degree curriculum in engineering technology; and

(2) Successful passage of an eight-hour written examination in the fundamentals of engineering. A college or university student who is a senior of satisfactory academic standing in one of the above Council approved curricula may be permitted to take the fundamentals of engineering examination prior to graduation. The Council may at its discretion permit other students to take the fundamentals of engineering examination prior to graduation."

Section 9. Amend §2820, Title 24, Delaware Code by striking the words "definite time" as they appear in the second paragraph and by substituting in lieu thereof the words "specified time period".

Section 10. Amend §2820, Title 24, Delaware Code, by replacing the word "Persons" where it appears as the first word of the first paragraph with the word "Individuals" and by inserting a new third paragraph after the second paragraph to read as follows:

"An engineering corporation or partnership may be issued a permit subject to the above limitations, provided that one of its officers or partners or one of its employees (a) is designated as being in responsible charge of the engineering activities and decisions and (b) holds a valid permit or is registered under this Act."

Section 11. Amend §2821, Title 24, Delaware Code, by striking the section heading and by substituting in lieu thereof the following words: "Certificates of Authorization"; by striking the words "or Permittees" and "and Permittees" wherever the same shall appear in said §2821; and by deleting from the first sentence of paragraph "(a)" the words "or more" in both places and deleting the word "Shareholders" and substituting the word "employees".

Section 12. Amend Chapter 28, Title 24 of the Delaware Code, by striking §2822 in its entirety and substituting in lieu thereof the following:

"The State of Delaware, its political subdivisions, agencies, commissions, and authorities shall not solicit or receive proposals for, or engage in the construction of public works involving the

practice of engineering, unless:

(a) The engineer, partnership or corporation submitting a proposal is authorized to practice engineering under this Chapter; and

(b) The engineering study, drawings, specifications and estimates have been prepared by, and the construction is executed under the responsible charge or direct supervision of a Registrant or Permittee. Any contract executed in violation of this section shall be null and void."

Section 13. Amend Chapter 28, Title 24, Delaware Code, by striking §2823 and by substituting in lieu thereof the following:

"§2823. Disciplinary action; appeals

(a) The Council shall have the power to review the professional conduct of any individual, corporation, or partnership authorized under this Act to engage in the practice of engineering in Delaware. Following such review the Council shall have the power to warn, or reprimand or censure or suspend for a period of time not exceeding two years, refuse to renew or revoke any authorization issued to practice engineering in Delaware to any individual, corporation or partnership found guilty of:

(1) The practice of any fraud or deceit in obtaining any authorization to practice engineering in this State.

(2) Any gross negligence, incompetence, or misconduct in the practice of engineering.

(3) Violation of the Code of Ethics promulgated by the Council.

(b) Any individual, corporation or partnership aggrieved by any disciplinary decision by Council may appeal such decision to the Superior Court. The appeal shall be filed within 30 days of the day the notice of the decision was mailed. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the Council for further proceedings on the record. The Court, when factual determinations are at issue, shall take due account of the experience and specialized competence of the Council and of the purposes of the Delaware Professional Engineers' Act under which Council has acted. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the Council's decision was supported by substantial evidence on the record before it.

(c) When an action is brought in the Court for review of a Council decision, enforcement of such decision may be stayed by the Court only if it finds, upon a preliminary hearing, that the issues and facts presented for review are substantial and the stay

is required to prevent irreparable harm.

(d) No appeal for relief of the Court shall be considered as having been taken or made until it has been filed with the Prothonotary and served upon the Council in accordance with the Rules of the Court."

Section 14. Amend §2825, Title 24, Delaware Code, by striking the second and eighth paragraphs of paragraph "(3)" and by substituting in lieu thereof two new paragraphs respectively as follows:

"Each partner of a partnership and each officer or director of a corporation which practices engineering in violation of the provisions of this Act shall also be liable jointly and severally with and to the same extent as such partnership or corporation unless such partner, officer or director who is so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the violation is alleged to exist.

Whoever violates any of the provisions of this Chapter shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or be imprisoned not more than six months, or both."

Section 15. Amend Title 24, Delaware Code, by renumbering §2826 as §2827 and introducing a new §2826 to read as follows:

"§2826.

Whenever it appears to the Council that any person has engaged or is about to engage in any act or practice constituting a violation of any provisions of this Chapter 28, it may in its discretion bring an action in the Court of Chancery to temporarily restrain or to enjoin the acts or practices and to enforce compliance with this chapter. The Court shall not require Council to post a bond."

Section 16. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved July 11, 1978.

## CHAPTER 468

## FORMERLY HOUSE BILL NO. 988

AN ACT TO AMEND CHAPTER 74, TITLE 29, DELAWARE CODE, RELATING TO DEBT STATEMENTS, AND TO AMEND CHAPTER 57, TITLE 29, DELAWARE CODE, RELATING TO SOCIAL SECURITY, AND TO AMEND CHAPTER 61, TITLE 29, DELAWARE CODE RELATING TO THE DEPOSITS AND REPORTING OF DEPOSITS TO THE GENERAL FUND, AND TO AMEND CHAPTER 27, TITLE 29, DELAWARE CODE RELATING TO THE STATE TREASURER, AND TO AMEND CHAPTER 31, TITLE 19, DELAWARE CODE RELATING TO THE UNEMPLOYMENT COMPENSATION FUND AND SPECIAL ADMINISTRATION FUND.

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

Section 1. Section 7424, Title 29, Delaware Code is amended by striking the words "Secretary of Finance" wherever they appear therein and by substituting in lieu thereof the words "State Treasurer".

Section 2. Section 5701, Title 29, Delaware Code is amended by striking the words "Department of Finance" as it appears therein and by substituting in lieu thereof the words "State Treasurer".

Section 3. Section 5707, Title 29, Delaware Code is amended by striking the words "Secretary of Finance" as they appear in subsection (d) and by substituting in lieu thereof the words "State Treasurer".

Section 4. Section 6102, Title 29, Delaware Code is amended by striking the words "Secretary of Finance" as they appear therein and by substituting in lieu thereof the words "State Treasurer".

Section 5. Section 6103, Title 29, Delaware Code is amended by striking said Section and the title of said Section in its entirety and substituting in lieu thereof the following:

"§6103. Deposit of all General Fund money, report to Secretary of Finance"

All moneys which, under this chapter, are a part of the General Fund shall be deposited daily to the credit of the State Treasurer in the Farmers Bank with the exception of those agencies which receive less than \$10 cash each day, and a report signed by the responsible head of each agency shall be submitted to the State Treasurer, with a copy thereof to the Secretary of Finance. Those agencies receiving less than \$10 cash each day shall safely secure said funds and make a weekly deposit of same."

Section 6. Section 2706, Title 29, Delaware Code, is amended by striking the words "Budget Director" as they appear therein, and by substituting in lieu thereof the words "Secretary of Finance".

Section 7. Sections 3162, 3163, 3164 and 3166, Title 19, Delaware

Code are amended by striking the words "Secretary of Finance" wherever they appear therein and by substituting in lieu thereof the words "State Treasurer".

Section 8. Section 3166, Title 19, Delaware Code is further amended by striking the words "Budget Director" as they appear therein and by substituting in lieu thereof the words "Secretary of Finance".

Approved July 11, 1978.

CHAPTER 469

FORMERLY HOUSE BILL NO. 1026

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

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

Section 1. Amend §202, Chapter 1, Title 26, Delaware Code by adding a new paragraph to read as follows:

"The Commission shall have no jurisdiction over any utility created and operated pursuant to 9 Del. C., Chapters 65 and 67."

Approved July 11, 1978.

## CHAPTER 470

## FORMERLY HOUSE BILL NO. 1062

AN ACT TO AUTHORIZE AND APPROVE THE LEASING OF .6998 ACRES OF UNIMPROVED LAND ON U.S. ROUTE 113 IN DOVER TO THE DELAWARE STATE EMPLOYEES FEDERAL CREDIT UNION, A COOPERATIVE ASSOCIATION ORGANIZED UNDER THE LAWS OF THE UNITED STATES OF AMERICA.

WHEREAS, the State of Delaware owns .6998 acres of unimproved land lying on the westerly side of U.S. Route 113, but not adjacent thereto, at the site of the Delaware Department of Highways and Transportation Administration Center, Dover, Delaware; and

WHEREAS, it has been determined by the State that there is a need for a cooperative type credit union to serve employees of the State of Delaware in the City of Dover and Kent County area; and

WHEREAS, Delaware State Employees Federal Credit Union, a cooperative association, is in serious need of new, expanded facilities to better serve the employees of the State of Delaware; and

WHEREAS, Delaware State Employees Federal Credit Union, a cooperative association, has offered to construct and operate a cooperative credit union at the site of the Department of Highways and Transportation Administration Center for the use and benefit of employees of the State of Delaware; and

WHEREAS, the State of Delaware, through the Department of Administrative Services, has agreed to lease .6998 acres of unimproved land at the site of the Delaware Department of Highways and Transportation Administration Center in Dover, Delaware, to the Delaware State Employees Federal Credit Union for a period of ninety-nine years, for nominal consideration, upon condition that the land and any building erected thereon be used as a cooperative credit union and upon further conditions as hereinafter set forth; and

WHEREAS, it is the purpose of this Act to approve the leasing of the .6998 acres of unimproved land at the site of the Department of Highways and Transportation Administration Center on U.S. Route 113 in the City of Dover to the Delaware State Employees Federal Credit Union upon the conditions hereinafter described and to authorize the Department of Administrative Services to enter into a lease agreement with said Credit Union.

NOW, THEREFORE:

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

Section 1. The leasing of the State real property, located on the westerly side of U.S. Route 113 at the site of the Department of Highways and Transportation Administration Center in the City of Dover,

and rights of ingress, egress and regress for employees and clients of the Delaware State Employees Federal Credit Union across other State real property from U.S. Route 113 to the subject real property, to the Delaware State Employees Federal Credit Union, a cooperative association organized under the laws of the United States of America, 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 the Delaware State Employees Federal Credit Union, a cooperative association (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;
2. Tenant shall use the leased premises and any buildings erected thereon by the tenant as a cooperative credit union, and when it is no longer used for such purpose the lease shall terminate, become null and void and possession of said leased premises and any improvements thereon shall revert to the State of Delaware;
3. Tenant shall erect a building suitable for its purposes on the leased premises, provided that the Department of Administrative Services shall first approve the design of any such building in writing, and further provided that any such building shall be constructed in compliance with the applicable building codes for such a structure;
4. 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 such expenses related to the operation of the leased premises and the State shall not have any responsibility in connection therewith;
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 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 the Delaware State Employees Federal Credit Union, wherein and whereby the above described real property should be leased to said Credit Union for the term and upon the conditions hereinabove recited.

Approved July 11, 1978.

## CHAPTER 471

## FORMERLY HOUSE BILL NO. 1065

AN ACT TO AMEND CHAPTER 31, TITLE 10, DELAWARE CODE, TO PROVIDE FOR THE EXERCISE OF PERSONAL JURISDICTION OVER NON-RESIDENTS IN ANY CAUSE OF ACTION ARISING FROM CONDUCT WITHIN THE STATE OR TORTIOUS INJURY OUTSIDE THE STATE.

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

Section 1. §3104, Chapter 31, Title 10, Delaware Code, is amended by striking all of said section and inserting in lieu thereof the following:

"§3104. Personal jurisdiction by acts of non-residents

(a) Definitions: The term 'person' in this section includes any natural person, association, partnership or corporation.

(b) The following acts constitute legal presence within the state. Any person who commits any of the acts hereinafter enumerated thereby submits himself to the jurisdiction of the Delaware courts and is deemed thereby to have appointed and constituted the Secretary of State of this State his agent for the acceptance of legal process in any civil action against such non-resident person arising from the following enumerated acts. The acceptance shall be an acknowledgement of the agreement of such non-resident that any process when so served shall have the same legal force and validity as if served upon such non-resident personally within the state, and that such appointment of the Secretary of State shall be irrevocable and binding upon his personal representative.

(c) As to a cause of action arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any non-resident, or his personal representative, who in person or through an agent:

(1) Transacts any business or performs any character of work or service in the state;

(2) Contracts to supply services or things in this state;

(3) Causes tortious injury in the state by an act or omission in this state;

(4) Causes tortious injury in the state or outside of the state by an act or omission outside the state if he regularly does or solicits business, engages in any other persistent course of conduct in the state or derives substantial revenue from services, or things used or consumed in the state;

(5) Has an interest in, uses, or possesses real property in the state; or

(6) Contracts to insure or act as surety for, or on, any person, property, risk, contract, obligation, or agreement located, executed, or to be performed within the state at the time the contract is made, unless the parties otherwise provide in writing.

(d) Service of the legal process provided for in this section with the fee of \$2, shall be made upon the Secretary of State of this State in the same manner as is provided by law for service of writs of summons, and when so made shall be as effectual to all intents and purposes as if made personally upon the defendant within this State; provided, that not later than 7 days following the filing of the return of services of process in the court in which the civil action is commenced or following the filing with the court of the proof of the nonreceipt of notice provided for in subsection (g) of this section, the plaintiff or a person acting in his behalf shall send by registered mail to the nonresident defendant, or to his executor or administrator, a notice consisting of a copy of the process and complaint served upon the Secretary of State and the statement that service of the original of such process has been made upon the Secretary of State of this State, and that under the provisions of this section such service is as effectual to all intents and purposes as if it had been made upon such non-resident personally within this State.

(e) Proof of the defendant's non-residence and of the mailing and receipt or refusal of the notice shall be made in such manner as the court, by rule or otherwise, shall direct.

(f) The return receipt or other official proof of delivery shall constitute presumptive evidence that the notice mailed was received by the defendant or his agent; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent.

(g) The plaintiff or his counsel of record in the action may within 7 days following the return of any undelivered notice mailed in accordance with the provisions of paragraph (d) of this section other than a notice, delivery of which is shown by the notation of the postal authorities on the original envelope to have been refused by the defendant or his agent, file with the court in which the civil action is commenced proof of the nonreceipt of the notice by the defendant or his agent, which proof shall consist of the usual receipt given by the post office at the time of mailing to the person mailing the registered article containing the notice, the original envelope of the undelivered registered article, and an affidavit made by or on behalf of plaintiff specifying (1) the date upon which the envelope containing the notice was mailed by registered mail, (2) the date upon which the envelope containing the notice was returned to the sender, (3) that the notice provided for in paragraph (b) of this section was contained in the envelope at the time it was mailed, and (4) that the receipt, obtained at

the time of mailing by the person mailing the envelope containing the notice, is the receipt filed with the affidavit.

(h) The time in which defendant shall serve his answer shall be computed from the date of the mailing of the registered letter which is the subject of the return receipt or other official proof of delivery or the notation of refusal of delivery; provided, however, that the court in which the action is pending may, at any time before or after the expiration of the prescribed time for answering, order such continuances as may be necessary to afford the defendant therein reasonable opportunity to defend the action.

(i) Nothing herein contained limits or affects the rights 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 rights otherwise existing of service of legal process upon non-residents.

(j) When jurisdiction over a person is based solely upon this section, only a cause of action arising from any act enumerated in this section may be asserted against him.

(k) This section does not invalidate any other section of the Delaware Code that provides for service of summons on non-residents. This section applies only to the extent that the other statutes that already grant personal jurisdiction over non-residents do not cover any of the acts enumerated in this section.

(l) In any cause of action arising from any of the acts enumerated in this section, the court may provide for a stay or dismissal of action if the court finds, in the interest of justice, that the action should be heard in another forum."

Section 2. If any of the provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act and to this end the provisions of this Act are declared to be severable.

Section 3. This Act shall become effective upon the signature of the Governor.

Approved July 11, 1978.

## CHAPTER 472

## FORMERLY HOUSE BILL NO. 1076

AN ACT TO AMEND CHAPTERS 34, 36, AND 55, TITLE 14, DELAWARE CODE, RELATING TO HIGHER EDUCATION SCHOLARSHIPS AND THEIR ADMINISTRATION.

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

Section 1. Amend Chapter 34, Title 14, of the Delaware Code by striking the Chapter in its entirety and substituting in lieu thereof a new Chapter 34 to read as follows:

"CHAPTER 34. HIGHER EDUCATION SCHOLARSHIPS

\$3401. Purpose

It is the intent and purpose of the General Assembly through this Chapter to:

(a) provide financial aid to Delaware residents with demonstrated financial need so that within the limits of the fiscal capabilities of the State they shall not be denied an opportunity for a college education because of financial need; and

(b) encourage qualified Delaware students to pursue courses of graduate and professional education when such courses are unavailable in State supported institutions and when such pursuit is deemed in the best interest of the State.

\$3402. Administration

(a) This Chapter shall be administered by the Delaware Post-secondary Education Commission, hereinafter referred to as the 'Commission'.

(b) The Commission shall adopt such rules and regulations as it deems necessary and proper to the administration of this Chapter.

(c) The Commission shall receive and administer Federal funds under the State Student Incentive Grant Program or SSIG (P.L. 89-329) and State funds appropriated from the General Fund for the purposes set forth in this Chapter.

(d) The Commission may apply for and receive such funds as may be available to the State from any agency of the Federal government as grants-in-aid for student financial assistance at the post-secondary level. All such monies shall be paid into the State Treasury for use of the Commission and may be used only for the purpose for which they were granted.

\$3403. Postsecondary Scholarship Fund

The General Assembly shall each year in the Budget Act appropriate a sum to be known as the Postsecondary Education Scholarship Fund for the purpose of carrying out the provisions of this Chapter.

Beginning with the Fiscal Year 1979, the Postsecondary Education Scholarship Fund shall be the combined sum of funds for SSIG matching appropriated to the Delaware Higher Education Loan Program, and funds for Higher Education Scholarships appropriated to the Department of Public Instruction. Such funds shall be transferred from the respective agency accounts to the scholarship account of the Commission. The transfer of funds and authorities among the agencies involved shall take place as soon as possible at a time and sequence determined by the Commission to be most appropriate for an efficient transition, but not later than January 15, 1979.

\$3404. Grants

(a) The Commission is hereby authorized to award grants from the Postsecondary Education Scholarship Fund subject to the limits of its appropriations.

(b) Such grants shall be provided as grants for undergraduate education, and graduate and professional scholarships.

(c) Grants awarded as grants for undergraduate education shall be subject to the following limitations:

(1) No student shall be eligible for such grant who was not a resident of the State for at least one year immediately prior to the approval of the award. The place of residence of a student who is either under 18 years of age or dependent on parental financial support shall be the legal residence of his parent or guardian who must have qualified as a registered voter in Delaware and who is subject to payment of Delaware income tax. A student over 18 years of age, who is not dependent on parental financial support must meet the Federal government's financial self-supporting student definition, and must have qualified as a registered voter in Delaware and must be subject to the payment of Delaware Income Tax, to satisfy the requirement of this section.

(2) Grants shall be awarded only to persons who have been accepted as full-time students to pursue programs of study leading to an associate or baccalaureate degree at a college or university which is accredited by one of the regional accrediting associations.

(3) Grants shall be awarded only to persons who: (i) are attending educational institutions in states which have established scholarship reciprocity agreements with the State of Delaware and the Commission; or (ii) are attending educational

institutions in states which have not established scholarship reciprocity agreements with the State of Delaware and the Commission and are enrolled in a program of study which is not offered by a publicly supported institution in the State of Delaware.

(4) Grants shall be awarded on the basis of financial need as determined by one of the federally approved needs analysis systems. The amount of each grant shall be related to the student's financial circumstances, the expense of attending the institutions selected and the student's eligibility for other forms of financial aid. The Commission shall determine the amount of each scholarship grant but in no case shall it exceed \$1,000 annually to any one student attending a college or university located within the State of Delaware. For students attending a college or university in a reciprocating state, the grant shall not exceed the amount allowable for out-of-state grants under the grant program of that State, and in no case shall be more than \$700. For students enrolled in colleges or universities in non-reciprocating states in courses of study not offered at Delaware's publicly supported colleges the grants shall not exceed \$700 annually to any one student.

(5) The Commission shall publish annually in two newspapers of general circulation within the State a prominent announcement of application deadlines for the scholarship fund. The Commission shall provide applications and a notice of application deadlines and rules and regulations to every high school in the State and to financial aid officers at post-secondary institutions in the State.

(6) Payment of funds shall be made on a semester or quarter basis to institutions only, not to individual scholarship recipients, upon receipt of a bill from the institution certifying that the student is enrolled full-time in a degree program. The enrolling institutions shall be required to report the withdrawal or dismissal of any student holding a grant awarded under this Chapter and make restitution to the fund of same not utilized for the purpose intended.

(7) Grants are renewable upon reapplication provided that the applicant continues to meet the qualifications required by this Chapter.

(d) Grants awarded as graduate and professional scholarships shall be subject to the following limitations:

(1) No student shall be eligible for such scholarship grant who was not a resident of the State for at least one year immediately prior to the approval of the award. The place of residence of a student who is either under 18 years of age or dependent on parental financial support shall be the legal residence of his parent or guardian who must have

qualified as a registered voter in Delaware and who is subject to payment of Delaware income tax. A student over 18 years of age, who is not dependent on parental financial support must have qualified as a registered voter in Delaware and must be subject to the payment of Delaware income tax to satisfy the requirement of this section.

(2) Scholarship grants shall be awarded only to persons who have been accepted as full-time students to pursue programs of study leading to a graduate or professional degree at a college or university which is accredited by one of the regional accrediting associations. No scholarships shall be granted to a student to pursue a course of study when such course of study is available at one of the public institutions of the State of Delaware.

(3) Scholarships shall be limited to those fields of study leading to occupations or professions for which there is reasonable expectation of job opportunity in the State of Delaware upon completion of such study. Among those programs for which scholarships may be awarded are Architecture, Dentistry, Law, Medicine, Optometry, Chiropractic, Social Work, Veterinary Medicine, and such other professional and graduate programs as in the opinion of the Commission fall within the spirit and letter of the Act.

(4) Scholarships shall be awarded on the basis of academic qualification and financial need. The amount of each scholarship shall be determined by the Commission and shall relate to the student's financial circumstances and the expense of attending the institution selected, but in no case shall the scholarship exceed \$1,000 annually to any one student.

(5) The Commission shall publish annually in two newspapers of general circulation within the State a prominent announcement of application deadlines for the scholarship fund.

(6) Payment of funds shall be made on a semester or quarter basis to institutions only, not to individual grant recipients, upon receipt of a bill from the institution certifying that the student is enrolled full-time in a degree program. The enrolling institutions shall be required to report the withdrawal or dismissal of any student holding a scholarship grant awarded under this Chapter and make restitution to the fund of same not utilized for the purpose intended.

(7) Scholarships are renewable upon reapplication provided that the applicant continues to meet the qualifications required by this Chapter.

**§3405. Scholarship Advisory Council**

There shall be a Scholarship Advisory Council to the Commission

composed of financial aid officers from each State approved college in Delaware, designated by the president of each college. The Advisory Council shall assist the Commission in the administration of this Chapter in such manner as the Commission shall determine."

Section 2. Amend §3606, Chapter 36, Title 14, Delaware Code, by striking said section and substituting in lieu thereof the following:

"§3606. Administration of Chapter

This Chapter shall be administered by the Delaware Postsecondary Education Commission, hereinafter referred to as the Commission, which shall annually report to the General Assembly of the State the number of recipients of benefits, their names and addresses, the names of the institutions attended, the amounts of the individual benefits granted, and total expenditures made under this Chapter.

The transfer of funds and authorities of this Chapter between the State Superintendent of Public Instruction and the Commission shall take place as soon as possible at a time determined by the Commission to be most appropriate for an efficient transition, but not later than January 15, 1979."

Section 3. Amend §5530, Chapter 55, Title 14, Delaware Code, by striking the words "State Board of Education" in subsection (a) and substituting the words "Delaware Postsecondary Education Commission hereinafter referred to as the 'Commission'", and by striking all other references to "State Board of Education" in Chapter 55 and substituting in lieu thereof the word "Commission".

Section 4. This Act shall become effective January 15, 1979.

Approved July 11, 1978.

CHAPTER 473

FORMERLY HOUSE BILL NO. 1081

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DIVISION OF REVENUE,  
DEPARTMENT OF FINANCE, FOR THE PURPOSE OF REIMBURSING AN EMPLOYEE  
FOR PRIOR YEAR WAGES.

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

Section 1. The sum of \$345.87 is hereby appropriated to the Division of Revenue, Department of Finance, for payment of prior year wages owed Shirley Turner, pursuant to the State Personnel Decision of November 18, 1976, as reaffirmed on June 14, 1978.

Section 2. This appropriation shall be paid from the General Fund of the State Treasury from monies not otherwise appropriated. This includes: \$322.23 (salary), \$19.49 (FICA) and \$4.15 (pension) for a total of \$345.87.

Approved July 11, 1978.

## CHAPTER 474

FORMERLY HOUSE BILL NO. 1098

AS AMENDED BY

HOUSE AMENDMENT NO. 1 &amp;

HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21, DELAWARE CODE, RELATING TO THE SUSPENSION AND REVOCATION OF LICENSE FOR REFUSAL TO SUBMIT TO CHEMICAL TEST AND RELATING TO THE OPERATION OF VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PENALTIES; REVOCATION OF LICENSE.

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

Section 1. Amend Subchapter III of Chapter 27, Title 21, Delaware Code, entitled "Suspension and Revocation of License for Refusal to submit to chemical test", by striking the present Sections 2740, 2741, 2742 and 2743 in their entirety and substituting in lieu thereof new sections to read as follows:

"§2740. Consent to submit to chemical test

Any person arrested under §4177 of this Title shall be deemed to have given his consent to submit to a chemical test of his breath, blood, or urine for the purpose of determining the alcoholic content of his blood.

§2741. Administration of test

The test shall be administered by qualified personnel, as defined in §2746 of this Title, at the direction of a police officer having reasonable grounds to believe that such person was arrested under §4177 of this Title. The police officer shall designate which of the tests shall be administered.

§2742. Suspension, notice, hearing

(a) If a person arrested under §4177 of this Title refuses to submit to the chemical test when requested to do so, the test shall not be given.

(b) Upon such refusal, the arresting officer shall cause to be delivered to the Department his sworn report of the refusal and stating that he had arrested the person under §4177 of this Title.

(c) Upon receipt of the report, the Secretary shall revoke the person's license and/or driving privileges by giving written notice in the manner provided in §2736 of this Title. The revocation shall become effective upon the expiration of 14 days after

personal delivery or deposit of notice, except when a delay is granted pursuant to the provisions of subsection (d).

(d) Within 14 days after such personal delivery or deposit of notice, the person may file a written notice with the Secretary requesting a hearing. Upon receipt of the request for a hearing, the Secretary may delay the revocation pending the disposition of the hearing. Within 30 days of receipt of the notice requesting a hearing, the Secretary or his designated representative shall schedule a hearing to determine:

(1) If the police officer had reasonable grounds to arrest the person under §4177 of this Title;

(2) If the person was actually placed under arrest prior to being requested to submit to the test;

(3) If the person was informed by the arresting officer at the time of the request that his license or privilege to drive a vehicle within the State would be revoked for a period as established in §2743 (a) if he refused the test; and

(4) If the person did, in fact, refuse to submit to the test.

If the Secretary or his designated representative finds that each of these criteria has been established, he shall forthwith revoke the driver's license and/or driving privilege of the person by giving notice thereof in the manner prescribed by §2736 of this Title.

(e) In addition to the revocation authorized by this section, the Secretary may require attendance of the person whose license is revoked at a course of instruction and/or rehabilitation program established under §4177D of this Title. This subsection shall terminate on July 1, 1982.

**§2743. Duration of revocation; conditional license**

(a) Any revocation pursuant to the provisions of §2742 shall be for a period of 1 year from the date of surrender of the license or, for a non-resident from the effective date of notice of revocation. If after expiration of the period of revocation, and upon payment of all fees under the schedule adopted by the Secretary, the Secretary refuses to issue a driver's license the applicant may appeal the Secretary's denial to the Superior Court in the county wherein the applicant resides.

(b) A person whose license has been revoked pursuant to §2742 shall be permitted to apply for a conditional license under the following terms:

(1) Satisfactory completion of at least 8 hours of instruction and/or rehabilitation in a program established

under §4177D of this Title;

(2) Payment of all fees under the schedule adopted by the Secretary;

(3) At least 30 days have elapsed since the day the revoked license reached the Division of Motor Vehicles of the Department.

(c) Notwithstanding the provisions of subsection (a) of this section, upon satisfactory completion of a program established under §4177D of this Title, a person whose license has been revoked pursuant to §2742 of this Title shall be permitted to apply for a driver's license under the following terms:

(1) Payment of all fees under the schedule adopted by the Secretary;

(2) At least 6 months have elapsed since the day of revoked license reached the Division of Motor Vehicles of the Department.

(d) The provisions of subsections (b) and (c) shall terminate on July 1, 1982. Effective July 1, 1982 subsection (a) shall be amended by changing the period of revocation from 1 year to 6 months."

Section 2. Amend Subchapter IX of Chapter 41, Title 21, Delaware Code, entitled "Reckless Driving; Driving while Intoxicated" by striking the present Section 4177 and substituting in lieu thereof new Sections 4177 - 4177D to read as follows:

"§4177. Operation of vehicle while under the influence of intoxicating liquor or drugs; penalties

(a) No person shall drive, operate, or have in actual physical control a vehicle, an off-highway vehicle, a moped, or a bicycle while under the influence of intoxicating liquor or of any drug or any combination of drugs and/or intoxicating liquor.

(b) Any person charged under subsection (a) of this section whose blood alcohol concentration is one-tenth of 1% or more by weight as shown by a chemical analysis of a blood, breath, or urine sample taken within four hours of the alleged offense shall be guilty of violating subsection (a). This provision shall not preclude a conviction based on other admissible evidence.

(c) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of violating this section.

(d) Whoever is convicted of a violation of subsection (a) of this section shall:

(1) for the first offense, be fined not less than \$200 nor more than \$1,000 or imprisoned not less than 60 days nor more than 6 months or both;

(2) for each subsequent like offense occurring within 5 years from the former offense, be fined not less than \$500 nor more than \$2,000 and imprisoned not less than 60 days nor more than 18 months.

(e) In lieu of the penalties prescribed in subsection (d) of this section, anyone convicted of a violation of subsection (a) of this section may, at the discretion of the sentencing judge, be subjected to the following penalties:

(1) for the first offense, be required to complete a course of instruction and/or rehabilitation program established pursuant to §4177D, which may include confinement for a period not to exceed 6 months, and pay a fee therefor not to exceed the minimum fine as set forth in subsection (d) of this section for the first offender;

(2) for each subsequent like offense occurring within 5 years from the former offense, be confined for a period not to exceed 15 months in a rehabilitation center to complete a course of instruction and/or rehabilitation program established under §4177D and pay a fee therefor which shall not exceed the minimum fine set forth in subsection (d) of this section for a subsequent offender.

(f) No person who violates subsection (a) of this section shall receive a suspended sentence, except for first offenders sentenced pursuant to the provisions of subsection (d) of this section.

§4177A. Revocation of license for violation of Section 4177

(a) The Secretary shall forthwith revoke the driver's license and/or driving privileges of any person convicted of a violation of §4177. Such revocation shall be for a period of one year.

(b) Any person sentenced under the provisions of subsection (d) or subsection (e) of §4177 shall have his driver's license and/or driving privileges revoked by the Secretary for an additional period of six months or until he has satisfactorily completed a program established pursuant to §4177D.

(c) For purposes of this section, the Secretary may authorize the judges of the various courts of the State to act as his agent for purpose of revocation of licenses. Upon conviction of a violation pursuant to Section 4177, the court shall take immediate possession of any driver's license issued by any state and forthwith forward it to the Secretary. The driver's license of a non-resident shall be mailed to the licensing authority which issued the license.

(d) The Secretary shall have power and authority to refuse to issue a driver's license to any individual whose driver's license or driving privilege was revoked pursuant to this section until such person has satisfied the Secretary that he has been of good behavior for the entire period of the revocation and until he has complied with all applicable provisions of this section. If the Secretary refuses to issue a driver's license after the period of revocation has ended and after all fines and/or fees are paid, the applicant may appeal to the Superior Court of the county of his residence.

**§4177B. First offenders; election of rehabilitation program**

(a) Any person charged with violation of §4177 who qualifies as a first offender may at the time of his arraignment, elect to apply to the Secretary for enrollment in course of instruction or program of rehabilitation established pursuant to §4177D in lieu of standing trial on the alleged offense. If he elects to apply, his application shall constitute a waiver of the right to a speedy trial. If the person elects not to apply, or if he is not accepted, he shall be promptly arraigned for a violation of Section 4177. If upon enrollment in such program, he fails to comply with the terms of enrollment or fails to satisfactorily complete the course of instruction and/or program of rehabilitation, he shall be brought before the court and, upon a determination by the court that the terms have been violated, he shall be promptly arraigned for a violation of §4177.

(b) Upon satisfactory completion of the course of instruction and/or program of rehabilitation, including payment of all fees under the schedule adopted by the Secretary, by a person who applies for enrollment in such course under the provisions of this section, the Secretary shall forward to the court a statement confirming the satisfactory completion of the course and the payment of fees, and the criminal charges for violation of §4177 shall be dropped.

(c) The driver's license and/or driving privileges of a person applying for enrollment in a program pursuant to the provisions of subsection (a) of Section 4177B shall forthwith be revoked by the Secretary for a period of one year. If the person is accepted into the program, the period of revocation shall be for one year from the date of the initial revocation. If the person is not accepted for enrollment, or if he is found by the court to be in violation of the terms of enrollment, the revocation under this section shall continue until sentence is imposed. This revocation shall not be concurrent with or a part of any period of revocation established under any other provisions of this subchapter.

(d) For purposes of §4177 (d) and (e) and §4177B, previous enrollment in a course of instruction or program of rehabilitation pursuant to the provisions of Sections 4177, 4177A, 4177B, 4177C, and 4177D within five years of the date of a violation of §4177 shall constitute a first offense.

§4177C. Conditional licenses; reinstatement of license

(a) Any person who, as a first offender, is enrolled in a course of instruction and/or program of rehabilitation pursuant to the provisions of §4177B shall be permitted to apply for a conditional license under the following terms:

(1) Satisfactory completion of at least 8 hours of instruction and/or rehabilitation;

(2) Payment of all fees under the schedule adopted by the Secretary;

(3) At least 30 days have elapsed since the day the revoked license reached the motor vehicle office.

(b) Notwithstanding the provisions of §4177A and §4177B, any person sentenced pursuant to the provisions of §4177 or who elects to enroll in a course of instruction or program of rehabilitation pursuant to the provisions of §4177B who has satisfactorily completed a course and/or program established pursuant to §4177D shall be permitted to apply for a driver's license under the following terms:

(1) Payment of all fees under the schedule adopted by the Secretary;

(2) At least 6 months have elapsed since the day the revoked license reached the motor vehicle office.

§4177D. Courses of instruction; rehabilitation programs

The Secretary shall establish courses of instruction and programs of rehabilitation for persons whose driver's licenses have been revoked for operating a vehicle while under the influence of intoxicating liquor or drugs. The Secretary shall administer such courses and programs and adopt rules and regulations therefor, and shall establish a schedule of fees for enrollment in such courses and programs which shall not exceed the minimum fine imposed for the offense as set forth in Section 4177."

Section 3. The provisions of §4177 (e), §4177A (b) and (c), §4177B, §4177C and §4177D of Title 21, as set out in this Act, shall terminate on July 1, 1982. The Secretary shall provide the General Assembly with a comprehensive report on the results of the implementation of these provisions on the third day of the session beginning in January of 1982.

Section 4. Prior Convictions. All convictions under §4177 of this Title which occurred prior to the date on which these revisions become law continue to remain on the record as first or subsequent offenses for a period of five years from the date of the offense.

Section 5. Severability. If any provision of this Act, or any rule, regulation, or order thereunder or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act and the application of such provisions of this Act or of such rule, regulation, or order to persons or circumstances other than those to which it is held invalid shall not be affected hereby.

Approved July 11, 1978.

## CHAPTER 475

## FORMERLY HOUSE BILL NO. 1150

AN ACT TO AMEND CHAPTER 691, VOLUME 60, LAWS OF DELAWARE, BEING THE CAPITAL IMPROVEMENTS ACT OF 1977 RELATING TO SCHOOL CONSTRUCTION AND RENOVATIONS IN THE LAUREL SCHOOL DISTRICT AND TO VALIDATE THE SPECIAL ELECTION OR REFERENDUM HELD BY THE LAUREL SCHOOL DISTRICT ON OCTOBER 9, 1976.

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 691, Volume 60, Laws of Delaware, by adding a new section thereto to read as follows:

"Section 38. (a) Section 4 and Section 25 of this Act shall not apply to the Laurel School District.

(b) The State share apportioned to the Laurel School District by this Act shall not be expended unless the local share for such school district shall have been deposited with the State Treasurer not later than three years after the effective date of this Act. The provisions of §7503, Chapter 75, Title 29, Delaware Code, shall not apply to the local share required to be deposited by the Laurel School District pursuant to this Act.

(c) None of the monies appropriated by this Act to the Laurel School District shall be expended by such school district before July 1, 1976. None of the monies appropriated by this Act to the Laurel School District shall be expended by such school district after June 30, 1980, on any of the individual projects authorized in the 1977 Annual Capital Projects Schedule unless such projects have progressed into any or all of the following phases prior to July 1, 1980; Initial Engineering, Planning, Procurement, Construction. The provisions of §7504, Chapter 75, Title 29, Delaware Code, shall not apply to such Laurel School District projects."

Section 2. The special election held by the Laurel School District on October 9, 1976, for approval to issue bonds and to transfer taxes is hereby declared to be valid and to have been conducted in full compliance with the laws of this State. The notice of such special election given by the Board of Education of the Laurel School District and the ballots used by the Board in said election are hereby declared to be proper and in compliance with the requirements of Chapter 19 and Chapter 21, Title 14, Delaware Code.

Approved July 11, 1978.

## CHAPTER 476

FORMERLY HOUSE BILL NO. 425  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 & 2  
&

## HOUSE AMENDMENT NO. 3 TO HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 68 OF TITLE 7, DELAWARE CODE RELATING TO CONSERVATION AND PRESERVATION EASEMENTS.

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

Section 1. Amend Chapter 68, Title 7, Delaware Code, by designating all of the existing Chapter as Subchapter I and adding thereto a new Subchapter to be designated as Subchapter II to read as follows:

"SUBCHAPTER II. CONSERVATION AND PRESERVATION  
EASEMENTS

§6811. Definitions

(a) 'Conservation easement' means a limitation stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, where the purpose is to retain land or water areas predominantly in their natural, scenic, recreational or open condition or in agricultural, farming, forest or open space use. Such easement may restrict, but not be limited to, the following:

1. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on, above or under the ground.
2. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials.
3. Removal or destruction of trees, shrubs, or other vegetation except as may be necessary for the control of disease, pest or insect infestation or the like.
4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to substantially or adversely affect or alter the surface or topography of the area except for archeological digs on excavations authorized by the Division of Historical and Cultural Affairs.
5. Surface use except for agriculture, forestry, or outdoor recreational purposes or purposes permitting the land

or water area to remain predominantly in its natural condition.

6. Activities adversely affecting drainage, floor control, water conservation, erosion control or soil conservation.

7. Activities adversely affecting the fish and wildlife habitat.

8. Other acts or uses adversely affecting the preservation of water or land areas or the improvements of appurtenances thereto.

(b) 'Preservation easement' means a limitation stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land where the purpose of the easement is to preserve a structure or site historically significant for its architecture, archeology or associations. Such easement may include, but not be limited to, the following restrictions:

1. Alteration in exterior or interior features of the structure.

2. Changes in appearance or condition of the site.

3. Uses not historically appropriate.

4. Other acts or uses detrimental to appropriate preservation of the structure or site.

(c) No easement shall restrict or abridge the activities of the State relating to mosquito control or similar activities, or the rights of any present or future fee simple owner from permitting or denying the use of the land for hunting, fishing or other recreational purposes.

#### §6812. Enforceability of easements

No conservation easement or preservation easement held by any governmental body or by a charitable corporation or trust whose purposes include conservation of land and no preservation easement held by any governmental body or by a charitable corporation or trust whose purposes include preservation of buildings or sites of historical significance shall be enforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of the benefit being assignable or being assigned to any other governmental body or to any charitable corporation or trust with like purposes. Where the easement is not granted for the benefit of any dominant tract of land, it shall be enforceable against the servient land, both at law and in equity as an easement in gross, and as such it shall be inheritable and assignable. Such easements may be enforced by injunction or proceeding in equity and shall entitle representatives of the holder of it to enter the real property in a reasonable manner and at reasonable

times to assure compliance.

§6813. Conveyance of easements

Such conservation and preservation easements are valuable interests in real property and may be acquired by any governmental body or any charitable corporation or trust which has the power to acquire interests in land in the same manner as it may acquire other interests in land. All such easements shall be duly recorded and indexed in the registry of deeds for the county where the real property lies so as to affect its title, in the manner of other conveyances of interests in real property, and shall describe the real property subject to said easement by adequate legal description or by reference to a recorded plan showing its boundaries. Such easements may be released, in whole or in part, by the holder for such consideration, if any, as the holder may determine, in the same manner as the holder may dispose of real property or other interests in real property, subject to such conditions as may have been imposed at the time of creation of the easement or consistent with the requirements of specific future public uses, including but not limited to, roads and utilities, unforeseen when the easement was created.

§6814. Effective date of conservation or preservation easements

No governmental body, charitable corporation or trust shall acquire or hold a conservation or preservation easement until the same shall have been accepted by the Secretary or Director or the agency or department receiving the easement or having jurisdiction over the subject matter of the easement who shall execute a written certificate of acceptance to be attached to the said easement and the said easement shall have been recorded in the county wherein the property is situate. In accepting a conservation or preservation easement, the Secretary or Director shall certify on the document to be recorded that the proposed easement is an appropriate use of the land subject to the proposed easement which will not conflict with surrounding land uses, and complies with state policies relating to conservation of state resources.

§6815. Eminent domain

Nothing contained in this Subchapter is intended to restrict, restrain or hold in abeyance any agency with powers of eminent domain in their exercising of that power."

Section 2. Severability. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate or affect the remainder of this Act which shall remain in full force and effect.

Approved July 11, 1978.

CHAPTER 477

FORMERLY SENATE BILL NO. 184  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 36 OF TITLE 24, DELAWARE CODE, RELATING TO THE  
REGISTRATION OF PROFESSIONAL GEOLOGISTS.

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

Section 1. Amend Chapter 36 of Title 24, Delaware Code, by striking said Chapter 36 in its entirety and substituting in lieu thereof a new Chapter 36, which new Chapter shall read as follows:

"CHAPTER 36. GEOLOGISTS

\$3601. Definitions

As used in this Chapter:

(1) 'Practice of geology' means any service or creative work, the adequate performance of which requires geologic education, training and experience in the application of the principles, theories, laws and body of knowledge encompassed in the science of geology. This may take the form of, but is not limited to, consultation, research, investigation, evaluations, mapping, sampling, planning of geologic projects and embracing such geological services or work in connection with any public or private utilities, structures, roads, buildings, processes, works or projects. A person shall be construed to practice who by verbal claim, sign, advertisement or in any other way represents himself to be a geologist, or who holds himself out as able to perform or who does perform geologic services or work.

Nothing contained herein shall be construed to apply to persons engaged solely in the practice of well drilling or persons engaged in the practice of engineering as registered professional engineers.

(2) 'Geologist' is a person qualified to practice professional geology including specialists in its various subdisciplines such as geophysics, environmental geology, and hydrology.

(3) 'Board' is the Delaware Board of Registration of Geologists.

(4) 'Responsible charge' means the individual control and direction, by the use of initiative, skill, and individual judgment, of the practice of geology.

(5) Nothing contained herein shall be construed to permit the practice of engineering as defined in Chapter 28 of Title 24, Delaware Code.

§3602. Requirement of registration

No person shall engage in the practice of geology within this State unless such person is duly registered with the Board, provided that:

(a) persons engaged solely in teaching the science of geology; and

(b) persons engaged in the practice of geology under the direct supervision of a professional geologist registered in the State of Delaware, who shall be responsible for their activities; and

(c) non-residents practicing in the State pursuant to the provisions of §3604 (g); and

(d) persons engaged in the practice of geology as employees of the State,

shall be exempted from the provisions of this Chapter.

§3603. Board of Registration of Geologists; appointment; qualifications; term of office

(a) There is created a State Board of Registration of Geologists, which shall administer the provisions of this Chapter.

(b) The Board shall consist of three (3) qualified geologists appointed by the Governor for two-year terms, and shall include the State Geologist. Board members shall be citizens of the United States and residents of the State of Delaware. No more than two members of the Board shall be of the same political party. Board members may succeed themselves.

§3604. Powers and duties of the Board

(a) The Board shall meet at least once each calendar year and shall meet at such other times as it deems necessary.

(b) The Board shall prepare and maintain a registration list of geologists qualified to practice.

(c) The Board shall pass upon the qualifications of applicants for registration.

(d) The Board shall require from applicants for registration, evidence of their qualifications and shall judge each applicant on evidence of his professional competency and integrity.

(e) The Board may establish such regulations consistent with the provisions of this Chapter as may be necessary to carry out its duties.

(f) The Board shall, by regulation, establish a Code of Ethics for the professional practice of geology.

(g) The Board may, by regulation, establish procedures by which a non-resident having no place of business in this State may practice in Delaware for a period not to exceed thirty (30) days in any one (1) calendar year, provided that such person is registered in good standing in another State and that that State has registration requirements substantially the same as those provided herein.

(h) The Board may issue, renew, deny, suspend and revoke certificates of registration as provided in this Chapter.

**\$3605. Qualifications for registration**

In order to qualify for registration, an applicant must show that:

(1) He has graduated from an accredited college or university with a major in geology or he has completed thirty (30) credit hours of geology or its subdivisions of which 24 credits are third or fourth year courses or graduate courses;

(2) He has acquired ten (10) years of experience in geologic work satisfactory to the Board, a minimum of three (3) years of which must be in a position of responsible charge. In addition to time spent in responsible charge of geologic work, credit toward the experience requirement shall be allowed only as follows:

(a) each year of full-time graduate study may count as one year of experience to a maximum of four years;

(b) teaching in the geological sciences at college level shall be credited year for year up to a maximum of two (2) years toward meeting the requirements in this category provided that the total teaching experience includes six (6) semester units per semester of third or fourth year or graduate courses; and

(c) an examination of a nature to be determined in regulations established by the Board may, if passed, be credited as three (3) years of experience; and

(3) He possesses experience, competency and integrity satisfactory to the Board.

**\$3606. Application; fees**

Any persons wishing to register as a geologist shall make written application to the Board on a form prepared by the Board. Each application shall be accompanied by a non-refundable fee of \$25 to the Board. This fee shall be considered a charge for the processing of the application. All application and renewal fees

received by the Board shall be paid to the General Fund of the State of Delaware and all expenses of the Board, within the limits of appropriations made to it, shall be paid by the State Treasurer upon warrants signed by the proper officers of the Board.

In the event an examination is given pursuant to provisions of this Chapter, the Board may collect from each candidate for such examination, a fee not to exceed \$30. The purpose of this fee shall be to cover the necessary expenses of the Board in preparing and administering the examination.

\$3607. Certificates of registration

The Board shall issue a certificate of registration to any person whose application for registration has been approved by the Board under the provisions of this Chapter. A certificate issued or renewed under this Chapter shall authorize the practice of geology within this State.

\$3608. Expiration and renewal of certificates

(a) Certificates of registration shall be valid for a period of two years whereupon they shall become invalid unless renewed. Failure to renew shall cause the geologist's registration with the Board to lapse; provided, however, that registration may be regained upon application to the Board in accordance with the provisions of Section 3606 of this Chapter.

(b) The Board shall, by regulation, establish a procedure by which renewal may be effected and may charge a renewal fee of \$20.

\$3609. Suspension, revocation; hearings

(a) The Board, after due notice and opportunity for hearing, may suspend or revoke the certificate of any registrant who is found by the Board to have violated any of the provisions of this Chapter, including the regulations adopted pursuant thereto.

(b) In all hearings which are conducted for the suspension or revocation of a certificate of registration, the registrant shall have the right to appear personally, to be represented by counsel, and to produce evidence and witnesses in his behalf. Testimony shall be taken either stenographically or by electronic means, and a full record of the proceedings shall be preserved. A transcript may be purchased by any person interested in such hearing upon payment to the Board of the cost of preparing such transcript. The Board shall notify the registrant of its decision in writing within 20 days after the conclusion of the hearing.

\$3610. Penalties; jurisdiction

Any non-exempt person engaged in the practice of geology in the State of Delaware who fails to register under the provisions

of this Chapter, or who continues to practice after his registration has been suspended or revoked by the Board, shall be subject to a fine of not less than \$100 nor more than \$500.

The Superior Court of the State shall have original jurisdiction of any violation of this Chapter notwithstanding any provision of the Delaware Code to the contrary.

**§3611. Appeals**

Any person denied registration or whose registration has been suspended or revoked by the Board may appeal the decision of the Board to the Superior Court. The decision of the Board shall be final if an appeal is not taken within thirty (30) days of the date of the Board's decision. Appeals shall be taken by filing the action with the Court and serving upon the Chairman of the Board written notice of the appeal stating the grounds therefor.

**§3612. Reapplication for registration; reinstatement**

The denial by the Board of an application for registration shall be without prejudice and a person may reapply to the Board in accordance with the provisions of §3606.

Any geologist whose certificate of registration has been revoked by the Board may reapply under the provisions of §3606 after a period of at least one (1) year from the date of such revocation.

**§3613. Severability clause**

If any provision of this Chapter, or any regulation promulgated thereunder, or the application of any such provision or regulation to any person or circumstance shall be held invalid, the remainder of this Chapter or any regulations promulgated pursuant thereto or the application of such provisions and regulations to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

**§3614. Short title**

This Act shall be known as the 'Delaware Geologists Registration Act.'

Section 2. This Act shall not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun prior to its effective date.

Approved July 11, 1978.

## CHAPTER 478

## FORMERLY SENATE BILL NO. 292

AN ACT TO AMEND CHAPTER 43, TITLE 21 OF THE DELAWARE CODE RELATING TO MUFFLERS.

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 §4311, Chapter 43, Title 21 of the Delaware Code by striking subsection (a) thereof in its entirety and substituting in lieu thereof the following:

"(a) No person shall drive a motor vehicle, including a motorcycle, on a highway, including residential streets, unless such motor vehicle or motorcycle is equipped with a muffler in good working order and in accordance with manufacturer's specifications and in constant operation to prevent excessive or unusual noise."

Approved July 11, 1978.

CHAPTER 479

FORMERLY SENATE BILL NO. 308

AN ACT TO AMEND CHAPTER 17, TITLE 15, OF THE DELAWARE CODE, RELATING TO NOTICE TO PERSONS TO BE REMOVED FROM THE VOTER ROLLS.

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

Section 1. Amend §1704, Title 15, of the Delaware Code, by striking the words "on a postage prepaid form card" as they appear in the third sentence of the first paragraph of said section and inserting in lieu thereof the words "on a form".

Section 2. Amend §1704, Title 15, of the Delaware Code, by striking the words "certified mail" as they appear in the second sentence of the second paragraph of said section and inserting in lieu thereof the words "first class mail".

Section 3. Amend §1711, Title 15, of the Delaware Code, by adding thereto at the end of said section the following:

", except notice sent by first class mail shall be sufficient for any such notice sent pursuant to §1704 of this Chapter".

Approved July 11, 1978.

## CHAPTER 480

## FORMERLY SENATE BILL NO. 326

AN ACT TO AMEND CHAPTERS 1, 13, 31, 41, 43, 45, 49, 55, 57, 71, 73,  
AND 77 OF TITLE 15, DELAWARE CODE RELATING TO ELECTION LAWS OF  
THE STATE OF DELAWARE.

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

Section 1. Amend §101 (7), Chapter 1, Title 15, Delaware Code by striking the number "2" as the same appears immediately before the word "clerks" in said subsection (7).

Section 2. Amend §113, Chapter 1, Title 15, Delaware Code by striking the second sentence in its entirety as the same appears in said section.

Section 3. Amend §1306 (e), Title 15, Delaware Code, by striking said subsection in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) Whenever the Department has designated for voter registration facilities owned or leased by agencies or subdivisions of this State, it shall be the duty of the officials of such agencies or subdivisions to make these facilities available and to provide a suitable location, heat, lighting, and other services necessary for the conduct of registration, so long as such use is not incompatible with the primary function of the agency or subdivision."

Section 4. Amend §3124, Title 15, Delaware Code, by adding a new subsection (c) to said section to read as follows:

"(c) The Department shall also provide and cause to be posted in each primary election district two sheets of instruction to voters and two sample ballots, as prescribed in §4910 (a) and (b) of this Title."

Section 5. Amend §3125, Title 15, Delaware Code, by striking the words "preferably staffed" as the same appear in paragraph (2) of said section.

Section 6. Amend §3126, Title 15, Delaware Code, by striking the words "the manner of voting shall be the same as set forth in Chapter 50 of this Title" as they appear in said section and inserting in lieu thereof the following words:

"the manner of voting shall be the same as that set forth in Chapter 49 of this Title".

Section 7. Amend §4104, Title 15, Delaware Code, by striking said

section in its entirety.

Section 8. Amend §4107, Title 15, Delaware Code, by designating said section as subsection (c) of §4911 of this Title.

Section 9. Amend §4309, Title 15, Delaware Code, by striking said section in its entirety.

Section 10. Amend §4502 (a), Title 15, Delaware Code, by striking the first sentence of said subsection, starting with the words "For each general election" and ending with the words "in parallel columns." and inserting in lieu thereof the following sentence:

"For each election, the party emblem adopted by each political party and its name shall appear on the ballot with the names of its candidates, arranged in line with the titles of the offices for which they are contesting, along with space for the voter to write in the name of any candidate of his choice, as prescribed in §5005 (b) of this Title."

Section 11. Amend §4502 (c), Title 15, Delaware Code, by striking the diagram of the ballot as it appears in said subsection immediately after the words "conform as nearly as possible to such design" and inserting in lieu thereof the following diagram:

#### OFFICIAL BALLOT

Representative District Number \_\_\_\_\_

Presidential, Vice-Presidential, State,

County and District Ballot

WRITE IN		PARTY EMBLEM Name of Party	PARTY EMBLEM Name of Party	PARTY EMBLEM Name of Party	
	For President	JOHN DOE	JOHN DOE	JOHN DOE	
	For Vice- President	JOHN DOE	JOHN DOE	JOHN DOE	
	For United States Senator	JOHN DOE	JOHN DOE	JOHN DOE	
	For Representa- tive in Congress	JOHN DOE	JOHN DOE	JOHN DOE	
	For Governor	JOHN DOE	JOHN DOE	JOHN DOE	
	For Lieutenant Governor	JOHN DOE	JOHN DOE	JOHN DOE	

Section 12. Amend §4505, Title 15, Delaware Code, by striking said section in its entirety and inserting in lieu thereof a new §4505 to read as follows:

"§4505. Substitution of candidate's name after printing of ballots

Whenever a supplemental certificate of nomination is filed naming a substitute candidate, as elsewhere provided in this Title, the Department of Elections shall promptly provide new ballots or, if necessary, pasters. If the new ballots or pasters are received by the Department too late to put them in the voting machines prior to the preparation, sealing and inspection of the machines, then the Department shall deliver the necessary number of pasters to the inspectors of the appropriate election districts, who shall see to it that the pasters are placed and maintained on the voting machines and certificates of election."

Section 13. Amend §4152 (e), Title 15, Delaware Code, by striking said subsection in its entirety and inserting in lieu thereof a new §4512 (e) to read as follows:

"(e) Whenever the Department has designated as polling places facilities owned or leased by agencies or subdivisions of this State, it shall be the duty of the officials of such agencies or subdivisions to make these facilities available and to provide a suitable and acceptable location, heat, lighting, and other services necessary for the conduct of the election, so long as such use is not incompatible with the primary function of the agency or subdivision."

Section 14. Amend §4941, Title 15, Delaware Code, by striking the words "in the same county" as they appear in paragraph (2) of said section and inserting in lieu thereof the words "within this State".

Section 15. Amend §4972, Title 15, Delaware Code, by striking the word "left" as it appears in paragraph (2) of said section and inserting in lieu thereof the word "right".

Section 16. Amend §4978 (c), Title 15, Delaware Code, by striking the words "with the Superior Court serving as the Board of Canvass at 12:00 Noon the second day following the election" as they appear at the end of said subsection and inserting in lieu thereof the following words:

"with the Department of Elections any time prior to 12:00 Noon the second day following the election, at which time the Department shall present said certificate to the Superior Court serving as the Board of Canvass".

Section 17. Amend §5504, Title 15, Delaware Code, by striking the word "general" as it appears in said section.

Section 18. Amend §5701 (a), Title 15, Delaware Code, by adding the following sentence to said subsection:

"For this purpose, the Court shall utilize certificates of election for each election district provided by the Prothonotary, the Minority Judge of each election district, and the Department of Elections for its county, whose representatives shall sit as observers and assistants to the Court during said calculation of the vote."

Section 19. Amend §5702, Title 15, Delaware Code, by striking said section in its entirety and inserting in lieu thereof a new §5702 to read as follows:

"§5702. Duties of the Court

(a) Whenever the certificate of election for any election district is not produced when the Court convenes or whenever any absentee ballot box, voting machine, or write-in paper roll is not available at that time, the Court may issue summary process against the election officers of such election district or any other persons to bring such documents or objects forthwith into the Court or to make them available for inspection by the Court.

(b) Whenever the certificates produced do not agree or there is a complaint under oath of fraud or mistake in any such certificate, or if fraud, mistake, or omission is apparent on the face of such certificate, the Court shall:

(1) Open and examine the necessary voting machines and/or absentee ballot boxes, and, if applicable, examine the necessary write-in paper rolls;

(2) Make a recount of the votes contained therein;

(3) Correct any fraud, mistake, or omission in any certificate or paper relating to the election.

(c) The Court shall also receive from the Department of Election for its county a report of the number of absentee ballots delivered to each election district, from which it shall determine and make certain that all these ballots are recorded on the certificates of election for each election district receiving absentee ballots, either in the total number of ballots counted or in the number of ballots rejected."

Section 20. Amend §5704, Title 15, Delaware Code, by striking the words "Secretary of State" as they appear twice in said section and inserting in lieu thereof the words "State Election Commissioner".

Section 21. Amend §7106 (b), Title 15, Delaware Code, by striking said subsection in its entirety.

Section 22. Amend §7305 (b), Title 15, Delaware Code, by striking said subsection in its entirety.

Section 23. Amend Chapter 77, Title 15, Delaware Code, by striking

the words "Clerk of the Peace" or "Clerks of the Peace" wherever they appear in said Chapter and inserting in lieu thereof the words "Department of Elections" or "Departments of Election" respectively.

Approved July 11, 1978.

CHAPTER 481

FORMERLY SENATE BILL NO. 348  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF SOIL AND WATER CONSERVATION, FOR THE PURPOSE OF DREDGING THE ENTRANCE CHANNEL TO COSY COVE.

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

Section 1. The sum of \$4,000 is hereby appropriated to the Division of Soil and Water Conservation, Department of Natural Resources and Environmental Control, for the purpose of dredging the entrance channel to Cosy Cove to a required depth of seven feet.

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 or unencumbered on June 30, 1979, shall revert to the General Fund of the State of Delaware.

Approved July 11, 1978.

## CHAPTER 482

## FORMERLY SENATE BILL NO. 471

AN ACT TO AMEND SECTION 840, SUBPART D, SUBCHAPTER III, CHAPTER 5,  
TITLE 11, DELAWARE CODE, RELATING TO SHOPLIFTING.

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

Section 1. Amend §840, Subpart D, Subchapter III, Chapter 5,  
Title 11, Delaware Code, by striking subsections (c) and (d) of said  
section and substituting in lieu thereof the following:

"(c) A merchant, a store supervisor, agent or employee of the merchant 18 years of age or older, who has probable cause for believing that a person has intentionally concealed unpurchased merchandise or has committed shoplifting as defined in subsection (a) of this section, may, for the purpose of summoning a law enforcement officer, take the person into custody and detain him in a reasonable manner on the premises for a reasonable time.

(d) A merchant, a store supervisor, agent or employee of the merchant 18 years of age or older, who detains or a merchant, a store supervisor, agent or employee of the merchant who causes or provides information leading to the arrest of any person under the provisions of subsections (a), (b), or (c) of this section shall not be held civilly or criminally liable for such detention or arrest provided he had at the time of such detention or arrest probable cause to believe that the person committed the crime of shoplifting as defined in subsection (a) of this section."

Approved July 11, 1978.

## CHAPTER 483

## FORMERLY SENATE BILL NO. 492

AN ACT TO AMEND CHAPTER 15, TITLE 29 OF THE DELAWARE CODE RELATING TO THE COMMISSION ON MODERNIZATION OF STATE LAWS BY RENAMING THE COMMISSION "THE COMMISSION ON UNIFORM STATE LAWS" AND BY REVISING THE STATUTE RELATING THERETO.

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

Section 1. Amend §1501, Chapter 15, Part II, Title 29 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§1501. Continuation; composition; qualification of members

(a) The Commission on Modernization of State Laws referred to in this Chapter as the 'Commission' is continued and renamed the Commission on Uniform State Laws.

(b) The Commission shall consist of five persons. Four Commissioners shall be appointed by the Governor, and shall serve at his pleasure. No more than two appointed Commissioners shall reside in any county, and there shall be at least one Commissioner from each county. All Commissioners shall hold office until their successors are appointed.

(c) The Director of Research of the Legislative Council of Delaware shall also be a Commissioner. If he is not eligible to be a Commissioner, or declines to serve, he may designate an employee of the Legislative Council, who is qualified to be a Commissioner, to serve as a Commissioner.

(d) Any person who is elected to be a life member of the National Conference of Commissioners on Uniform State Laws shall also be a Commissioner. The Commissioner serving pursuant to this subsection shall not be counted as one of the Commissioners appointed pursuant to subsection (b).

(e) Each of the Commissioners shall be a member of the Bar of this State in good standing."

Section 2. Amend §1502, Chapter 15, Part II, Title 29 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§1502. Powers and duties; reports

The Commissioners shall examine all subjects on which uniformity with the laws of other States is desirable, shall represent this State in the National Conference of Commissioners on Uniform State

Laws and in convention, conference or congress of like commissions of other States, shall consider and draft uniform or model laws to be submitted for the approval and adoption by the several States and this State; and shall devise and recommend such courses of action as shall best accomplish the purpose of this Chapter. The Commissioners shall report to the Governor, to the General Assembly, and to the Legislative Council before the convening of each regular session of the General Assembly."

Approved July 11, 1978.

CHAPTER 484

FORMERLY SENATE BILL NO. 556

AN ACT TO AMEND CHAPTER 31, TITLE 15 OF THE DELAWARE CODE RELATING TO  
FILING OF CANDIDACY FOR NOMINATION AT A PRIMARY ELECTION.

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

Section 1. Amend §3106 (a)(1) c., Chapter 31, Title 14 of the  
Delaware Code by striking sub-paragraph (a)(1) c. as the same appears  
therein in its entirety.

Approved July 11, 1978.

## CHAPTER 485

## FORMERLY SENATE BILL NO. 561

AN ACT TO AMEND CHAPTER 25, TITLE 10, DELAWARE CODE, AS IT RELATES TO  
THE COMPENSATION OF THE CHIEF DEPUTY REGISTER IN CHANCERY.

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

Section 1. Section 2503 (a), Chapter 25, Title 10, of the Delaware Code, shall be amended by deleting the fourth sentence thereof and substituting therefor the following:

"The compensation of such Chief Deputy shall be as fixed by the New Castle County government, the Sussex County government, or the Levy Court of Kent County."

Approved July 11, 1978.

CHAPTER 486

FORMERLY SENATE BILL NO. 565

AN ACT TO AMEND CHAPTER 25, TITLE 12, DELAWARE CODE, AS THE SAME RELATES  
TO THE COMPENSATION OF THE CHIEF DEPUTY REGISTER OF WILLS.

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

Section 1. Amend Section 2507 (a), Chapter 25, Title 12, of the Delaware Code, by deleting the second sentence thereof and substituting therefor the following:

"The annual compensation of such Chief Deputy shall be as fixed by the New Castle County government, the Sussex County government, or the Levy Court of Kent County."

Approved July 11, 1978.

## CHAPTER 487

## FORMERLY SENATE BILL NO. 593

AN ACT TO AMEND CHAPTER 40, TITLE 31, DELAWARE CODE, SECTION 4053 (18)  
BY INCREASING THE AUTHORITY TO ISSUE BONDS AND NOTES TO \$100,000,000.

WHEREAS, the General Assembly has authorized the Delaware State Housing Authority to issue bonds and notes not to exceed \$20,000,000; and

WHEREAS, the Delaware State Housing Authority has issued bonds and notes in excess of \$15,000,000 in serving the housing needs of low and moderate income Delaware families; and

WHEREAS, the General Assembly desires to increase said authority to issue bonds and notes to \$100,000,000.

NOW, THEREFORE:

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

Section 1. Amend Chapter 40, Title 31, Delaware Code, Section 4053 (18) by striking from line three thereof the amount "\$20,000,000" and inserting in lieu thereof the amount "\$100,000,000".

Approved July 11, 1978.

CHAPTER 488

FORMERLY SENATE BILL NO. 610

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF SOIL AND WATER CONSERVATION, FOR THE PURPOSE OF DREDGING LEE JOSEPH CREEK.

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

Section 1. The sum of \$6,000 is hereby appropriated to the Division of Soil and Water Conservation, Department of Natural Resources and Environmental Control, for the purpose of dredging Lee Joseph Creek.

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 or unencumbered on June 30, 1979, shall revert to the General Fund of the State of Delaware.

Approved July 11, 1978.

CHAPTER 489

FORMERLY SENATE BILL NO. 615

AN ACT TO AMEND CHAPTER 33, OF TITLE 12, DELAWARE CODE RELATING TO  
DEPOSITS OF SECURITIES BY FIDUCIARIES IN CLEARING CORPORATIONS.

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

Section 1. Amend §3311 (a) of Chapter 33, Title 12, Delaware Code by inserting the phrase "or arrange for the deposit of" between the words "deposit" and "in" in the first sentence of said paragraph (a).

Approved July 11, 1978.

CHAPTER 490

FORMERLY SENATE BILL NO. 637

AN ACT TO AMEND CHAPTER 7, TITLE 5, DELAWARE CODE, RELATING TO TAXATION OF BANKS AND TRUST COMPANIES.

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

Section 1. Amend §703, Chapter 7, Title 5, Delaware Code, by deleting same and substituting a new §703 to read as follows:

"§703. Taxation

Every corporation created by or under this Chapter, and every corporation whose charter or certificate of incorporation is amended under the provisions of this Chapter, shall be subject to the same taxation as shall be fixed by the laws of this State for banks and trust companies."

Approved July 11, 1978.

CHAPTER 491

FORMERLY SENATE BILL NO. 638

AN ACT TO AMEND CHAPTER 9, TITLE 5, DELAWARE CODE, RELATING TO REGULATIONS GOVERNING BUSINESS OF BANKS AND TRUST COMPANIES.

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

Section 1. Amend Chapter 9, Title 5, Delaware Code, by deleting the word "uninvested" wherever it appears in §916 of said Chapter.

Approved July 11, 1978.

## CHAPTER 492

## FORMERLY SENATE BILL NO. 670

AN ACT TO GRANT APPROVAL TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO PURCHASE A TRACT OF LAND WITHIN KILLENS POND STATE PARK, KENT COUNTY, DELAWARE.

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 unimproved land consisting of approximately 19.4+ acres known as the Layton Tract located adjacent to and surrounded by Killens Pond State Park near Felton, Delaware; and

WHEREAS, the present owners of the Layton Tract have applied for a proposed 16 lot residential subdivision through the Kent County Regional Planning Commission; and

WHEREAS, the Kent County Planning Office is in opposition to said subdivision plan for lack of conformance with Kent County comprehensive plan and endorses acquisition by the Department of Natural Resources and Environmental Control since this tract of land is adjacent to and surrounded by Killens Pond State Park which will enhance the expansion of recreational and preservation activities in compliance with the park master plan; and

WHEREAS, appraisals have been completed on the Layton Tract, and the fair market value for the Layton Tract is \$63,500.00; and

WHEREAS, the Department of Natural Resources and Environmental Control has established an account from federal reimbursement on previous acquisition with adequate funds to acquire the Layton Tract without use of additional State funds; and

WHEREAS, a land survey was completed by a registered Delaware land surveyor verifying the tract acreage.

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 Layton Tract within Killens Pond State Park situated in Kent County, near Felton, Delaware at the established fair market value plus required closing costs.

Section 2. Funds to acquire said purchase shall be obtained from federal reimbursement account requiring no additional use of State monies.

Section 3. 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 4. The purchase price shall be matched with Federal Land and Water Conservation Funds to the fullest extent possible.

Approved July 11, 1978.

## CHAPTER 493

## FORMERLY SENATE BILL NO. 684

## AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO REGULATORY PROVISIONS OF ALCOHOLIC LIQUORS.

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

Section 1. Amend §561 (c), Chapter 5, Title 4 of the Delaware Code by striking said subsection in its entirety and inserting in lieu thereof the following:

"(c) The Commission shall not cancel or suspend any license for the sale of alcoholic liquors or impose any fine for an alleged violation of §713 or §904 of this Title where the licensee or its employee has made a reasonable effort to determine the age of a purchaser of alcoholic liquors. For purposes of this section, a licensee or its employee shall be deemed to have made a reasonable effort to determine the age of a purchaser if, prior to any sale of alcoholic liquors, the licensee or its employee requires the purchasers to display identification, with a photograph of the purchaser thereon affixed, which sets forth information that would lead a reasonable man to believe the purchaser to be 20 years of age or older."

Section 2. Amend Section 713 (a)(1), Title 4 of the Delaware Code by striking the semicolon (;) as it appears at the end thereof, in its entirety and substituting in lieu thereof the following:

"except that in any prosecution for an offense under this subparagraph it shall be an affirmative defense that the individual, who has not reached the age of 20 years, presented to the accused identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 20 years of age or older;"

Section 3. Amend §904 (a), Chapter 9, Title 4 of the Delaware Code by striking the paragraph beginning with "In any trial" and ending with "of 20 years." as the same appears therein in its entirety and substituting in lieu thereof the following:

"In any prosecution for an offense under this sub-paragraph it shall be an affirmative defense that the individual, who has not reached the age of 20 years, presented to the accused identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 20 years of age or older."

Approved July 11, 1978.

## CHAPTER 494

## FORMERLY SENATE BILL NO. 700

AN ACT TO AMEND TITLE 5, DELAWARE CODE, BY ADDING A NEW CHAPTER ENTITLED MORTGAGE BANKING.

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

Section 1. Amend Title 5, Delaware Code, by adding thereto a new Chapter 30 to read as follows:

"CHAPTER 30. MORTGAGE BANKING

§3001. Doing Business Without License Prohibited

(a) On or after January First, Nineteen Hundred Seventy-Nine, no person, co-partnership, association, corporation or other entity shall engage in the business of making loans secured by mortgages on residential real property located in this State or secured by certificates of stock or other evidence of ownership interests in, and proprietary leases from, corporations or partnerships formed for the purpose of cooperative ownership of real estate in this State without first obtaining a license from the State Bank Commissioner. The provisions of this section shall not apply to any banking institution, savings bank, savings and loan association, federal credit union, insurance company, or any other financial institution which is subject to any other law of this State or of the United States, regulating the power of such institution to engage in mortgage loan transactions.

(b) For purposes of subsection (a) of this section:

(1) No person, co-partnership, association, corporation or other entity shall be deemed to be engaging in the business described in that subdivision if within any twelve month period it shall make fewer than five loans of the type described in that subsection; and

(2) The term residential real property shall mean improved real property used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, (including single-family homes, multi-family dwellings and individual units of condominiums) but shall not refer to real property upon which such dwellings are to be constructed; and

(3) The Commissioner shall be authorized to exempt

from this section such additional entities or classes of entities as he shall find inappropriate to include to effectuate the purposes of this Chapter.

**§3002. Application for License; Fees**

(a) The application for such license shall be in writing, under oath, and in the form prescribed by the Commissioner and shall contain the name and complete address or addresses where the business of the applicant is located, and if the applicant be a partnership, association, corporation or other form of business organization, the names and complete addresses of each member, director and principal officer thereof. Such application shall also include a description of the activities of the applicant, in such detail and for such periods, as the Commissioner may require, as well as such further information as the Commissioner may require. Such applicant, at the time of making such application shall pay to the Commissioner as an investigation fee the sum of Five Hundred Dollars (\$500.00) which shall not be refundable.

(b) Upon approval, the applicant shall pay an annual license fee of Five Hundred Dollars (\$500.00) which shall be payable annually thereafter.

**§3003. Issuance or Refusal of License**

Upon the filing of an application for a license, if the Commissioner shall find that the financial responsibility, experience, character, and general fitness of the applicant and of the members thereof if the applicant be a co-partnership or association, and of the officers and directors thereof, if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this Chapter, he shall thereupon issue a license to engage in the business described in §3001 of this Chapter in accordance with provisions of this Chapter. If the Commissioner shall not so find, he shall not issue such license and he shall notify the applicant of the denial, give notice of the grounds for refusal and notify the applicant of his right to request a hearing. If the applicant requests a hearing, the Commissioner shall hold such hearing under the provisions of Chapter 64, Title 29, Delaware Code. The Commissioner shall approve or deny every application for license thereunder within ninety (90) days from the filing thereof, provided, however, that failure to act within the prescribed period shall not be deemed approval of any such application.

**§3004. License Provisions**

Each license issued under this Chapter shall state the

address or addresses at which the business is to be conducted and shall state fully the name of the licensee, and the date and place of its incorporation, if applicable. A copy of such license shall be prominently posted in each place of business of the licensee. Such license shall not be transferrable or assignable. No licensee shall transact the business provided for by this Chapter under any other name or maintain an office at any other location than that designated in the license.

**§3005. Changes in Officers or Directors of Licensee**

In the event that there shall be any change among the officers, partners or directors of any licensee, the licensee shall forthwith notify the Commissioner of the name, address and occupation of each new officer, partner or director, and provide such other information as the Commissioner may require.

**§3006. Grounds for Suspension or Revocation of License; Procedure**

(a) The Commissioner may revoke any license issued hereunder if he shall find that:

(1) The licensee has violated any provisions of this Chapter, or any rule or regulation made by the Commissioner under and within the authority of this Chapter or of any other law, rule or regulation of this State.

(2) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the Commissioner in refusing originally to issue such license.

(b) The Commissioner may on good cause shown, suspend any license for a period not exceeding thirty (30) days, pending investigation.

(c) Except as provided in subsection (b) of this section, no license shall be revoked or suspended except after notice and a hearing thereon.

(d) Any licensee may surrender any license by delivering to the Commissioner written notice that it thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender.

(e) No revocation, suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any person.

(f) Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked or suspended in accordance with the provision of this Chapter, but the Commissioner shall have authority to reinstate a suspended license or to issue a new license to a licensee whose license shall have been revoked if no fact or condition then exists which would have warranted the Commissioner in refusing originally to issue such license under this Chapter.

(g) Whenever the Commissioner shall revoke or suspend a license issued pursuant to this Chapter, he shall forthwith execute a written order to that effect. The Commissioner shall forthwith serve the written order upon the licensee. Any such order may be reviewed in the manner provided by Chapter 64, Title 29, Delaware Code. Such application for review as authorized by this section must be made within thirty (30) days from the date of such order of suspension or revocation.

**§3007. Commissioner Authorized to Examine**

For the purpose of discovering violations of this Chapter or securing information lawfully required by him hereunder, the Commissioner may at any time, and as often as he may determine, either personally or by a person duly designated by him, investigate the business and examine the books, accounts, records, and files used therein of every licensee hereunder. For that purpose the Commissioner and his duly designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such licensees. The Commissioner and any person duly designated by him shall have authority to require the attendance of and to examine under oath all persons whose testimony he may require relative to such business.

**§3008. Licensee's Books and Records; Reports**

The licensee shall keep and use in its business such books, accounts and records as will enable the Commissioner to determine whether such licensee is complying with the provisions of this Chapter and with the rules and regulations lawfully made by the Commissioner. Every licensee shall preserve such books, accounts, and records for such period of time as the Commissioner may require; provided, however, that preservation by photographic reproduction thereof or records in photographic form shall constitute compliance with the requirements of this section.

Each licensee shall annually, on or before a date to be determined by the Commissioner, file a report with the Commissioner giving such information as the Commissioner may

require concerning the business and operations during the preceding calendar year of such licensee under authority of this Chapter. Such report shall be subscribed and affirmed as true by the licensee under the penalties of perjury and shall be in the form prescribed by the Commissioner. In addition to annual reports, the Commissioner may require such additional regular or special reports as he may deem necessary to the proper supervision of licensees under this Chapter. Such additional reports shall be in the form prescribed by the Commissioner and shall be subscribed and affirmed as true under the penalties of perjury.

**§3009. Severability**

If any provision of this Chapter, or the application of such provision to any person, co-partnership, association, corporation or circumstance, shall be held invalid, the remainder of the Chapter, and the application of such provision to persons, co-partnerships, associations, corporations or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**§3010. Exclusion of Certain Institutions from Operation of Chapter**

Nothing contained in this Chapter shall be deemed to have any effect whatever upon the existing powers of any banking institution, savings bank, federal savings and loan association, or insurance company, or other financial institutions which is subject to any other law of this State, or of the United States, regulating the power of such institution to engage in mortgage loan transactions, or upon the conditions and limitations imposed by any such law upon the exercise of such powers."

Approved July 11, 1978.

CHAPTER 495

FORMERLY SENATE BILL NO. 632  
AS AMENDED BY  
SENATE AMENDMENT NOS. 4, 5, 6, 7, 9, & 10

AN ACT TO AMEND PART V, TITLE 11 OF THE DELAWARE CODE RELATING TO STATE LAW ENFORCEMENT AGENCIES; AND PROVIDING FOR A SEPARATE PLANNING AGENCY.

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

Section 1. Amend Part V, Title 11 of the Delaware Code by striking the title of said Part V and substituting in lieu thereof the following:

"PART V. LAW ENFORCEMENT: ADMINISTRATION"

Section 2. Amend Part V, Title 11 of the Delaware Code by adding thereto a new chapter, designated as Chapter 87, which new Chapter shall read as follows:

"CHAPTER 87. LAW ENFORCEMENT PLANNING

§8701. Findings and Purpose

(a) The Delaware General Assembly finds and declares that:

(1) crime and delinquency are essentially State and local problems;

(2) crime and delinquency are complex social phenomena requiring the attention and efforts of the criminal justice system, State and local governments, and private citizens alike;

(3) the establishment of appropriate goals, objectives and standards for the reduction of crime and delinquency and for the administration of justice must be a priority concern;

(4) the functions of the criminal justice system must be coordinated more efficiently and effectively;

(5) the full and effective use of resources affecting state and local criminal justice systems requires the complete cooperation of State and local government agencies; and

(6) training, research, evaluation, technical

assistance, and public education activities must be encouraged and focused on the improvement of the criminal justice system, and the generation of new methods for the prevention and reduction of crime and delinquency.

§8702. Delaware Criminal Justice Planning Commission

(a) There is hereby created within the Executive Branch the Delaware Criminal Justice Planning Commission.

(b) The Commission shall consist of twenty-nine members as follows:

(1) The Governor who shall serve as Chairman.

(2) A Vice-Chairman appointed by the Governor, with the advice and consent of the Senate.

(3) The Chief Justice of the Delaware Supreme Court or his designee, the Director of the Administrative Office of the Courts, a Local Trial Court Judge to be appointed by the Governor, and two citizen members of the Juvenile Justice Advisory Group to be appointed by the Governor.

(4) The Chief Judge of Family Court, the Attorney General, the Public Defender, Superintendent of the State Police, Director of Public Safety for New Castle County, the Chairman of the Delaware Police Chiefs' Council, the Commissioner of Correction, the Chief of the Bureau of Juvenile Correction, the Chairman of the Board of Parole, the Sussex County Administrator, the Mayor of the City of Wilmington, the Chief of the Bureau of Substance Abuse of the Department of Health and Social Services, the State Budget Director and a member of the Violent Crimes Compensation Board to be chosen by the Governor.

(5) The Controller General of the State of Delaware and two citizen members to be appointed by the Speaker of the House and two citizen members to be appointed by the President Pro Tempore of the Senate.

(6) Three citizen members to be appointed by the Governor, one from each of the three counties.

(c) Members appointed by the Governor shall serve at the pleasure of the Governor. The terms of those members who serve by virtue of the office they hold shall be concurrent with service in the office from which they derived their membership.

(d) A member of the Commission is not entitled to a

salary for duties performed as a member of the Commission. Each member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official Commission duties.

(e) The Governor shall appoint an Executive Director, subject to confirmation by the Senate, who shall serve at the pleasure of the Governor, and who shall be paid such compensation as the Governor may determine and is compatible with the Commission's budget appropriation. Such salary shall not detract or infringe upon sums specifically allocated for various functions and responsibilities of the Commission. Within the amount appropriated to the Commission, the Executive Director may employ such personnel and contract for such consulting services as may be necessary and authorized, to carry out the purposes of this Chapter.

§8703. Meetings; Quorum; Committees

(a) The Commission shall meet at least four times each year and at such other times as it deems necessary. Fourteen members shall constitute a quorum.

(b) The Commission may establish committees as it deems advisable and feasible, but only the Commission itself may set policy or take other official action. All meetings of the Commission, or any committee thereof, at which public business is discussed or formal action is taken shall conform to the Freedom of Information Act (Chapter 100, Title 29 of the Delaware Code). In order to facilitate attendance of Commission members and the general public from all parts of the State, one-quarter (25%) of all Commission meetings each calendar year shall be held in Kent County, and one-quarter (25%) of Commission meetings each calendar year shall be held in Sussex County.

(c) The commission and any other committee or organization for the purposes of this Chapter shall provide for public access to all records relating to its functions under this Chapter, except such records as are required to be kept confidential by any other provision of State, Federal or local law. The Commission shall promulgate rules of procedure governing its operations, provided they are in accordance with the provisions of Chapter 64, Title 29, of the Delaware Code.

§8704. Powers and Duties

The Commission shall:

(a) serve as the State Planning agency pursuant to the Omnibus Crime Control and Safe Streets Act of 1968 and the Juvenile Justice and Delinquency Prevention

Act of 1974, as amended, and other related Federal acts;

(b) advise and assist the Governor in developing policies, plans, programs, and budgets for improving the coordination, administration and effectiveness of the criminal justice system in this State;

(c) prepare a State comprehensive criminal justice plan on behalf of the Governor. Such plan, to be periodically updated, shall be based on an analysis of the State's criminal justice needs and problems, and shall be in conformance with State and other appropriate regulations;

(d) establish goals, priorities and standards for the reduction of crime and the improvement of the administration of justice in this State;

(e) recommend legislation to the Governor and the General Assembly in the criminal justice field;

(f) encourage local and regional comprehensive criminal justice planning efforts;

(g) monitor and evaluate programs and projects, funded in whole or in part by the State government, aimed at reducing crime and delinquency and improving the administration of justice;

(h) cooperate with and render technical assistance to State agencies and units of general local government, and public or private agencies relating to the criminal justice system;

(i) apply for, contract for, receive, and expend for its purposes any appropriations or grants from the State, its political subdivisions, the Federal government, or any other source public or private, in accordance with the appropriations process;

(j) have the authority to collect from any State or local governmental entity information, data, reports, statistics or such other material which is necessary to carry out the Commission's functions; and

(k) perform such other duties as may be necessary to carry out the purposes of this Chapter.

#### **§8705. Reports**

The Commission shall submit an Annual Report to the Governor and to the General Assembly concerning its work during the preceding calendar year. Other studies, evalua-

tions, crime data analyses, and reports may be submitted to the Governor or to the General Assembly as are deemed appropriate or as requested.

**§8706. Legislative Review**

(a) A joint committee composed of the standing committee of the House of Representatives having primary jurisdiction over criminal justice matters and the Senate standing committee having primary jurisdiction over criminal justice matters shall have responsibility over the nature, method and timetable of legislative review of the goals, priorities and policies of the State's Comprehensive Plan as required by the Omnibus Crime Control Act of 1968 as amended. The joint committee shall meet in April, or at such other time prior to July 1 of each calendar year as the Committee shall determine. The joint committee shall at all times have access to information from any State agency, whether or not such agency is subject to the provisions of this Chapter and to all books, records, and other instrumentalities and properties which may be required in the performance of the statutory duties of the joint committee. The Commission shall cooperate with any member of the joint committee and shall make available such books, records, instrumentalities and property as may be requested.

(b) The joint committee shall hold as many hearings as it deems sufficient, which hearings shall be open to the public and shall be regularly and uniformly convened. At such hearings the public, representatives of the Commission and members of the committee shall be heard, and evidence received. All written evidence presented at the public hearings, including graphs and records, should be public information and be made available to the public for scrutiny and copying. The joint committee shall, among other things examine:

(1) The Commission's Annual Report to the joint committee of specific and detailed objectives for each of its major programs, and relating these objectives to the Comprehensive Plan;

(2) statements of the Commission's conclusions as to the effectiveness of each said program in meeting the objectives of the Comprehensive Plan;

(3) recommendations of the Commission with respect to any changes or additional legislative action deemed necessary to eliminate any shortcomings or ineffectiveness found in any programs, and how such shortcomings or ineffectiveness might relate to the Comprehensive Plan;

(4) a listing identifying the principal models,

analyses and studies supporting the major conclusions and recommendations of the annual report required by this section; and

(5) a review of the Commission's actions attempting to comply with legislative evaluations or reports over the fiscal year just concluded.

§8707. Sunset Provisions

(a) The provisions of this Chapter shall become automatically suspended on December 31, 1980, and if the Commission is permitted to operate after that date shall again become suspended on December 31 every four years thereafter.

(b) On each December 31 suspension of the Commission the Governor shall:

(1) conduct a review of the Commission's overall performance, including but not limited to a study of the Commission's effectiveness in accomplishing its general purposes;

(2) make public and submit to each House of the General Assembly a report on the findings of the review conducted pursuant to this section. Such report shall include a recommendation that the provisions of this Chapter be extended for another four years; and the Commission be reorganized; or that the Commission be terminated and the provisions of this Chapter be allowed to lapse;

(3) unless the Governor recommends termination of the Commission, the Commission shall resume its activities in a tentative or probationary status, subject only to the report required under subsection (c). Should such report recommend termination of the Commission, the Commission shall be terminated at that time.

(c) The Legislative Council of Delaware or a committee composed of legislators or the joint committee as set forth in §8706(a) shall conduct a review of the performance and effectiveness of the Commission after receipt of the Governor's report required by this section. The Legislative Council, legislative committee or joint committee, as the case may be, shall make public a report of their findings, conclusions, and recommendations, including proposed legislation for such extension or reorganization of the Commission as is recommended or deemed appropriate. The review required by this subsection shall be completed not later than six months following the December 31 suspension of the functions of the Commission.

**§8707. Financial Disclosure**

(a) Every member of the Commission shall file a report disclosing certain directly and constructively controlled financial interests as hereinafter provided. Each report shall include the following information:

(1) the name of the member;

(2) the name, instrument and nature of ownership, and any position of management held in any business entity in which legal or equitable ownership is in excess of \$1,000 fair market value or from which income of \$1,000 or more was either derived during the preceding calendar year, or might reasonably be expected to be derived during the current calendar year. Time or demand deposits in a financial institution, or any debt instrument having a fixed yield does not have to be listed unless it is convertible to an equity instrument;

(3) the name, address and type of practice of any professional organization in which the person reporting or his spouse is an officer, director or partner, or serves in any advisory capacity, from which income of \$1,000 or more was either derived during the preceding calendar year or might reasonably be expected to be derived during the current calendar year;

(4) the source of each of the following items received during the preceding calendar year, or reasonable expected to be received during the current calendar year;

A. Any income,

B. Any capital gain from a single source exceeding \$1,000, other than from the sale of a residence occupied by the person reporting;

C. Reimbursement for expenditures exceeding \$1,000 in each instance;

D. Honorariums from a single source aggregating \$300 or more.

(5) Each creditor to whom the person reporting was indebted for a period of ninety consecutive days or more during the preceding calendar year in an aggregate amount in excess of \$5,000.

(b) Each report shall contain a certification by the members that he has read the report, and that to the best of his knowledge and belief it is true, correct and complete and

that he has not and will not transfer any assets, interests or property for purpose of concealing it from disclosure while retaining an equitable interest therein.

(c) On or before April 30 of each year each member shall file the signed and notarized report required herein with the Secretary of State.

(d) The Secretary of State shall keep the reports on file for so long as the person submitting such report is a member of the Commission and for at least five years thereafter.

(e) The report filed pursuant to this section shall be maintained by the Secretary of State and made available at reasonable hours for (responsible) public inspection.

(f) For the purpose of this section:

(1) 'Constructively controlled' means an interest which may be deemed to be controlled by the person filing by virtue of any relationship to another party. Financial interests in the name of another should be regarded as controlled by the person reporting if enhancement of those interests would substantially benefit the person reporting. In determining the applicability of the \$1,000 minimum with respect to any single source as referred to in paragraph 1 hereof, each member shall aggregate his or her interests with that of the individual whole interest is constructively controlled. Absent satisfactory documentary evidence to the contrary, the existence of which shall be noted on the reporting form, any jointly held and/or any interest of a spouse or minor child shall be deemed to be constructively controlled.

(2) 'Instrument of ownership; means, without limiting the generality of the foregoing, common or preferred stock, rights, warrants, articles of partnership, proprietary interests, deeds; debt instruments such as notes, bonds, etc. if convertible to equity instruments.

(3) 'Position of management' means officer, director, partner, proprietor, etc.

(4) 'Fair market value (in excess of \$1,000)' means if a marketed security, the quoted price as of December 31 with respect to the preceding calendar year, or, the date of filing the declaration, if not a marketed security, the price at which the owner would have sold as of that date. With respect to the current calendar year, valuation shall be determined as of April 15.

(5) 'Income in the manner aforesaid' means income received from a single source in dividends, retainer, salary, consulting fees or other.

(6) 'Time or demand deposit' means checking and savings accounts in banks; deposits (or so-called 'shares') in savings and loan institutions, or credit unions, etc.

(7) 'Debt instrument' means bonds, notes, debentures, mortgages, or any other securities, having a fixed yield if not convertible to equity instruments.

(8) 'Professional organization' means medicine, law, accounting, engineering, etc. (any such organization construed as a business entity and reported under 1-(c) need not be reported again under 1-(d).

(9) 'Income for services rendered' means income from a single source exceeding \$1,000, such as consulting fees, or professional services not reported in 1-(c).

**§8708. Termination of Commission**

At any time when the Commission ceases to receive funds from the Federal Government or any of its agencies, the Commission shall automatically be terminated and shall not again come into existence except by an Act enacted by the General Assembly. "

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved July 12, 1978.

## CHAPTER 496

## FORMERLY SENATE BILL NO. 645

AN ACT TO AMEND TITLE 22 AND TITLE 26 OF THE DELAWARE CODE RELATING TO THE CREATION OF MUNICIPAL ELECTRIC COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members of each House thereof concurring therein):

Section 1. Amend Title 22 of the Delaware Code by inserting therein a new Chapter 13, to read as follows:

"CHAPTER 13. MUNICIPAL ELECTRIC COMPANIES

§1301. Findings and Declaration of Policy

It is determined and declared as a matter of legislative finding that:

(1) Operation of electric utility systems by municipalities and the improvement of the systems through joint action in the fields of the generation, transmission and distribution of electric power and energy is in the public interest;

(2) There is a need in order to ensure the stability and continued viability of the municipal systems to provide for a means by which municipalities which operate the systems may act jointly in all ways possible, including development of coordinate bulk power and fuel supply programs;

(3) The establishment by municipalities which own or operate electric utilities of municipal electric companies will facilitate such joint action and will thereby aid in the stability and continued viability of such municipally-owned or operated electric utilities:

Therefore, it is declared to be the policy of this State to promote the welfare of the inhabitants thereof by authorizing municipally-owned or operated electric utilities to establish bodies corporate and politic to be known as 'municipal electric companies' which shall exist and operate for the purposes contained in this chapter. Such purposes are declared to be public purposes for which public money may be spent and private property may be acquired by the exercise of the power of eminent domain.

**\$1302. Definitions**

As used in this section unless the context clearly indicates otherwise:

(a) 'Bonds' means any bonds, interim certificates, notes, debentures or other obligations of a company issued under this section.

(b) 'Company' and 'electric company' mean a municipal electric company.

(c) 'Contracting municipality' means a municipality which contracts to establish an electric company under this section.

(d) 'Municipal electric company' means a public corporation created by contract between two or more municipalities under this section.

(e) 'Municipality' means a city or town.

(f) 'Person' means a natural person, a public agency, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing under the laws of any state or of the United States.

(g) 'Project' means any plant, works, system, facilities, and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, distribution, purchase, sale, exchange, or interchange of electric power and energy, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes, including, but not limited to, the acquisition of fuel deposits and the acquisition or construction and operation of facilities for extracting fuel from natural deposits, for converting it for use in another form, for burning it in place, for transportation, storage and reprocessing or for any energy conservation measure which involves public education or the actual fitting and application of a device.

(h) 'Public agency' means any municipality or other municipal corporation, political subdivision, government unit, or public corporation created under the laws of this State or of another state or of the United States, and any state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof.

§1303. Creation of Municipal Electric Companies

(a) Any combination of municipalities engaged in or desiring to engage in the transmission or distribution of electric power and energy may, by contract with each other, establish a separate governmental entity to be known as a municipal electric company to be used by such contracting municipalities to effect joint development of electric energy resources or production, distribution and transmission of electric power and energy in whole or in part for the benefit of the contracting municipalities. The municipalities party to the contract may amend the contract as provided herein.

(b) Any contract entered into under this section shall be filed with the Secretary of State. Upon receipt, the secretary shall record the contract and issue a certificate of incorporation stating the name of the company and the date and fact of incorporation. Upon issuance of the certificate, the existence of the company shall begin.

§1304. Contract

Any contract establishing an electric company under this section shall specify:

(a) The name and purpose of the company and the functions or services to be provided by the company. The name may refer to the company as an agency, authority, company, corporation, group, system or other descriptive title.

(b) The establishment and organization of a governing body of the company which shall be a board of directors in which all powers of the company are vested. The contract may provide for the creation by the board of an executive committee of the board to which the powers and duties may be delegated as the board shall specify.

(c) The number of directors, the manner of their appointment, terms of office and compensation, if any, and the procedure for filling vacancies on the board. Each contracting municipality shall have the power to appoint one member to the board of directors and shall be entitled to remove that member at will.

(d) The manner of selection of the officers of the company and their duties.

(e) The voting requirements for action by the board; but, unless specifically provided otherwise, a majority of directors shall constitute a quorum and a

majority of the quorum shall be necessary for any action taken by the board.

(f) The duties of the board which shall include the obligation to comply or to cause compliance with this chapter and the laws of the State and in addition, with each and every term, provision and covenant in the contract creating the company on its part to be kept or performed.

(g) The manner in which additional municipalities may become parties to the contract by amendment.

(h) Provisions for the disposition, division or distribution of any property or assets of the company on dissolution.

(i) The term of the contract, which may be a definite period or until rescinded or terminated, and the method, if any, by which the contract may be rescinded or terminated so long as the company has bonds outstanding, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

#### \$1305. Powers

The general powers of an electric company shall include the power to:

(a) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects within or outside the State and act as agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project.

(b) Produce, acquire, sell, distribute and process fuels necessary to the production of electric power and energy and implement energy conservation measures necessary to meet energy needs.

(c) Enter into franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person or public agency.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the company.

(e) Employ agents and employees.

(f) Contract with any person or public agency within or outside the State, for the construction of any project or transmission of electric power and energy generated by any project, or for any interest therein or any right to capacity thereof, on such terms and for such period of time as its board of directors shall determine.

(g) Purchase, sell, exchange, transmit or distribute electric power and energy within and outside the State in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person or public agency with respect to such purchase, sale, exchange, or transmission, on such terms and for such period of time as its board of directors shall determine.

(h) Acquire, own, hold, use, lease (as lessor lessee), sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein.

(i) Exercise the powers of eminent domain.

(j) Incur debts, liabilities or obligations including the borrowing of money and the issuance of bonds, secured or unsecured, as provided for in §1311 of this Chapter.

(k) Sue and be sued in its own name.

(l) Have and use a corporate seal.

(m) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the company.

(n) Make, and from time to time amend and repeal, by-laws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the company.

(o) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the company deems proper.

(p) Join organizations, membership in which is deemed by the board of directors to be beneficial to accomplishment of the company's purposes.

(q) Exercise any other powers which are deemed necessary and convenient by the company to effectuate the purposes of the company.

(r) Do and perform any acts and things authorized by this Chapter under, through or by means of any agent or by contracts with any person.

**\$1306. Public Character**

An electric company established by contract under this Chapter shall constitute a political subdivision and body public and corporate of the State, exercising public powers, separate from the contracting municipalities. It shall have the duties, privileges, immunities, rights, liabilities and disabilities of a public body politic and corporate but shall not have taxing power.

**\$1307. Payments**

(a) The contracting municipalities may provide in the contract created under Section 1303 of this Chapter for payment to the company of funds for commodities to be procured and services to be rendered by the company. These municipalities and other persons and public agencies may enter into purchase agreements with the company for the purchase of electric power and energy whereby the purchaser is obligated to make payments in amounts which shall be sufficient to enable the company to meet its expenses, interest and principal payments (whether at maturity or upon sinking fund redemption) for its bonds, reasonable reserves for debt service, operation and maintenance and renewals and replacements and the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security instrument. Purchase agreements may contain such other terms and conditions as the company and the purchasers may determine, including provisions whereby the purchaser is obligated to pay for power irrespective of whether energy is produced or delivered to the purchaser or whether any project contemplated by any such agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of such project. Such agreements may be for a term covering the life of a project or for any other term, or for an indefinite period. The contract created under Section 1303 of this Chapter or a purchase agreement may provide that if one or more of the purchasers defaults in the payment of its obligations under any such purchase agreement, the remaining purchasers which also have such agreements shall be required to accept and pay for and shall be entitled proportionately to use or otherwise dispose of the power and energy to be purchased by the defaulting purchaser. For purposes of this section the phrase 'purchase of electric

power and energy' includes any right to capacity or interest in any project.

(b) The obligations of a municipality under a purchase agreement with a company or arising out of the default by any other purchaser with respect to such an agreement shall not be construed to constitute debt of the municipality. To the extent provided in the purchase agreement, such obligations shall constitute special obligations of the municipality, payable solely from the revenues and other moneys derived by the municipality from its municipal electric utility and shall be treated as expenses of operating a municipal electric utility.

(c) The contract also may provide for payments in the form of contributions to defray the cost of any purpose set forth in the contract and as advances for any such purpose subject to repayment by the company.

#### \$1308. Sales of Excess Capacity

(a) An electric company may sell or exchange excess power and energy produced or owned by it not required by any of the contracting municipalities for such consideration and for such period and upon such terms and conditions as it may determine to any other person or public agency.

(b) Notwithstanding any other provision of this Chapter or any other statute, nothing shall prohibit a company from undertaking any project in conjunction with or owning any project jointly with any person or public agency.

#### \$1309. Regulation

The Delaware Public Service Commission shall have no supervision or regulation over any municipal electric company formed pursuant to this Chapter or over the rates, property, property rights, equipment, facilities or franchises of any municipal electric company formed under this Chapter.

#### \$1310. Types of Bonds

(a) An electric company may issue such types of bonds as it may determine, subject only to any agreement with the holders of particular bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenues from one or more projects, or from one or more revenue producing contracts made by the company with any person or public agency, or from its revenues generally, or which may be additionally secured by a pledge of any grant, subsidy, or contribution from any public agency or other person, or a pledge of any income or revenues, funds, or moneys of the company from any source whatsoever.

(b) A company may from time to time issue its bonds in such principal amounts as the company deems necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including the establishment or increase of reserves. Interest accrued during construction of a project and for a period not exceeding one year after the completion of construction of a project, and the payment of all other costs or expenses of the company incident to and necessary or convenient to carry out its corporate purposes and powers.

(c) Neither the members of the board of directors of a company nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(d) The bonds of an electric company (and such bonds shall so state on their face) shall not be a debt of the municipalities which are parties to the contract creating the company or of the State and neither the State nor any such municipality shall be liable thereon nor in any event shall such bonds be payable out of any funds or properties other than those of the company.

#### §1311. Form and Sale of Bonds

(a) Bonds of an electric company shall be authorized by resolution of the board of directors and may be issued under such resolution or under a trust indenture or other security instrument in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, 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 (with or without premium) as such resolution, trust, indenture or other security instrument may provide, and without limitation by the provisions of any other law limiting amounts, maturities or interest rates.

(b) The bonds may be sold at public or private sale as the company may provide and at such price or prices as the company shall determine.

(c) In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such obligations, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officers had remained in office until such delivery.

**\$1312. Covenants**

The company shall have power in connection with the issuance of its bonds to:

- (a) Covenant as to the use of any or all of its property, real or personal.
- (b) Redeem the bonds, to covenant for their redemption and to provide the terms and conditions thereof.
- (c) Covenant to charge rates, fees and charges sufficient to meet operating and maintenance expenses, renewals and replacements to a project principal and debt service on bonds, creation and maintenance of any reserves required by a bond resolution, trust indenture or other security instrument and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability of the bonds.
- (d) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived and as to the consequences of default and the remedies of bondholders.
- (e) Covenant as to the mortgage or pledge of or the grant of a security interest in any real or personal property and all or any part of the revenues from any project or projects or any revenues producing contract or contracts made by the company with any person or public agency to secure the payment of bonds, subject to such agreements with the holders of bonds as may then exist.
- (f) Covenant as to the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property with respect to which the company may have any rights or interest.
- (g) Covenant as to the purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the pledge of such proceeds to secure the payment of the bonds.
- (h) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.
- (i) Covenant as to the rank or priority of any

bonds with respect to any lien or security.

(j) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds 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.

(k) Covenant to the custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds.

(l) Covenant as to the vesting in a trustee or trustees, within or outside the State, of such properties, rights, powers and duties in trust as the company may determine.

(m) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the State.

(n) Make all other covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the company tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the company power to do all things in the issuance of bonds and in the provisions for security thereof which are not inconsistent with the constitution of the State.

(o) Execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of covenants or duties, which may contain such covenants and provisions, as any purchaser of the bonds of the company may reasonably require.

#### **\$1313. Refunding Bonds**

A company may issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the company deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the

expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by the resolution, trust indenture or other security instruments. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the company in respect of the same shall be governed by this Chapter relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

**§1314. Bonds Eligible for Investment**

Bonds issued by a company under this Chapter are hereby made securities in which all public officers and agencies of the State and all political subdivisions, all insurance companies, trust companies, banks, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or any political subdivision for any purpose for which the deposit of bonds or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

**§1315. Tax Exemption and Payments in Lieu of Taxes**

(a) All bonds of a municipal electric company are declared to be issued on behalf of the State for an essential public and governmental purpose and to be debts of a State municipal corporation.

(b) The property of a company, including any pro rata share of any property owned by a company in conjunction with any other person or public agency, is declared to be a public property used for essential public and governmental purposes and such property or pro rata share, a company and its income shall be exempt from all taxes of the State or any State public body.

**§1316. Successor**

A company shall, if the contract so provides, be the successor to any nonprofit corporation, agency or any other entity theretofore organized by such contracting municipalities to provide the same or a related function, and the company shall be entitled to all rights and privileges and shall assume all obligations and liabilities of the other entity under existing contracts to which the other entity is a party.

**§1317. Other Statutes**

The powers granted under this Chapter do not limit the powers of municipalities to enter into intergovernmental cooperation or contracts or to establish separate legal entities under municipal charters or any other applicable law, or otherwise to carry out their powers under applicable statutory provisions, nor shall such powers limit the powers reserved to municipalities by State law. By enacting this chapter, the legislature contemplates that activities by municipalities or municipal agencies pursuant to this chapter should not be subject to the antitrust laws of the United States.

**§1318. Construction**

This Chapter shall be interpreted liberally to effect the purposes set forth in this Chapter. "

Section 2. Amend Section 202, Chapter 1, Title 26 of the Delaware Code by striking the period at the end thereof and substituting in lieu thereof the following:

"or any municipal electric company formed pursuant to Chapter 13, Title 22 of the Delaware Code."

Approved July 12, 1978.

## CHAPTER 497

FORMERLY SENATE BILL NO. 648  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT SUPPLYING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR THE PURCHASE OF BUTTERFAT TESTING EQUIPMENT TO BE USED IN TESTING ADDITIONAL MILK SAMPLES.

WHEREAS, the dairy industry of Delaware produces over \$13,000,000 in cash farm income annually from the sale of 127 million pounds of fresh milk; and

WHEREAS, if the milk testing program in the Department of Agriculture could accomodate an additional 40,000 samples annually Delaware dairy farmers could increase the number of dairy cows enrolled in the Delaware Dairy Herd Improvement Association, which computes ratios and other statistics from results of butterfat tests to be used by dairymen in the reduction of production costs, increasing the amount of milk produced and improving milk quality; and

WHEREAS, in order to increase the efficiency and the scope of the butterfat testing program in the Department of Agriculture so as to provide capacity for testing 40,000 samples of milk for the Delaware Dairy Herd Improvement Association, supplementary equipment must be purchased.

NOW, THEREFORE:

Section 1. The sum of \$17,000 is hereby appropriated to the Department of Agriculture for the purpose of purchasing butterfat testing equipment.

Section 2. This is a supplementary appropriation for fiscal year 1978, 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, 1979, shall revert to the General Fund of the State of Delaware.

Approved July 12, 1978.

CHAPTER 498

FORMERLY SENATE BILL NO. 669  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 46, TITLE 6, DELAWARE COE, RELATING TO  
THE TIME IN WHICH COMPLAINTS OF UNLAWFUL HOUSING PRACTICES  
MAY BE FILED.

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

Section 1. Amend §4605(a) of Chapter 46, Title 6, Delaware  
Code by striking subparagraph (a) in its entirety and inserting  
a new subparagraph (a) to read as follows:

"(a) Any person believing himself to be aggrieved by  
an unlawful practice, as defined in §4603 of this Title may  
file a complaint in writing with the Commission. Such  
complaint shall be filed within one hundred eighty (180) days  
after the alleged unlawful practice. Such complaint shall  
state:

- (1) The name and address of the complainant;
- (2) The name and address, if known, of the person  
or persons who allegedly committed the unlawful practice;
- (3) The location of the dwelling involved;
- (4) The date when the alleged unlawful practice  
occurred;
- (5) A statement of the facts upon which the com-  
plainant bases his contention that the respondent  
violated the provisions of this chapter;
- (6) Such other information as may be required by  
the Commission.

Approved July 12, 1978.

## CHAPTER 497

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AS AMENDED BY  
SENATE AMENDMENT NO. 1

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or persons who allegedly committed the unlawful practice;
- (3) The location of the dwelling involved;
- (4) The date when the alleged unlawful practice  
occurred;
- (5) A statement of the facts upon which the com-  
plainant bases his contention that the respondent  
violated the provisions of this chapter;
- (6) Such other information as may be required by  
the Commission.

Approved July 12, 1978.

## CHAPTER 499

FORMERLY SENATE BILL NO. 679  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT PROVIDING FOR THE TRANSFER OF PACKAGED DISASTER HOSPITALS TO ORGANIZATIONS KNOWN AS AFRICARE AND PAN AMERICAN DEVELOPMENT FOUNDATION, FOR USE IN PROVIDING MEDICAL TREATMENT ON THE CONTINENTS OF AFRICA AND THE AMERICAS.

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

Section 1. All Packaged Disaster Hospitals (P.D.H.) or any portions thereof which are not presently in use by the State of Delaware or which have not previously been transferred or distributed by the State to any other agency are hereby directed to be surplus property. Notwithstanding the provisions of Chapter 70, Title 29 of the Delaware Code, the Department of Administrative Services is hereby authorized and directed to transfer title and ownership of such Packaged Disaster Hospitals or portions thereof to Africare, a non-profit organization headquartered at 1601 Connecticut Avenue, N.W., Washington, D.C., and to the Pan American Development Foundation, a non-profit organization headquartered at 1625 I Street, N. W., Suite 622, Washington, D. C. This transfer is made so that the said property may be used by Africare and the Pan American Development Foundation in providing medical treatment facilities on the Continents of Africa and the Americas. Africare and the Pan American Development Foundation shall be solely responsible for the transportation of such property from the sites in which they are now stored. The Director of the Division of Public Health shall decide what portion of said surplus property shall be given and distributed to each organization.

Section 2. All Packaged Disaster Hospitals transferred to Africare or to the Pan American Development Foundation shall have a sign posted in a conspicuous place with the words "Donated by the State of Delaware".

Approved July 12, 1978.

## CHAPTER 500

FORMERLY SENATE BILL NO. 706

AS AMENDED BY

SENATE AMENDMENT NOS. 1 &amp; 3

AN ACT CREATING A CONTAINER LEGISLATION COMMISSION, AND PROVIDING  
A SUPPLEMENTAL APPROPRIATION THEREFOR.

WHEREAS, the problem of non-degradable litter in general, and beverage containers in particular, constitute a great financial and ecological burden on the citizens of this State and region; and

WHEREAS, the General Assembly of the State of Delaware recognizes that much of the litter which is discarded on and near the highways of our State has its source in neighboring states, and litter found on Pennsylvania and Maryland roads often comes from the State of Delaware; and

WHEREAS, we find that passage of legislation affecting only this State will leave substantially untouched the issued of litter which comes from outside our borders and may have a serious impact on the economy of Delaware; and

WHEREAS, we believe that this problem can probably only be solved on a regional level in cooperation with our sister States of Maryland and Pennsylvania.

NOW, THEREFORE:

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

Section 1. There is hereby established a Container Legislation Commission consisting of two members of the House of Representatives and one public member appointed by the Speaker Pro Tempore; two members of the Senate and one public member appointed by the President Pro Tempore; and a Chairman and two public members appointed by the Governor. One of the members appointed from each House shall be a proponent of restrictive container legislation and one shall be an opponent of such legislation. The Commission shall meet with similar groups created by executive or legislative action from the States of Pennsylvania and Maryland for the purpose of developing a regional approach to the problem of non-degradable litter control, particularly the control of beverage containers and recommend legislation to implement such approach.

Section 2. The Governor is hereby requested to initiate contact with the Governors of Pennsylvania and Maryland for the purpose of encouraging those states to establish similar commi-

ssions in order to participate in a regional effort to control the problem. The major interest groups supporting and opposing such legislation in Delaware are hereby urged to contact their counterpart groups in the States of Pennsylvania and Maryland to support the establishment of similar commissions.

Section 3. The sum of \$5,000.00 is hereby appropriated to the Container Legislation Commission for the purpose of paying expenses incidental to its functions. The Research Director of Legislative Council shall provide the staff assistance and facilities to the Commission as may be necessary to perform its functions.

Section 4. This is a supplementary appropriation and the funds shall be paid by the State Treasurer out of the General Fund from funds not otherwise appropriated. Any portion of this appropriation remaining unexpended on June 30, 1979, shall revert to the General Fund.

Approved July 12, 1978.

## CHAPTER 501

## FORMERLY SENATE BILL NO. 717

## AN ACT TO REINCORPORATE THE TOWN OF MILTON.

WHEREAS, the Town of Milton became a municipality upon the passage of its Charter by the General Assembly in 1945, appearing as Chapter 194, Volume 45, Laws of Delaware; and

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

NOW, THEREFORE:

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

## "INCORPORATION

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

## TERRITORIAL LIMITS

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

BEGINNING at a point on the Southwest prong of Paynter's Mill Pond, thence South  $64-1/2$  degrees East 2,892 feet; thence North  $60-1/4$  degrees East 139 feet to the run of Round Pole Branch; thence down the same to Broadkiln Creek; thence up the same to Sand Haul; thence North 15 degrees West to Atlantic Avenue; thence with Atlantic Avenue eastward to the County Road; thence with the same Northerly to Bay Avenue; thence with Bay Avenue Westerly to the old Town limits; thence with the same North 15 degrees West to the public road leading to Delaware Bay; thence with the same in a westerly direction to the Western limits of the present Town; thence South 14 degrees East 3,951 feet to a point on the Northwest prong of the Mill Pond, aforesaid; thence with the same to the place of beginning.

## ANNEXATION OF TERRITORY

Section 3. In the event it becomes feasible or necessary in the future for the Town of Milton 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 Milton, 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 Milton shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Milton. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Milton 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 Milton may then pass a second Resolution annexing such territory to the Town of Milton. 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 Milton.

(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 Milton, 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 Milton shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of

the territory requested to be annexed and the reasons for the requested annexation; or the Town Council, by majority vote of the elected members thereof, may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the Town Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the Town of Milton.

(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 Milton. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Milton and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving the report, a second Resolution shall then be passed by the Town Council proposing to the property owners and resident of both the Town of Milton and the territory proposed to be annexed that the Town proposes to annex certain territory contiguous to its then limits and territory. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the Committee, the Resolution proposing annexation to the property owners and resident 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 one (1) year from the date that the Resolution failed to receive the required affirmative vote. The second Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper having a general circulation in the Town of Milton 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 Milton and in the territory proposed to be annexed.

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

(e) The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the Town of Milton, or, in the discretion of the Town Council, the said notice may be posted in four (4) public places, both in the Town of Milton 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 Milton and in the territory proposed to be annexed shall have one (1) vote. Every citizen of either the Town of Milton or of the territory proposed to be annexed over the age of eighteen (18) years who is not a property owner shall have one (1) vote. In the case of property owned by husband and wife jointly, the husband and wife shall each have one (1) vote. In the event that a person owns property both in the Town of Milton 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 Milton and in the territory proposed to be annexed but does not reside in either place, he may vote only in the Town of Milton and not in the territory proposed to be annexed. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of the Town of Milton in the case of 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 at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the Town Clerk of the Town of Milton. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.

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

/ / For the proposed annexation  
/ / Against the proposed annexation

(i) The Mayor of the Town of Milton 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 Milton and at least one (1) of whom shall own property in the territory 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. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners of the Town of Milton shall be accomplished on the other such voting machine. The polling place shall be open from one o'clock in the afternoon, prevailing time, until six o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

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

and a plot of 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 Milton 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.

(1) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books on the Board of Assessment of Sussex County, no election shall be necessary and the Town Council of the Town of Milton may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation or by a written Petition with the signature of each such Petitioner duly acknowledged, if such property is owned by an individual, requesting the Town Council to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of the Town of Milton 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 Milton. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Milton 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 Milton may then pass a second Resolution annexing such territory to the Town of Milton. Such Resolution shall be passed by the affirmative vote of two-thirds ( $\frac{2}{3}$ ) 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 ( $\frac{3}{4}$ ) of all the elected members of the Town Council. If the Resolution fails to receive the required

number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of the Town of Milton shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of the Town of Milton from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

#### STRUCTURE OF GOVERNMENT

Section 4. The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in the Mayor and the Town Council. The term of the Mayor of The Town of Milton shall be for a period of two (2) years, commencing at the Annual Meeting following his election and continuing until his successor is duly elected and qualified. The Town Council shall be composed of six (6) members, each of whose terms shall be for a period of three (3) years, commencing at the Annual Meeting of the Town Council following his election and continuing until his successor is duly elected and qualified.

#### QUALIFICATIONS FOR MAYOR AND TOWN COUNCILMAN

Section 5. The qualifications for the Mayor and each Town Councilman at the time of his election shall be as follows:

(a) A citizen of the United States and a bona fide resident of the Town of Milton for at least ninety (90) days next preceding the Annual Municipal Election; and

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

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

## METHOD OF MAKING NOMINATIONS FOR TOWN COUNCILMAN

Section 6. Each candidate for Town Councilman shall be nominated as follows:

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

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

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

(d) The Town Council shall make arrangements for voting machines to be placed in the polling place prior to the time set forth in this Charter for the beginning of the Annual Municipal Election.

## MANNER OF HOLDING ANNUAL MUNICIPAL ELECTION

Section 7. The procedure for holding the Annual Municipal Election shall be as follows:

(a) The Annual Municipal Election shall be held at a place designated by the Town Council within the corporate limits of the Town of Milton on the first Saturday in March of each and every year from one o'clock in the afternoon prevailing time, until six o'clock in the evening, prevailing time, the first said Annual Municipal Election to be held pursuant to this Charter to be held on the first Saturday in March, A.D. 1979.

(b) At the Annual Municipal Election to be held on the first Saturday in March, A.D. 1979, two (2) Councilmen shall be elected. Each of the Councilmen who are elected shall

serve for a term of three (3) years, or until his successor has been duly elected and qualified.

(c) At the Annual Municipal Election to be held on the first Saturday in March, A. D. 1980, the Mayor and two (2) Councilmen shall be elected. The Mayor shall serve for a term of two (2) years or until his successor shall be duly elected and qualified. Each of the Councilmen so elected shall serve for a period of three (3) years or until his successor has been duly elected and qualified.

(d) At the Annual Municipal Election to be held on the first Saturday in March, A. D. 1981, two (2) Councilmen shall be elected. Each of the Councilmen shall hold office for a period of three (3) years or until his successor is duly elected and qualified.

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

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

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

(h) At such Annual Municipal Election every person, male or female, who shall have attained the age of eighteen (18) years on the date of the Annual Municipal Election and who shall be a citizen of the United States and a bona fide resident of the Town of Milton shall have one (1) vote, provided he or she is registered on the "Books of Registered Voters" of the Town of Milton. The Town Council of the Town of Milton shall provide two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the Office of the Town Clerk. The Books of Registered Voters shall contain the following information for each registrant: The name of the registered voter arranged in alphabetical order, the address of the voter, the birth date of the voter, the date the registrant became a citizen of the United States, the date the registrant became a resident of the Town of Milton, and any other pertinent information. No person shall be registered upon the Books of Registered Voters unless he or she will have acquired the qualifications to vote in the Annual Municipal Election for the year in which he or she registers. A person shall be required to register only one time; provided, however, that if a registered voter fails to vote in two (2) consecutive Annual Municipal Elections in which there is a contest, his name shall be removed from the Books of Registered Voters and notice sent to said registered voter at his last known address by certified mail with return receipt requested advising the registered voter that his name has been removed from the Books of Registered Voters, and that it will be necessary to register again in order to be eligible to vote in the Annual Municipal Election. The Books of Registered Voters shall be maintained in the office of the Town Clerk and shall be conclusive evidence of the right of any person to vote at the Annual Municipal Election. A person may register at the Office of the Town Clerk during the regular business hours of such office until the close of business of such office on the second Friday in February prior to the date of the Annual Municipal Election by completing such forms as may be provided by the Town.

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

(j) In the event that no person files or is nominated for an office for which an election is to be held within the time set forth in Section 6 of this Charter, the incumbent shall be deemed to be reelected for a full term and it shall not be necessary to have an election.

(k) In the event that only one person files or is nominated for office for which an election is to be held within the time set forth in Section 6 of this Charter, the person who files or who is nominated shall be deemed to be

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

(1) If fewer persons file or are nominated for the Office of Councilman than there are positions to be filled at any Annual Municipal Election and all such persons who file or are nominated and those members of Council who did not file and whose terms expire shall be deemed to be elected for a full term and it shall not be necessary to have an election. If fewer persons file or are nominated for the Office of Councilman than there are positions to be filled at any Annual Municipal Election and any such person is not a Councilman, such person shall be deemed to be elected and it shall not be necessary to have an election and any member of Council whose term expired and who did not file and who was not nominated shall be deemed to have vacated his office which shall be filled by the remaining members of Council for the full term.

(m) In the event of a tie vote for any office, a Special Election shall be held within thirty (30) days following the Annual Municipal Election pursuant to a resolution approved by the Town Council. At such Special Election, all persons who were eligible to vote in the Annual Municipal Election shall be eligible to vote in the Special Election. No person shall be permitted to register and vote if such person was not registered to vote in the Annual Municipal Election.

#### ORGANIZATION AND ANNUAL MEETING OF COUNCIL

Section 8. (a) Before entering upon the duties of their respective offices, the Mayor Elect and the Councilman Elect shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective office with fidelity. At 7:30 o'clock in the evening, prevailing time, at the first regular meeting in April following the Annual Municipal Election, the Mayor and the Town Council shall meet at the usual meeting place of the Mayor and Council and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid.

(b) At the annual meeting held on the first regular meeting in April following the Annual Municipal Election, the Mayor shall appoint a Vice-Mayor, a Secretary, and a Treasurer from among the members of Council who shall be confirmed by a majority vote of all the elected members of the Town Council. The Vice-Mayor, the Secretary and the Treasurer shall serve until the next annual meeting following the next Annual Municipal Election or until their successors have been duly appointed and qualified. The Mayor may also select an Assistant Secretary and an Assistant Treasurer to serve, as aforesaid, who may or may not be from

among the members of the Town Council and such other officers and employees as may be determined to be necessary. All appointments shall be confirmed by a majority of vote of all the elected members of the Town Council. The Mayor shall be the Chairman of the Town Council and shall be an ex-officio member of all committees.

#### REGULAR AND SPECIAL MEETINGS

Section 9. (a) The Town Council of the Town of Milton shall hold one (1) meeting in each month on the first Monday of the month. If the first Monday of the month shall be a legal holiday, the monthly meeting of the Town Council of the Town of Milton shall be held on the next succeeding regular business day. Special meetings shall be called by the Secretary upon the written request of the Mayor of the Town of Milton, or upon the written request of any two (2) members of the Town Council of the Town of Milton, stating the day, hour and place of the special meeting requested, and the subject or subjects proposed to be considered thereat. The Secretary shall thereon give written notice to the Mayor and to each member of the Town Council of the day, hour and place of such special meeting and the subject or subjects to be considered thereat. Such notice of the Secretary shall be deposited in the United States mail in the main Post Office of the Town of Milton at least forty-eight (48) hours before the time of said special meeting; provided, however, that a written waiver of such notice signed by the Mayor of the Town of Milton and by all members of the Town Council prior to or immediately upon convening of the said such special meeting shall make such written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time named in the waiver and the transaction of any business considered at the meeting if the waiver so states.

(b) The Mayor shall be paid Five Dollars (\$5.00) for each regular monthly meeting attended by him and Two Dollars and Fifty Cents (\$2.50) for each special meeting attended by him. Each member of the Town Council shall be paid Three (\$3.00) for each regular monthly meeting attended by such Councilman and Two Dollars (\$2.00) for each special meeting attended by such Councilman. The Mayor and the members of the Town Council shall receive no other compensation for their services but shall receive an allowance for every mile necessarily driven in his private automobile to be the same as that assessed by the Sheriff of Sussex County for the serving of papers and shall be reimbursed for expenses necessarily incurred while on the business of the Town provided a voucher for such expenses is delivered to the Town Treasurer.

#### QUORUM

Section 10. A majority of the Mayor and all the members

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

#### RULES AND MINUTES OF COUNCIL

Section 11. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings and the yeas and nays shall be taken upon the passage of every ordinance and resolution and shall be entered in the journal with the text of the ordinance or resolution.

#### VACANCIES

Section 12. If any vacancy shall occur in the office of Mayor or Councilman by death, resignation, loss of residence in the Town of Milton, refusal to serve, or otherwise, the same may be filled by a majority vote of the remaining members of the Town Council, the person or persons so chosen to fill such vacancy shall be qualified as in the case of newly elected members and shall hold office for the remainder of the unexpired term.

#### DISQUALIFICATIONS

Section 13. If the Mayor or any Councilman, during his term of office, shall be found guilty of any felony and sentenced to imprisonment for any term whatever, or shall for any reason cease to be a resident of The Town of Milton, he shall forthwith be disqualified to act as Mayor or as a member of Council and his office shall be deemed vacant and shall be filled by the Town Council, as aforesaid.

#### CONTRACTS

Section 14. (a) It shall be unlawful for the Town Council to make or enter into any contract in excess of Five Hundred Dollars (\$500.00) for materials, supplies, services, work or labor, for the benefit and use of the Town of Milton with the Mayor or any member of the Town Council or with any partnership in which the Mayor or any member of the Town Council is a General Partner, or with any corporation in which the Mayor or any member of the Town Council is a Director or controlling stockholder or with any firm or company in which the Mayor or any member of the Town Council is pecuniarily interested, provided that if all the elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.

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

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

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

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

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

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

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

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

(8) The purchase or contract is for property or services for which the Town Council determines the prices received after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in open competition;

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

#### DUTIES OF THE MAYOR AND PRESIDENT OF COUNCIL

Section 15. (a) The Mayor shall be the President of the Town Council and shall preside at all meeting thereat, and shall vote on all matters brought before the Town Council for a vote. He shall appoint all committees, receive complaints of nuisances, and other complaints of citizens concerning violations of law and ordinances. He shall present a report of complaints and nuisances and violations of law and ordinances to the Town Council at the first regular meeting after receiving such complaints. He may require the Alderman or the Assistant Alderman, as hereinafter provided for in this Act, to proceed upon such infractions or violations of law and ordinances immediately in the event that he deems such action to be required. The Mayor of the Town of Milton shall perform such other duties and have such

other powers as the Town Council shall determine, not in conflict with the provisions of this Charter.

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

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

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

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

#### SECRETARY

Section 16. (a) The Secretary shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep and maintain the same in a safe and secure place at the Town Office. He shall keep a full and complete record of all the transactions of the Town of Milton. He shall be a voting member of all committees and shall keep a record of the transactions and proceedings of the same, together with such other duties as may be prescribed by this Charter or by Ordinance or rule of the Town Council of the Town of Milton. He shall file and keep in a safe place at the Town Office the seal of the Town of Milton and all papers and documents arising out of the proceedings of the Town Council of the Town of Milton relative to the affairs of the Town. He shall deliver the same to his successor in office. He shall attest the seal of the Town of Milton when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by Ordinance.

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

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

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

(e) The duties and powers of the Secretary as hereinbefore prescribed shall devolve upon the Assistant Secretary in the absence or inability of the Secretary. The Assistant Secretary shall likewise perform such other duties and have such other powers as may be prescribed by resolution of the Town Council of the Town of Milton and he shall receive such compensation as the Town Council by Resolution shall determine.

#### TREASURER

Section 17. (a) The Treasurer shall be the custodian of all the funds of the Town. He shall deposit, or cause to be deposited, such funds in such banking institutions prescribed by the Town Council. The Treasurer shall pay out no money except upon check or warrant countersigned by the Mayor of the Town of Milton and authorized by the Town Council.

(b) He shall keep a true, accurate and detailed account of all moneys received and of all moneys paid out by him. He shall preserve all vouchers for moneys paid out by him and his books and accounts shall, at all times, be opened to inspection by any member of the Town Council. He shall make such financial reports at such times as the Town Council shall direct.

(c) He shall prepare an annual report of the financial condition of the Town, showing receipts and expenditures and shall submit the same to the Town Council, which said report shall be opened to inspection by any resident of the Town. He shall make an affidavit to his belief in the truth and correctness of such annual report and, at the end of the fiscal year, shall publish the same in an issue of a newspaper having a general circulation in the Town.

(d) The Treasurer shall file with the Town of Milton a bond with corporate surety approved by the Town Council in the sum not less than Twenty-five Thousand Dollars (\$25,000.00), the premium for said bond to be paid by the Town Council. The bond shall be conditioned upon the faithful performance by the Treasurer of his duties of office and the restoration to the

Town in the case of his death, resignation or removal from office of all books, papers, vouchers, funds, and other property of whatever kind in his possession belonging to the Town of Milton.

(e) The Treasurer shall perform such other duties relative to finances as the Town Council may from time to time prescribe or require.

(f) The duties and powers of the Treasurer as hereinbefore prescribed shall devolve upon the Assistant Treasurer in the absence or inability of the Treasurer. The Assistant Treasurer shall likewise perform such other duties and have such other powers as may be prescribed by Resolution of the Town Council of the Town of Milton and he shall receive such compensation as the Town Council by Resolution shall determine.

#### ALDERMAN AND ASSISTANT ALDERMAN

Section 18. (a) The Mayor may appoint some suitable person to act as Alderman and may appoint some suitable person to act as Assistant Alderman. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, shall be of good character and reputation, shall not be a member of the Town Council of the Town of Milton and shall have such other qualifications as are determined by the Town Council. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be appointed for an indefinite term and any such appointment shall be confirmed by a majority of all members of the Town Council of the Town of Milton. 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 all the elected members of the Town Council of the Town of Milton.

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

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

proceedings in the Alderman's Docket.

(d) The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of the Town of Milton so far as to arrest and hold for bail or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of the Town of Milton and any Ordinance enacted thereunder; of all neglects, omissions or defaults of any officer, agent or employee of the Town; provided, however, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of Five Hundred Dollars (\$500.00) nor imprison any offender for more than sixty (60) days, or both, except as otherwise provided in the Charter of the Town of Milton. The Alderman and the Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by Ordinance or Resolution of the Town Council of the Town of Milton; provided, however, that no costs shall be imposed which are in excess of that which may be imposed by a Justice of the Peace for like service.

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

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

(g) If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the Town Clerk, within two days after his removal from office, all the books and papers belonging to his office, and to pay over to the Town Clerk all moneys in his hands within five (5) days after receiving the notice of his removal from office. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or the Assistant Alderman, the Town Clerk shall require the auditor of the Town, appointed as hereinafter provided, to make an audit of the books and papers of the official so removed from the office. Upon the neglect or failure to deliver all the books and papers to the Town Clerk within the time specified by this Charter, or to pay over all of the moneys to the Town Clerk within the time specified, the Alderman or Assistant Alderman, so removed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each day that he fails to deliver the books and papers to the Town Clerk or to pay over all moneys to the Town Clerk.

## TOWN CLERK

Section 19. (a) The Town Council of the Town of Milton may appoint a Town Clerk who shall have such duties as shall be prescribed by the Town Council.

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

(c) The Town Clerk shall hold office for an indefinite term and may be removed by a majority vote of the Town Council of the Town of Milton. At least thirty (30) days before such removal shall become effective, the Town Council shall, by a majority vote of all the elected members thereof, adopt a preliminary resolution stating the reasons for his removal. The Clerk may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Town Council, by a majority vote of all the elected members thereof, may adopt a final resolution of removal. By the preliminary resolution, the Town Council may suspend the Town Clerk from duty but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next three calendar months following the adoption of the preliminary resolution.

(d) In case of the absence or disability of the Town Clerk, the Town Council may designate some qualified person who may be an elected or appointed official of the Town of Milton to perform the duties of such office during his absence or disability.

(e) The compensation which the Town Clerk shall receive for the performance of his duties shall be fixed by the Town Council of the Town of Milton.

(f) The Town Clerk shall be responsible to the Town Council of the Town of Milton for the proper administration of the affairs of the Town placed in his charge.

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

administrative service for which the Town Clerk is responsible solely through the Town Clerk.

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

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

(j) He shall have charge of and shall collect all taxes, assessments, rentals, license fees, or other charges due the Town. He shall pay over to the Town Treasurer at least monthly, as hereinbefore provided, and oftener if required by the Town Council, all moneys received or collected by him and by any employee under his supervision.

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

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

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

(n) Upon the death, resignation, or removal from office of the Town Clerk, the Town Council shall appoint some suitable person, who may be an elected or appointed official of the Town

of Milton, to perform the duties of Town Clerk; provided, however, such person shall not serve for a period exceeding ninety (90) days from the date of his appointment.

#### TOWN SOLICITOR

Section 20. The Mayor of the Town of Milton with the advice and consent of a majority of the elected members of the Town Council, shall select and appoint a Town Solicitor for an indefinite term who shall be removable at the pleasure of the Town Council of the Town of Milton either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware, with offices in Sussex County. It shall be his duty to give legal advice to the Town Council and other officers of the Town and to perform other legal services as may be required of him by the Town Council.

#### BOARD OF HEALTH

Section 21. (a) The Board of Health shall consist of four (4) members. The Board shall be appointed by the Mayor of the Town of Milton with the advice and consent of a majority of the elected members of the Town Council at the annual meeting hereinbefore provided, and shall serve for one (1) year or until their successors are duly appointed and qualified. The Board of Health shall have cognizance of and interest in the life and health of the people of the Town. The Board shall report to the Town Council in writing whatever is deemed by the Board to be injurious to the health of the people of the Town and shall make recommendations to the Town Council concerning whatever may contribute to the health and sanitation of the citizens of the Town of Milton. The Board shall organize by the election of a Chairman and Secretary within ten (10) days after notice of their appointment and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board.

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

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

## POLICE FORCE

Section 22. (a) The Town Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the police force. The police force shall preserve peace and order and shall compel obedience within the Town limits to the Ordinances of the Town and the laws of the State of Delaware. The police force shall have such other duties as the Town Council shall, from time to time, prescribe. The Chief of Police and the members of the police force shall be subject to the direction of the Mayor acting in behalf of the Town Council.

(b) Each member of the police force shall have police powers similar to those of constables and shall be conservators of the peace throughout the Town of Milton, and they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. 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 Milton.

(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 Milton shall not be available or if no such Alderman or Assistant Alderman has been appointed, the person arrested may be taken before the nearest available 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 to the Alderman or the Assistant Alderman. In the case of an arrest at a time when the Alderman or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County for imprisonment until such reasonable time thereafter as shall enable the Alderman or Assistant Alderman or the Justice of the Peace to hear and determine the charge against such person.

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

## ANNUAL AUDIT

Section 23. At the annual meeting hereinbefore provided, the Mayor, with the advice and consent of a majority of the elected members of the Town Council, shall appoint an accountant to be the auditor of accounts of the Town of Milton. It shall be the duty of the auditor to audit the accounts of the Town and all its officers whose duty involves the collection, custody and payment of moneys to the Town. The auditor shall also audit the books of the Alderman and the Assistant Alderman of the Town of Milton, the records of all fines, penalties, costs imposed or collected by him pursuant to any judgement, order or decree made. The auditor shall on or before the expiration of ninety (90) days from the end of the fiscal year annually make and deliver a detailed report of any and all accounts, records, and books by them examined and audited which report under his hand and seal shall be printed in a newspaper having a general circulation in the Town in the issue immediately preceding the annual report. The auditor, in the performance of his duties, shall have access to all records and accounts of the offices of the Town Council and he is hereby authorized and empowered to employ such clerks as in his judgement may be necessary in the proper performance of his duties.

## TOWN ASSESSOR

Section 24. (a) The Town Assessor shall be appointed by the Mayor of the Town of Milton, with the advice and consent of a majority of the elected members of the Town Council for an indefinite term. The Town Assessor shall be over the age of twenty-one (21) years, a bona fide resident of the Town of Milton and a freeholder of the Town.

(b) He shall be sworn or affirmed by the Mayor of the Town of Milton or by a Notary Public to perform his duties with fidelity and without favor. It shall be his 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 Milton. Compensation to be by him received for the performance of their duties in the hiring of employees to assist him in the performance of their duties shall be fixed by and subject to the approval of the Town Council of the Town of Milton.

(c) In making such assessment, the rules and exemptions now applicable by law to the making of the assessment for Sussex County of persons and property shall be applicable insofar as consistent with the provisions of this Charter. The Town Assessor may adopt as the annual assessment for the Town of Milton the assessment for real estate and improvements located thereon as compiled by the Board of Assessment of Sussex County.

## ASSESSMENT OF TAXES

Section 25. (a) The Town Assessor shall, within one hundred twenty (120) 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 Milton. All real estate shall be described with sufficient particularity to be identified. Real estate shall be assessed to the owner or owner 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 Town Assessor 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 Town Assessor. 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.

(b) The Town Assessor, 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 Milton a list containing the names of all persons assessed and the amount of assessment against each. They shall also deliver at such time as many copies of said list as the Town Council shall direct.

(c) 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.

(d) The real property of the Town Assessor shall be assessed by the Town Council of the Town of Milton.

(e) Immediately upon receiving the annual assessment list from the Town Assessor, the Town Council of the Town of Milton shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be hung in a public place in the Town of Milton 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 sit and 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.

(f) All the members of the Town Assessor 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 Town Assessor by appropriate process.

#### LEVY OF ANNUAL TAXES

Section 26. (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 judgement 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 this Charter with respect to any such source, the amount to be raised from each such source. They shall then proceed to determine, assess, fix and/or levy as follows:

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

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

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

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

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

(6) The fees or rates to be charged in respect to any other authorized source of revenue sufficient in their judgement 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), (5) and (6) aforementioned may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and at any regular or special meeting of the Town Council as the Town Council, in its own proper discretion, shall determine.

(c) Immediately after the last regular meeting prior to the end of the fiscal year of each and every year, the Town Council shall make, or cause to be made, a full, true and correct Annual Tax List showing the amount of tax levied against each taxable thereon from sources (1), (2) and (3) abovementioned. This list shall be known as the Annual Tax List of the Town of Milton. 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 Clerk a duplicate of said Annual Tax List and the Town Clerk 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 Milton under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in the Town of Milton created hereby.

#### COLLECTION OF REVENUES

Section 27. (a) The Town Clerk, 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, other charges and fees on said duplicate list.

(b) All taxes, other charges or fees so laid or imposed by the Town of Milton in such Annual Tax List or as levied or imposed pursuant to Section 26 of this Charter 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, charges or fees are laid or imposed, of which such taxable was seized or possessed at any time after such taxes, charges or fees shall have been levied and imposed that is situate within the Town of Milton. 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, charges or fees.

(c) All taxes, charges or fees, when and as collected by the Town Clerk, shall be paid to the Town of Milton, and all taxes, charges or fees shall be due and payable at and from the time of the delivery of the Annual Tax List to the Town Clerk or when the charge or fee is imposed.

(d) All taxes, charges or fees shall be payable at the Town Office of the Town of Milton during the regular business hours of that office.

(e) In the collection of said taxes, on all taxes paid on or after the expiration of thirty (30) days next succeeding the delivery of the duplicate Annual Tax List to the Town Clerk there shall be added interest at the rate of one-half of one percent (.5%) per month or fraction thereof and an additional sum of one percent (1%) per month as a penalty for each month or fraction thereof such taxes shall remain unpaid and said penalty shall be collected in the same manner as the original amount of the tax. The Town Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid after the expiration of thirty (30) days from the billing date 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) In the collection of any other charge or fee imposed pursuant to Section 26 of this Charter, or any such fee or charge paid following the expiration of thirty (30) days next succeeding the mailing of an invoice, the Town Clerk shall add interest at the rate of one-half percent (.5%) per month or fraction thereof and an additional sum of one percent (1%) per month as a penalty for each month or fraction thereof that such charges or fees remain unpaid and said interest or penalty shall be collected in the same manner as the original amount of such charge or fee. All such charges or fees unpaid after the expiration of thirty (30) days from the date of mailing the invoice shall be considered delinquent. The Town Council shall have the power to make just allowances for delinquencies in the collection of such charges or fees. All taxes unpaid after the expiration of thirty (30) days from the date of the invoice shall be considered delinquent. In effecting a collection of

of any delinquent charge or fee the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the charge or fee and any interest or penalty imposed thereon.

(g) At the annual meeting of the Town Council of each year, the Town Clerk shall account to the Town Council for all taxes, charges and fees collected by him during the year and shall be liable on his bond for failure to account for any uncollected taxes, charges and fees 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.

(h) The Town Clerk when any tax has become delinquent may, in the name of the Town of Milton, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Sussex County, or in the Superior Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax, charge or fee, together with interest, penalty and collection charge, in an action of debt, and upon judgement obtained, may sue out writs of execution as in case of other judgements recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court, as the case may be.

(i) However, should the Town Clerk 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 Clerk shall present in the name of the Town of Milton 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 Clerk 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 Clerk 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, charge or fee set forth in said statement. The Town Clerk 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 Clerk 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 Clerk of the Town of Milton is hereby authorized to proceed to sell the land and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." This endorsement shall be signed by the Prothonotary.

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

(5) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Sussex County, at the next term thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the Town Clerk making the sale shall make a deed to the pur-

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

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

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

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

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

(9) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown,

this fact shall be stated in the advertisement of sale.

(10) If any person is assessed for several parcels of land and tenements in the same assessment in the Town of Milton, the total of said taxes, charges or fees 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 Clerk of the Town of Milton before the proceedings for the sale of lands shall have been completed, his successor in office shall succeed to all of his powers, rights, and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment, or otherwise, may refer to the Superior Court of the State of Delaware, in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the Town Clerk 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 Clerk shall have the same right to require the aid or assistance of any person or persons in the performance of his duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.

#### TOWN BUDGET

Section 28. (a) The fiscal year for the Town of Milton shall be determined by Resolution of the Town Council.

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

(c) The budget shall contain the following information:

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

(2) The value of supplies and materials on hand, toget-

her with the nature and kind of machinery or other implements and the condition thereof;

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

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

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

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

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

#### ENUMERATION OF POWERS

Section 29. (a) Not by way of limitation upon the power vested in the Town Council of the Town of Milton to exercise all powers delegated by this Charter to the municipal corporation or to the Town Council except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Town Council is vested by this Charter with the following powers, to be exercised by the Town Council in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs, that is to say:

(1) To prevent vice, drunkenness and immorality;

(2) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;

(3) To prohibit all gaming and fraudulent devices;

(4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

(5) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, 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 within the Town;

(6) To regulate or control the observance of the Sabbath Day;

(7) To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same;

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

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

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

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

(12) To provide an ample supply of pure water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in or about the collection, storage purification, conveyance, or distribution or sale of water; to regulate and prescribe for what public or private purposes the water furnished by the Town of Milton 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 willful 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 willful or negligent injury or damage to, interference with the said system, plan or facilities. To furnish sewer disposal service from the Town system to places and properties outside the Town limits. In the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself.

(14) To provide, construct, extend, maintain, manage and control the plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lake, strands, sidewalks, crosswalks, wharfs, docks, public buildings or other public places in the Town, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessarily proper to light the Town, and to furnish proper connections for electric current and gas to the properties of the inhabitants of the Town who may desire the same; to regulate and prescribe for what private or public purpose the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any willful 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 unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the Town;

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

(17) To grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms restrictions, stipulations and conditions and for such considerations as the Town Council shall deem in the best 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; provided that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever;

(18) To regulate and control the exercise of any license or franchise mentioned in Section 29 of this Charter, or intended so to be;

(19) To direct, regulate and control the planning, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and grounds of the

Town and to authorize or prohibit the removal or destruction of said trees;

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

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

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

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

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

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

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

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

(28) To provide for the organization of a fire 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 not to exceed in the total during any fiscal year seven percentum (7%) of the total taxes levied on real estate unto any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable;

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

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

(31) To levy and collect a personal or per capita tax upon all persons resident within the corporate limits of the Town of Milton 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; expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in Interstate Commerce for any and all purposes and to this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee of such constructions or erections, wires or other

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

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

(37) To acquire, and/or to vacate the use of lands tenements, personalty, property, easements, rights of way, or any interest in property, either within or without the limits of the Town, by way of condemnation and eminent do-

main 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 Milton 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 funds applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency;

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

(40) To inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena;

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

(42) To borrow money in anticipation of revenues on the full faith and credit of the Town of Milton sum or sums not exceeding One Hundred Thousand Dollars (\$100,000.00) in any one year when, in the opinion of a majority of the Town Council of the Town of Milton, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of the Town of Milton, duly authorized by Resolution adopted by the Town Council of the Town of Milton, and signed by the Mayor of the Town of Milton, and attested by the Secretary of the Town Council with the corporate seal affixed, and no officer or member of the Town Council shall be liable for the payments of such notes because it is signed by them as officers of the Town and is authorized

by the Resolution of the Town Council; provided, however, that the total sum outstanding at any one time shall not exceed One Hundred Thousand Dollars (\$100,000.00); and provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year, shall be paid from the general fund of the Town and shall be completely repaid at any time, but must be completely paid at the end of ten (10) fiscal years following the first fiscal year when said sum or sums were borrowed, with interest thereon, and provided that such ad valorem taxes shall be levied as is necessary to pay the principal or the interest on said notes as is required without regard to any other limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof.

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

#### STREETS

Section 30. (a) The Town Council shall have the power and authority to lay out, locate and open new streets or to widen and alter existing streets or parts thereof and to vacate or abandon streets or parts thereof, whenever th Town Council shall deem it for the best interest of the Town.

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

(1) Whenever five (5) or more property owners in a portion of the Town directly affected or abutting on the proposed street to be opened, layed out, changed, altered, widened, vacated or closed shall by written petition with each signature duly acknowledged request the Town Council to lay out, locate, or open a new street or to widen

or alter any existing street or any part thereof or to vacate or abandon a street or any part thereof, the Mayor of the Town of Milton shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of changing the structure of said streets in the Town. The petition presented to the Council by the property owners shall include a description of the property through which the proposed street shall be laid out or description of the street on which any of the other actions heretofore described shall take place and the reasons why the change in the structure of the streets of the Town should be undertaken; or the Town Council, by a majority vote of the elected members thereof, by resolution, propose that a committee composed of not less than three (3) of its elected members be appointed by the Mayor to investigate the possibility of changing the street structure of the Town.

(2) Not later than ninety (90) days following its appointment, the committee shall submit a written report concerning its findings to the Mayor and to the Town Council. The report shall contain the advantages and disadvantages to the Town caused by the changes of the street structure and shall contain the conclusion of said committee either recommending or disapproving the change of said street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of the Town of Milton, the Council, by resolution passed by a majority of the elected members of the Town Council concurring therein, shall propose to the property owners and citizens of the Town that the Council proposes to change the street structure by opening a new street or by doing any of those other things hereinbefore described to the existing street structure of the Town. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of the Town of Milton, the resolution proposing the change in the street structure to the property owners and citizens of the Town of Milton shall be passed by a majority of three fourths (3/4ths) of all the elected members of the Town Council. The resolution shall contain a description of the proposed change and shall affix a time and place for a public hearing on the matter of changing the street structure. The resolution adopted by the Town Council shall be printed in a newspaper having a general circulation in the Town of Milton or, in the discretion of the Town Council, the resolution shall be posted in five (5) public places in the Town for at least one (1) week before the time set for the public hearing. The notice shall be published at least one (1) week

prior to the date set for the said public hearing. The Resolution shall also state the hour and place where and when the Town Council shall sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the Town.

(3) Whenever the Town Council shall have determined to locate or lay out or widen any street, land or alley and shall have affixed compensation therefor, it shall be the duty of the Town Council immediately after the survey and location of said street, lane or alley, to notify by certified mail with return receipt requested and postage prepaid the owner or owners of the real estate through or over whom such street, lane or alley may run of their determination to open or widen the same and to furnish a general description or location thereof; also the amount of compensation or damages allowed to reach such property owner, and if such owner be not a resident of the Town, to notify the holder or tenant of said real estate and the owner of such property if his address be known; that there be no holder or tenant resident in said Town and the address of the owner be unknown or if there is a holder or tenant and the address is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the Town, as aforesaid, said property owner may, within ten (10) days after such notice, as aforesaid, was posted or mailed appeal from written notice of assessment or compensation or damages by serving written notice by certified mail with return receipt requested and postage prepaid on the Mayor of the Town to the effect that he or she is dissatisfied with the amount of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute said appeal, such owner shall, within fifteen (15) days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of such a commission; and thereupon the said Judge shall issue and appoint a commission directed to five (5) freeholders of said county, three (3) of whom shall be residents of the Town of Milton, and two (2) of whom shall be non-residents of said Town, requiring them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass or

who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof and who shall have notified the said Town Council of their intention to appeal may incur by reason thereof and to make a return of their proceeding to the said Judge at the time therein appointed.

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

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

#### CURBING AND PAVING

Section 31. (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 Clerk 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 Milton, 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 Clerk shall proceed to collect the same in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.

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

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

#### COLLECTION OF CHARGES DUE THE TOWN

Section 32. (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 Clerk 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 33. (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 Milton to provide funds for the erection, extension, enlargement, purchase or the repair of any plant, machinery, appliances, or equipment for the supply, or the manufacture and distribution of electricity or gas for light, heat or power purposes; for the furnishing of water to the public, for the construction, repair and improvements of highways, streets or lanes or the paving, curbing or erection of gutters and curbs along the same; for the purchase of real estate for any municipal purpose; for the construction or repair of sewage disposal equipment; or to defray the cost or the share of the Town of the costs of any permanent municipal improvements; provided, however, that the borrowing of money therefor shall have been authorized for the Town Council in the manner following:

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

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

(3) Following the public hearing, a second resolution shall then be passed by the Town Council ordering a special election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing to borrow the said money, the said special election to be for the purpose of voting for or against the proposed loan. The passing of the second resolution calling a special election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue.

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

discretion of the Town Council.

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

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

(7) The Board of Special Elections shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special Election shall make a certificate under their Hands of the number of votes cast for and against the proposed loan and the number of void votes and shall deliver the same to the Town Council which said certificate shall be retained by the Town Council with the other papers of the Town Council.

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

(9) The bond or bonds or certificates of indebtedness may be sold at public or private 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 Milton 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 succeed in the aggregate the total sum of twenty-five percent (25%) of the assessed value of real property situate within the limits of the Town of Milton shown by the last assessment preceding the creation of the said indebtedness.

#### ACTIONS OR SUITS

Section 34. No action, suit or proceeding shall be brought or maintained against the Town of Milton 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 Milton, or any of its departments, officers, agents, servants or employees unless the person 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 Milton 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 Milton by certified mail with return receipt requested and postage prepaid.

#### COMPENDIUM

Section 35. It shall be the duty of the Town Council, at reasonable time or times, to compile the ordinances, current regulations, order and rules of the Town of Milton. 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 amendments to same, the Town Council shall enroll the same in the minutes of the Town Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the Mayor of the Town of Milton 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 36. (a) All powers conferred upon or vested in the Town Council of the Town of Milton 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 Milton and/or the Town Council of the Town of Milton precisely as of each of said powers was expressly set forth in this Charter.

(b) All ordinances adopted by the Town Council of Milton 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 Milton under the provisions of this Charter.

(c) All of the acts and doings of the Town Council of Milton or of any official of the Town of Milton which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town Council of Milton or under any provision of any prior Charter of the Town of Milton, 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 Town of Milton shall be due the Town of Milton and all debts from the Town shall remain unimpaired until paid by the Town of Milton.

(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 Town Council of the Town of Milton.

(f) The bonds given by or on account of any official of the Town of Milton 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, 1978,

CHAPTER 502

FORMERLY SENATE BILL NO. 719

AN ACT TO CREATE THE FENWICK ISLAND SANITARY SEWER DISTRICT AND THE FENWICK ISLAND WATER DISTRICT AND TO AUTHORIZE THE ISSUANCE OF BONDS PURSUANT TO AND FOR THE PURPOSES SET FORTH IN TITLE 9, CHAPTER 65, INCLUDING TO REFUND OBLIGATIONS OF SUSSEX COUNTY ISSUED TO FINANCE IMPROVEMENTS IN SUCH DISTRICTS.

WHEREAS, Sussex County has created Fenwick Island Sanitary Sewer District and the Fenwick Island Water District pursuant to Title 9, Chapter 65, Delaware Code; and

WHEREAS, Sussex County has issued obligations to finance the cost of improvements in such districts and now intends to finance additional improvements in such districts and to refund obligations; and

WHEREAS, it is not apparent that sufficient evidence of the proper creation of such districts is available to form an opinion satisfactory to prospective purchasers of bonds issued to finance improvements within such districts that such districts have been properly created.

NOW, THEREFORE:

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

Section 1. The Fenwick Island Sanitary Sewer District is hereby created. The boundaries of the District are as follows: All those lands lying within the corporate limits of the Town of Fenwick Island, Delaware.

Section 2. The Fenwick Island Water District is hereby created. The boundaries of the District are as follows: All those lands lying within the corporate limits of the Town of Fenwick Island, Delaware.

Section 3. General obligation bonds are hereby authorized to be issued pursuant to and for the purposes set forth in Title 9, Chapter 65, Delaware Code, including to refund obligations issued by Sussex County to finance the cost of sewer and water improvements in said districts.

Approved July 12, 1978.

## CHAPTER 503

FORMERLY HOUSE BILL NO. 77

AS AMENDED BY

HOUSE AMENDMENT NOS. 6, 7, 11, 12, 14, 15, 16 &amp; 21

AND

HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 6

AND

HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 14

AND

SENATE AMENDMENT NOS. 3, 8 &amp; 10

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE  
RECLAMATION AND RECYCLING OF BEVERAGE CONTAINERS.

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 a new subchapter, which new subchapter shall be as  
follows:

"SUBCHAPTER III. BEVERAGE CONTAINERS

\$6051. Findings; Intent

The General Assembly hereby finds that beverage containers are a major source of nondegradable litter in this State and that the collection and disposal of this litter and solid waste constitute a great financial burden for the citizens of this State; and, that, in addition to this unnecessary expenditure of tax monies, such litter unreasonably interferes with the enjoyment of life and property by our citizens; and that the practice of littering is not compatible with previously adopted policies of the State in regard to proper use and protection of our natural resources.

It is the intent of the Legislature to create incentives for the manufacturers, distributors, dealers and consumers of beverage containers to reuse or recycle beverage containers thereby removing the blight on the landscape caused by the disposal of these containers on the highways and lands of the state and reducing the increasing costs of litter collection and disposal.

\$6052. Definitions

(a) 'Beverage' shall mean any mineral waters (but not including naturally sparkling mineral waters), soda waters or any other carbonated beverage not containing alcohol that is commonly known as a 'soft drink' and any beer, ale or other malt beverage containing alcohol.

(b) 'Beverage container' means any airtight container containing less than two gallons of a beverage under pressure of carbonation.

(c) 'Biodegradable or photodegradable material' means material which is capable of being broken down by bacteria or light.

(d) 'Consumer' means any person who purchases a beverage in a beverage container for final use or consumption.

(e) 'Dealer' means any person who engages in the sale of beverages in beverage containers to a consumer and shall include groups of retailers or retail chains.

(f) 'Department' shall mean the Department of Natural Resources and Environmental Control or its successor agency.

(g) 'Deposit' means the sum paid to the distributor by the dealer or to the dealer by the consumer when beverages are purchased in returnable beverage containers, and which is refunded when the beverage container is returned.

(h) 'Distributor' means any person who engages in the sale of beverage in beverage containers to a dealer including any manufacturer who engages in such sale.

(i) 'Manufacturer' means any person who bottles, cans, packs, or otherwise fills beverage containers for sale to distributors or dealers.

(j) 'On-premise sales' means sales transactions in which beverages are purchased by a consumer for immediate consumption within the area under control of the dealer.

(k) 'Recycling' means the process of sorting, cleansing, treating, and reconstituting discarded materials for the purpose of reusing the materials in the same or altered form.

(l) 'Redemption center' means a store or other location where any person may, during normal business hours, redeem the amount of the deposit for any empty beverage container for which a deposit was required pursuant to this Subchapter.

(m) 'Refund' means the sum, equal to the deposit, that is given to the consumer or the dealer or both in exchange for empty returnable beverage containers.

(n) 'Returnable beverage container' means a beverage container for which a refund of equal value is payable upon return, whether such container is refillable or not. The provisions of this definition and this Chapter shall not

apply to any beverage container which is capable of containing 64 or more ounces of beverage.

**\$6053. Use of Returnable Beverage Containers**

(a) Any beverage in a beverage container sold or offered for sale in this State shall be in a returnable beverage container.

(b) A dealer shall not procure beverages in beverage containers from distributors who refuse to accept from the dealer any returnable beverage containers of the kind, size and brand sold by the distributor and pay to the dealer the refund value of the beverage container.

(c) Dealers shall inform consumers that beverages are sold in returnable beverage containers by placing a sign, or a shelf label, or both, in close proximity to any sales display of beverages in returnable containers. Such a sign or label shall indicate the amount of deposit required for each container and that all containers are returnable. If the dealer participates in a redemption center, the location of that center shall be posted.

(d) No person under twenty (20) years of age shall return any beverage container, the use of which has been to contain beer, ale, or other malt beverage containing alcohol, to any redemption center, which also, as part of its business, is engaged in the selling of alcoholic beverages.

**\$6054. Deposits**

(a) The manufacturer or the distributor shall set the amount of the deposit required and may develop a schedule of deposits varying according to the size of the container involved. A deposit of not less than five cents (\$.05) shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container to a dealer or a redemption center.

(b) A deposit shall not be required for on-premise sales if the empty beverage containers are returned to the distributor.

**\$6055. Labeling**

(a) Every beverage container sold or offered for sale in this State shall clearly indicate by embossing or imprinting on the normal product label, or in the case of a metal beverage container on the top of the container, the

word 'Delaware' and the refund value of the container in not less than one-quarter inch type size.

(b) This section shall not apply to beverage containers which are certified as refillable by the distributor and which have deposit notations permanently printed or embossed on the container.

**\$6056. Redemption Centers**

(a) Any dealer or distributor or manufacturer or person or any combination thereof, may establish a redemption center subject to approval of the Department.

(b) Application for approval of a redemption center shall be filed with the Department. The application shall state the name and address of the person responsible for the establishment and operation of the center, the kinds, sizes and brand names of beverage containers which will be accepted and the addresses of dealers to be served.

(c) The Department shall approve a redemption center if it finds that the center will provide a convenient service to persons for the return of empty beverage containers. The order approving a redemption center shall state the dealers to be served and the kinds, sizes and brand names of empty beverage containers which the center shall accept. The order may contain such other provisions to insure the redemption center will provide convenient service to the public as the Department may determine.

(d) The Department may review at any time approval of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center and to the dealers served by the center, the Department may, after hearing, withdraw approval of the center if it finds there has not been compliance with the approval order or if the redemption center no longer provides a convenient service to the public.

(e) A redemption center may also accept for reuse or recycling materials other than beverage containers.

**\$6057. Refund Procedures**

(a) A dealer shall accept from a consumer any empty beverage container of the kind, size and brand sold by the dealer, and pay the consumer the refund on the appropriately labeled returnable beverage container.

(b) A dealer may refuse to refund deposits on beverage containers if a redemption center or centers are established in the vicinity which serve the public need.

(c) A dealer or redemption center may refuse to refund deposits on beverage containers which are broken, or unclean, or not empty. Such dealer or center may refuse to accept beverage containers from any person who attempts to return 120 or more containers at the same time, or within a one-week period.

(d) A dealer or a redemption center upon redeeming beverage containers shall be reimbursed by the manufacturer or distributor of such beverage containers in an amount which is at least twenty percent (20%) of the deposit returned to the consumer in addition to the refund.

**\$6058. Educational Program**

(a) State information material such as travel pamphlets, road maps and similar publications submitted for printing on or after January 1, 1978, shall bear information relating to this subchapter. This information shall take the form of a standard public statement relating to the deposit law, urging travelers to avoid littering.

(b) The Department of Public Instruction shall incorporate information on this Subchapter in educational material which it normally distributes to primary and secondary educational institutions within the State, urging an end to littering.

**\$6059. Prohibitions**

No beverage shall be sold or offered for sale at retail in this State:

(a) in a metal container designed and constructed so that part of the container is detachable in opening the container.

(b) in containers connected to each other with plastic rings or similar devices which are not classified as biodegradable or photodegradable by the Department.

(c) in a glass beverage container which is not refillable.

**\$6060. Penalty**

(a) Whoever violates this subchapter or any rule or regulations duly promulgated thereunder, or any order of the Secretary of the Department of Natural Resources and Environmental Control issued pursuant to this subchapter, shall be punishable as follows:

(1) If the violation has been completed, by a civil penalty imposed by the Superior Court of not less than \$250 nor more than \$1,000 for each completed violation; if the violation has been completed and there is a substantial likelihood that it will reoccur, the Secretary may also seek a permanent or preliminary injunction or temporary restraining order in the Court of Chancery.

(2) If the violation is continuing, the Secretary may seek a monetary penalty as provided in paragraph (1) of this subsection. If the violation is continuing or is threatening to begin, the Secretary may also seek a temporary restraining order or permanent injunction in the Court of Chancery. In his discretion, the Secretary may endeavor by conciliation to obtain compliance with all requirements of this chapter. Conciliation shall be giving written notice to the responsible party (i) specifying the complaint, (ii) proposing a reasonable time for its correction, (iii) advising that a hearing on the complaint may be had if requested by a date stated in the notice, and (iv) notifying that a proposed correction date will be ordered unless a hearing is requested. If no hearing is requested on or before the date stated in the notice, the Secretary may order that the correction be fully implemented by the proposed date or may, on his own initiative, convene a hearing, in which the Secretary shall publicly hear and consider any relevant submission from the responsible party as provided in §6006 of this Title.

(b) The Secretary of the Department of Natural Resources and Environmental Control shall have the authority to enforce this Chapter."

Section 2. With the exception of §6059(c), the provisions of this Act shall become effective one year from the date this Act becomes law or 60 days after beverage container legislation containing provisions similar to this Act has been enacted in the States of Maryland and Pennsylvania, whichever is later; §6059(c) shall become effective one (1) year after the remaining provisions of this Act shall have become effective.

Section 3. Amend Section 6004(a), Chapter 60, Title 7 of the Delaware Code by inserting the phrase "or an application to establish a redemption center" after the word "variance".

Section 4. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the application of such provision to other persons or circumstances and the remainder of this part shall not be affected thereby.

Approved July 12, 1978.

## CHAPTER 504

## FORMERLY HOUSE BILL NO. 986

AN ACT TO AMEND CHAPTER 277, VOLUME 40, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF LAUREL" BY INCREASING THE AMOUNT OF MONEY THAT MAY BE RAISED ANNUALLY BY TAXATION FOR MUNICIPAL PURPOSES.

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

Section 1. Section 33, Chapter 277, Volume 49, Laws of Delaware, as amended by Chapter 164, Volume 58, Laws of Delaware, is hereby further amended by striking the words and figures "One Hundred Twenty Thousand Dollars (\$120,000.00)" and substituting in lieu thereof the words and figures "Two Hundred Twenty-Five Thousand Dollars (\$225,000)".

Approved July 12, 1978.

CHAPTER 505

FORMERLY HOUSE BILL NO. 1018

AN ACT TO AMEND SUBCHAPTER II, CHAPTER 23, TITLE 19, DELAWARE  
CODE RELATING TO THE REPLACEMENT OF PROSTHESIS FOR INJURED  
PERSONS WITHOUT CONSTITUTING A NEW CLAIM PERIOD.

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

Section 1. Amend §2322 of Subchapter II, Chapter 23, Title  
19, Delaware Code by adding thereto a new subsection to be  
designated as subsection (f) to read as follows:

"(f) Every insurance carrier or self-insurer shall  
be required to replace or renew a defective or worn out  
prosthesis for the life of the injured person without such  
replacement or renewal constituting a claim period."

Approved July 12, 1978.

## CHAPTER 506

## FORMERLY HOUSE BILL NO. 1125

AN ACT TO AMEND TITLES 9, 10, AND 12 OF THE DELAWARE CODE  
RELATING TO SALARIES OF ELECTED OFFICIALS OF KENT COUNTY.

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

Section 1. Amend §4104(a), Chapter 41, Title 9, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Section 2. Amend §8405, Chapter 84, Title 9, Delaware Code, by striking the figure "\$6,400" and by inserting in lieu thereof the figure "\$9,000".

Section 3. Amend §9306, Chapter 93, Title 9, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Section 4. Amend §9402(2), Chapter 94, Title 9, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Section 5. Amend §9602(2), Chapter 96, Title 9, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Section 6. Amend §2101(2), Chapter 21, Title 10, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Section 7. Amend §2301(2), Chapter 23, Title 10, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Section 8. Amend §2502(2), Chapter 25, Title 10, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Section 9. Amend §2504(2), Chapter 25, Title 12, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Section 10. The provisions of Sections 1, 3, 4, 5, 6, 7, 8, and 9 of this Act shall become effective January 1, 1979. Section 2 of this Act shall become effective June 5, 1979.

Became Law without the Governor's Signature  
July 11, 1978

CHAPTER 507

FORMERLY HOUSE BILL NO. 84  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 3 & 4  
AND  
SENATE AMENDMENT NO. 1  
AND  
SENATE AMENDMENT NOS. 1 & 2  
TO  
SENATE AMENDMENT NO. 1

AN ACT PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE  
OF DELAWARE, RELATING TO INITIATIVE AND REFERENDUM.

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 Article II of the Constitution of the State  
of Delaware by striking Section 1 in its entirety, and substi-  
tuting in lieu thereof a new section, which shall read as follows:

"§1. Legislative power; reservation of power to the people

Section 1. The legislative power of this State, except  
as hereinafter provided, shall be vested in the General  
Assembly which shall consist of a Senate and a House of  
Representatives. The people reserve for themselves, however,  
the power of initiative to propose laws and amendments to  
the Constitution, and to enact or reject the same at the  
polls, independent of the General Assembly, and also reserve  
the power of referendum at their own option to approve or  
reject at the polls any act or resolution or item, section,  
or part of any act or resolution passed by the General  
Assembly and approved by the Governor or passed by the  
General Assembly over the veto of the Governor."

Section 2. Amend Article II of the Constitution of the State  
of Delaware by adding thereto a new section, designated as  
Section 26, which new Section shall read as follows:

"§26. Initiative

Section 26. The power of initiative may be invoked by  
petition wherein the proposed measure shall be set forth at  
length. The petition shall be signed by so many electors  
as shall constitute 10% of the total votes for Governor  
cast at the general election next preceeding the filing of  
such petition. A petition thus signed shall be filed with  
the State Election Commissioner who shall submit the measure  
thus proposed to the electors of the state at the first

general election held not less than four months after such petition shall have been filed. If the measure proposed by petition shall be enacted by the General Assembly and approved by the Governor, or passed over the veto of the Governor, then the proposal shall not be submitted at the General Election under the provisions of this section. A measure initiated shall become law when a majority of the votes cast thereon, are cast in favor thereof, and shall take effect upon proclamation by the Governor which shall be made within ten days after the official canvass of such votes. The vote upon initiative measures shall be returned and canvassed in the manner prescribed for the Office of Governor.

This Constitution may be amended by initiative and this method of submitting and adopting amendments to the Constitution shall be supplementary to the method prescribed in Article XVI, Section 1, of this Constitution.

If conflicting measures submitted to the people at the same election be approved, the one receiving the highest number of affirmative votes shall thereby become law as to all conflicting provisions. Only the title or proper descriptive words of measures shall be printed on the ballot; and, when two or more measures have the same title, they shall be numbered consecutively in the order of filing with the State Election Commissioner and the number shall be followed by the name of the first petitioner on the corresponding petition. The Constitutional limitations as to the scope and subject matter of bills or resolutions enacted by the General Assembly shall apply to those enacted by initiative."

Section 3. Amend Article II of the Constitution of the State of Delaware by adding thereto a new Section, to be designated as Section 27, which new Section shall read as follows:

"§27. Referendum; effective date of act

Section 27. No act or resolution shall take effect until 60 days after its enactment; provided, however, that this provision shall not apply to an act or resolution of the General Assembly, passed with the concurrence of 2/3 of all members elected to each House, which makes an emergency appropriation required for the continued operation of the State, or provides for the immediate preservation of the public peace, health, or safety, such necessity to be expressed in the preamble or body of the act or resolution.

The power of referendum may be invoked by petition against any act or resolution or item, section, or part of any act or resolution passed by the General Assembly and approved

by the Governor, or passed by the General Assembly over the veto of the Governor. The petition shall be signed by so many electors as shall constitute 3% of the total votes for Governor cast at the general election next preceeding the filing of such petition. A petition thus signed shall be filed with the State Election Commissioner within 90 days after the act or resolution sought to be referred was approved by the Governor or passed by the General Assembly over the veto of the Governor. Such petition shall set out the title of the act or resolution against which the referendum is invoked, and in addition thereto, when only a portion of the act or resolution is sought to be referred, the number of the section or sections or portions of sections of the act or resolution designating such portion. When the referendum is thus invoked, the Election Commissioner shall refer the same to the electors of the state for approval or rejection at the first general election held not less than 30 days after the filing of such petition.

When the referendum is invoked as to any act or resolution or item, section, or part of any act or resolution other than one which makes an emergency appropriation required for the continued operation of the state, or provides for the immediate preservation of the public peace, health, or safety, it shall suspend the taking effect of such act or resolution, or item, section or part of such act until the same has been approved by the electors of the state. Within 10 days after the official canvass of votes on such referendum, the Governor shall proclaim the results of such referendum. The vote upon referendum measures shall be returned and canvassed in the manner prescribed for the Office of Governor."

Approved July 12, 1978.

## CHAPTER 508

## FORMERLY SENATE BILL NO. 320

AN ACT PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO THE USE OF PUBLIC SCHOOL DISTRICT PROPERTY TAX RECEIPTS.

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 Article X of the constitution of the State of Delaware by adding thereto a new section, to be designated as Section 6, which new Section shall read as follows:

"§6. Property Tax; Use Limitations

Section 6. No property tax receipts received by a public school district as a result of a property tax levied for a particular purpose shall be used for any other purpose except upon the favorable vote of a majority of the eligible voters in the district voting on the question."

Approved July 12, 1978.

## CHAPTER 509

FORMERLY SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 536  
AS AMENDED BY  
SENATE AMENDMENT NOS. 1, 2, 3, 4  
AND  
HOUSE AMENDMENT NO. 1

AN ACT PROPOSING AN AMENDMENT TO ARTICLE 8, SECTION 6, OF THE  
CONSTITUTION OF THE STATE OF DELAWARE BY LIMITING APPROPRIA-  
TIONS TO 98 PERCENT OF THE STATE REVENUE.

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 Article 8, Section 6 of the Constitution  
of 1897 of the State of Delaware by designating the existing  
paragraph thereof as subsection (a) and inserting new subsections  
to read as follows:

"(b) No appropriation, supplemental appropriation, or  
Budget Act shall cause the aggregate State general fund  
appropriations enacted for any given fiscal year to exceed  
98 percent of the estimated State general fund revenue for  
such fiscal year from all sources, including estimated unen-  
cumbered funds remaining at the end of the previous fiscal  
year. An Act approved pursuant to the provisions of Section  
3 of this Article shall not be considered an appropriation  
for the purpose of this Section. Estimated unencumbered  
funds are calculated by taking the estimated general fund  
cash balance at the end of the fiscal year less estimated  
revenue anticipation bonds or notes, estimated encumbrances,  
estimated continuing appropriations and the amount of the  
Budget Reserve Account as established in subsection (d) of  
this Section at the end of said fiscal year. The amount of  
said revenue estimate and estimated unencumbered funds  
remaining shall be determined by the most recent Joint  
Resolution approved from time to time by a majority of the  
members elected to each House of the General Assembly and  
signed by the Governor.

(c) Notwithstanding subsection (b) of this Section, any  
portion of the amount between 98 and 100 percent of the  
estimated State general fund revenue for any fiscal year as  
estimated in accordance with subsection (b) of this Section  
may be appropriated in any given fiscal year in the event of  
emergencies involving the health, safety, or welfare of the  
citizens of the State of Delaware, such appropriations to be  
approved by three-fifths of the members elected to each

House of the General Assembly.

(d) There is hereby established a Budget Reserve Account within the General Fund. Within forty-five (45) days after the end of any fiscal year, the excess of any unencumbered funds remaining from the said fiscal year shall be paid into the Budget Reserve Account, provided however, that no such payment will be made which would increase the total of the Budget Reserve Account to more than five percent (5%) of only the estimated State General Fund Revenues as set by the provisions of subsection (b) of this Section. The excess of any unencumbered funds shall be determined by subtracting from the actual unencumbered funds at the end of any fiscal year an amount which together with the latest estimated revenues is necessary to fund the ensuing fiscal year's General Fund Budget including the required estimated General Fund supplemental and automatic appropriations for said ensuing fiscal year less estimated reversions. The General Assembly by a three-fifths vote of the members elected to each House, may appropriate from the Budget Reserve Account such additional sums as may be necessary to fund any unanticipated deficit in any given fiscal year or to provide funds required as a result of any revenue reduction enacted by the General Assembly."

Approved July 12, 1978.

## CHAPTER 510

FORMERLY SENATE BILL NO. 649  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT PROPOSING AN AMEUREMENT TO ARTICLE 8 OF THE DELAWARE CONSTITUTION TO PROVIDE FOR A THREE-FIFTHS VOTE OF THE GENERAL ASSEMBLY TO ENACT LAWS AUTHORIZING AN INCREASE IN THE RATE OF TAXES AND LICENSE FEES; TO PROVIDE AN EXCEPTION THERETO FOR LAWS AUTHORIZING AN INCREASE IN THE RATE OF TAXES AND LICENSE FEES TO SATISFY THE STATE'S PLEDGE OF ITS FAITH AND CREDIT FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON DEBT AFTER PROVISION HAS BEEN MADE ANNUALLY FOR SUCH PAYMENT; AND TO PROVIDE FOR THE ALLOCATION OF PUBLIC MONEYS TO MAKE SUCH PAYMENTS.

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

Section 1. There shall be added to Article 8 of the Delaware Constitution a new section to be entitled and which shall read as follows:

"Section 10. Limitation on Increase of Rate of Taxes and License Fees; Exception to Meet Obligation Under Faith and Credit Pledge; Allocation of Public Moneys to Meet Such Obligation if Revenues are not Sufficient to Meet Such Pledge

(a) The effective rate of any tax levied or license fee imposed by the State may not be increased except pursuant to an Act of the General Assembly adopted with the concurrence of three-fifths of all members of each House.

(b) Prior to the beginning of each fiscal year of the State, the General Assembly shall appropriate revenues of the State to pay interest on its debt to which it has pledged its faith and credit and which interest is payable in the year for which such appropriation is made and to pay the principal of such debt, payable in such year, whether at maturity or otherwise. To the extent that insufficient revenues of the State are available to pay principal of and interest on such debt when due and payable, the first public moneys of the State thereafter received shall be set aside and applied to the payment of the principal of and interest on such debt. To make up for such insufficient revenues, the General Assembly may increase the rate of taxes and fees without regard to the limitations of Paragraph (a) hereof after the failure to pay when due the principal of and

interest on such debt."

Approved July 12, 1978.

CHAPTER 511

FORMERLY HOUSE BILL NO. 327  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 9, TITLE 4, DELAWARE CODE, RELATING TO  
THE EMPLOYMENT OF 16-YEAR OLDS.

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

Section 1. Amend §904, Chapter 9, Title 4, Delaware Code, by  
striking all of subsection (g) and substituting the following:

"(g) Nothing in this section shall prevent the employment of a person, 16 years of age or older in clubs with authorized dining facilities, hotels, racetracks and restaurants licensed under this title where such employment has been authorized by permit issued by the Commission, provided that such a person shall not be involved in the sale or service of alcoholic liquor."

Section 2. Amend §904, Chapter 9, Title 4, Delaware Code, by redesignating subsection (i) as subsection (j) and inserting a new subsection (i) to read as follows:

"(i) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in a catering business serving liquors, provided that such person shall not be engaged in the sale or service of alcoholic liquor."

Section 3. Amend §904, Chapter 9, Title 4, Delaware Code, by redesignating subsection (j) as subsection (k) and inserting a new subsection (j) as follows:

"(j) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in a bowling alley licensed to serve alcoholic beverages, provided that such person shall not be engaged in the sale or service of alcoholic liquor."

Approved July 12, 1978.

## CHAPTER 512

FORMERLY HOUSE BILL NO. 475  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 & 2 AND  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO  
PERSONAL INCOME TAX CREDITS.

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

Section 1. Amend Chapter 11, Title 30, Delaware Code, by  
adding a new section to subchapter II of Chapter 11 to read as  
follows:

"§1112. Credit for Installation of Solar Energy

Device.

(a) A resident individual shall be allowed a credit of  
taxes due under this chapter of \$200 for the requisition  
cost including installation costs of solar energy devices  
designed to produce domestic hot water on premises in Dela-  
ware which are owned and controlled by the taxpayer at the  
time of installation, payment for which is made by the  
taxpayer during the taxable year. This credit only applies  
towards those solar energy devices used to produce hot  
water which:

(1) Meet or exceed the "Intermediate Standards for  
Solar domestic hot water systems/HUD Initiative (NBSIR  
77-1272).

(2) Are installed in accordance with the installa-  
tion guidelines prepared by the solar energy application  
center, Polytechnic Institute of New York for use in the  
HUD Solar Hot Water Initiative Program 1977.

(b) In the case of a solar energy device purchased by  
the taxpayer as a unit, the credit provided by this section  
will only apply to those solar energy devices used to  
produce hot water which include reasonable warranties. To  
be considered reasonable the warranty must, at a minimum:

(1) Comply with all applicable provisions of the  
Magnuson-Moss Warranty Act of 1975 (15 U.S.C. 2301 et  
seq.) and the regulations published pursuant thereto  
by the Federal Trade Commission which established  
Federal disclosure terms and substantive and enforcement  
provisions for written warranties on consumer products;

(ii) Include a one-year warranty from the Installer against failure of the solar system, any component, or assembly where such failure is caused by defect in materials, manufacture or installation. The warranty shall cover the full costs of parts, labor, shipping, and handling required to remedy the defect, including, if necessary, replacement at the site, and shall run from the initial date of installation completion. The warranty shall also include provision for field inspection within a reasonable time of receipt of the complaint at no charge to the customer, to verify failure, establish probable cause, and determine corrective action required; however, if the inspection reveals no warranty-related defect, then a reasonable charge may be made for the inspection. NOTE: The installer's warranty may include pass-through warranties provided by his supplier or the manufacturer;

(iii) Include a five (5) year manufacturer's warranty which shall include:

(a) A five (5) year collector warranty against defects in materials or manufacture. The warranty shall cover the full costs of parts, labor, shipping and handling required to remedy the defect, including, if necessary, replacement at the site, and shall run from the date of installation completion.

(b) A five (5) year warranty against corrosion of the absorber plate and other coolant passages. This corrosion warranty shall cover, for the first year, full costs of parts, labor, shipping and handling required to remedy the defect, including, if necessary, replacement at the site. For the remainder of the warranty period, the corrosion warranty shall cover the cost of furnishing a new collector, if necessary. The corrosion warranty shall run from the date of installation completion.

(c) A five (5) year warranty against defects in materials and manufacture of heat exchangers and tanks. This warranty shall include shipping, and handling, but need not include removal and reinstallation.

(iv) The manufacturer's warranty shall also include a provision for a field inspection within a reasonable time of the complaint at no charge to the consumer to verify failure establish probable cause, and determine corrective action required; however, if the inspection reveals no warranty-related defect then a reasonable charge may be made for the inspection.

(v) If the manufacturer has provided the installer with clear and reasonable installation instructions, and the consumer with clear and reasonable maintenance instructions, then the warranties may specify reasonable installation and maintenance procedures for the warranty to be effective. However, no warranty shall be voided or in any way reduced by conditions that may occur in normal operation of the system. All warranties must apply to subsequent owners of installed systems."

Approved July 12, 1978.

## CHAPTER 513

FORMERLY HOUSE BILL NO. 898  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 13, TITLE 14, DELAWARE CODE, RELATING TO  
SPECIAL STAFF POSITIONS FO HEARING IMPAIRED PUPILS.

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

Section 1. Amend Chapter 13, Title 14, §1321 of the Delaware Code by striking said section in its entirety and by inserting in lieu thereof the following:

"§1331. Sterck School for Hearing Impaired Pupils - Special Staff

(a) In addition to staff otherwise authorized, the Sterck School for the Hearing Impaired may employ supportive staff as follows:

(1) Specialist - speech thereapists for a period of 10 months at the rate of one for each 6 state units or fraction of 6 units of pupils;

(2) Specialist - psychologist for a period of 12 months at the rate of one for each 10 state units or fraction of 10 units of pupils;

(3) Specialist - resource teacher for a period of 10 months at the rate of one for each 10 state units or fraction of 10 units of pupils;

(4) Interpreter/Tutors - for a period of 10 months at the rate of one for each 4 deaf pupils in a mainstream program.

(b) Interpreter/Tutors are to be certified according to standards prescribed by the State Board of Education and paid according to the following schedule:

YEARS OF EXPERIENCE	REG. INTERPRETER WITH STATE STATE BOARD OF EDUCATION PERMIT	REG. INTERPRETER WITH STATE BOARD OF EDUCA- TION CERTIFICATE
0	\$7,569	\$8,110
1	7,839	8,379
2	8,110	8,649
3	8,379	8,920
4	8,649	9,190

(c) In addition to the provisions of subsection (a) above the Sterck School may employ a preschool teacher-coordinator who will work with parents in Kent and Sussex Counties.

(1) The teacher-coordinator shall make home visits, shall conduct group sessions with the children, and shall coordinate services, when needed, including speech therapy, occupational therapy, physical therapy.

(2) The teacher-coordinator shall work directly with and report to the Principal of the Sterck School.

(3) The teacher-coordinator shall be a certified teacher of the hearing impaired who has concentrated in the preschool and/or child-development areas.

(4) Provision for the salary of the teacher-coordinator and for expenses required for this job shall be made a part of the appropriation for the Sterck School."

Approved July 12, 1978.

## CHAPTER 514

FORMERLY HOUSE BILL NO. 955  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AUTHORIZE THE CONVEYANCE OF THE MATTHEW LOWBER HOUSE AND LOT TO THE MAGNOLIA VOLUNTEER FIRE COMPANY; TO PERMIT THE MAGNOLIA VOLUNTEER FIRE COMPANY TO MOVE, RELOCATE, AND SELL SAID HOUSE AND RETAIN THE LAND FOR FUTURE EXPANSION OF ITS FACILITIES; TO PERMIT THE PURCHASER OF SAID HOUSE TO RENOVATE THE SAME UNDER THE SUPERVISION AND CONTROL OF THE DIVISION OF HISTORICAL AND CULTURAL AFFAIRS.

WHEREAS, the State of Delaware purchased the land and premises known as the Matthew Lowber House in the Town of Magnolia and received a conveyance to the same dated May 28, 1969 said deed being of record in the Office of the Recorder of Deeds for Kent County and State of Delaware in Deed Record Book R, Volume 25, Page 301, said purchase being for the purpose of preserving the architectural character and historic presence in the Town of Magnolia; and

WHEREAS, the architectural and historical value has been recognized by the listing of the Matthew Lowber House in the National Register of Historic Places; and

WHEREAS, the State is financially unable to restore the Matthew Lowber House thereby to preserve its architectural and historical character; and

WHEREAS, the Magnolia Volunteer Fire Company owns property adjacent to the Matthew Lowber House and needs to expand its facilities in a manner which would impact the Matthew Lowber House if said house remains at its present site; and

WHEREAS, the Magnolia Volunteer Fire Company in return for receiving a conveyance of the property upon which the Matthew Lowber House is situated so that it can expand its facilities and in return for receiving a conveyance of the Matthew Lowber House agrees to sell or relocate the house on other property owned by it or other property approved by the Division of Historical and Cultural Affairs and that a requirement of such relocation and sale would be renovation and preservation of the Matthew Lowber House under the direction of the Division of Historical and Cultural Affairs; and

WHEREAS, the General Assembly has determined that such expansion of the facilities of the Magnolia Volunteer Fire Company is essential to the health, welfare and safety of the residents of the Town of Magnolia and that preservation of the Matthew

Lowber House can be satisfactorily accomplished by its relocation and sale.

NOW, THEREFORE:

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

Section 1. The State of Delaware shall deed and convey the Matthew Lowber House and the property upon which the same is situated within the Town of Magnolia, Kent County and State of Delaware, more particularly described in Deed Record Book R, Volume 25, Page 301, unto the Magnolia Volunteer Fire Company, its successors or assigns so that the Magnolia Volunteer Fire Company shall become the absolute owner of said house and land. The Magnolia Volunteer Fire Company shall not pay any consideration to the State of Delaware for such conveyance other than hereinafter provided. The deed shall contain the restrictions, covenants and conditions stated herein or in the alternative state that the conveyance is subject to the provisions of Vol. 61, Del. Law Chapter \_\_\_\_.

Section 2. The Magnolia Volunteer Fire Company may sell the Matthew Lowber House on its present site and as a condition of such sale require its removal to another site; the Company may remove and relocate said house to other property owned by it or to other property owned by others; or the Magnolia Volunteer Fire Company may sell and convey the Matthew Lowber House on its present location to remain on its present location. In any event the conveyance of the land as described in the above referred to deed shall be owned by the Company without restriction on the use, conveyance, reconveyance or sale of said land by the Company.

Section 3. As consideration for the conveyance of the Matthew Lowber House and the land upon which the same is situated by the State of Delaware to the Magnolia Volunteer Fire Company the State of Delaware through the Division of Historical and Cultural Affairs imposes the following restrictions and reserves the following rights and easements concerning the Matthew Lowber House which rights, easements, and reservations shall be binding on the Magnolia Volunteer Fire Company, its successors or assigns and all purchasers, owners, or occupants of the Matthew Lowber House which said easements, rights and restrictions shall be as follows:

A. If the Magnolia Volunteer Fire Company chooses not to remove the Matthew Lowber House from its present location but chooses to expand its facilities unto the property herein conveyed to the Company by the State of Delaware, the Division of Historical and Cultural Affairs reserves the right to approve or disapprove any building or construction upon said land by said Company in order to preserve the architectural and historical character of the Matthew Lowber

House.

B. Any removal and relocation of the Matthew Lowber House from its present site must be accomplished by an approved firm which will furnish a performance bond subject to the approval of the Division of Historical and Cultural Affairs which Division must review and approve the specifications for removal and relocation prior to the work being accomplished.

C. The Matthew Lowber House shall not be moved or relocated to any site without the approval of the location and site by the Division of Historical and Cultural Affairs. In the event that the Magnolia Volunteer Fire Company sells the Matthew Lowber House, it shall return to the State of Delaware all sums obtained from said sale less any costs incurred by the Magnolia Volunteer Fire Company in maintaining, removing, or relocating said house on property owned by the Magnolia Volunteer Fire Company. No allowance shall be given to the Magnolia Volunteer Fire Company if the said house shall be removed or relocated to a site not owned by the Magnolia Volunteer Fire Company.

D. The Magnolia Volunteer Fire Company, its successors or assigns and any future owners or occupants of the Matthew Lowber House shall use reasonable care and caution to preserve and protect the same and to prevent vandalism but as long as said care is exercised, they shall not be liable to the State of Delaware for any damage or destruction of said house. If the Matthew Lowber House is damaged or destroyed in the process of removal or relocation by a bonded firm, the amount of said bond shall be paid to the State of Delaware.

E. Any renovation or restoration of the Matthew Lowber House shall be done to restore and maintain the exterior architectural design and features and the interior panelling, mouldings and other specific architectural features. Plans and specifications must be approved by the Division of Historical and Cultural Affairs as being consistent with the architectural preservation of said house. After the house is originally renovated all subsequent construction, alteration, remodeling or reconstruction which would alter or effect the exterior architectural design and features or the interior panelling, mouldings and other specific architectural features must be first approved by the Division of Historical and Cultural Affairs as being consistent with the architectural preservation of the Matthew Lowber House. Photographs and schematic drawings in the possession of the Division of Historical and Cultural Affairs represent an accurate and true representation of the appearance of the Matthew Lowber House and its historical aspects and the

Division of Historical and Cultural Affairs shall evaluate any renovation, construction, repairs or remodeling of the Matthew Lowber House according to these photographs and schematic drawings to insure conformance with the same. Such renovation or restoration shall commence within 2 years of the conveyance authorized by this bill.

Approved July 12, 1978.

## CHAPTER 515

## FORMERLY HOUSE BILL NO. 980

AN ACT TO AMEND CHAPTER 23, TITLE 19, DELAWARE CODE, RELATING TO THE MAXIMUM AMOUNT OF WORKMEN'S COMPENSATION.

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

Section 1. Amend Section 2325, Chapter 23, Title 19, Delaware Code, by striking said Section in its entirety and inserting in lieu thereof the following:

"§2325. Compensation During Partial Disability

For injuries resulting in partial disability for work, except the particular cases mentioned in subsections (a)-(g) of §2326 of this Title, the compensation to be paid shall be 66 2/3% of the difference between the wages received by the injured employee before the injury and the earning power of the employee thereafter; but such compensation shall not be more than 66 2/3% of the average weekly wage per week as announced by the Secretary of Labor for the last calendar year for which a determination of the average weekly wage has been made. This compensation shall be paid during the period of such partial disability for work, not, however, beyond 300 weeks. In construing the words 'earning power of the employee thereafter' as those words appear in this section, the Board shall take into consideration the value of gratuities, board, lodging and similar advantages received by the employee in subsequent employment."

Section 2. Amend Section 2326, Chapter 23, Title 19, Delaware Code, by striking subsection (h) in its entirety and substituting in lieu thereof the following:

"(h) The compensation provided for in subsection (a)-(g) of this section shall be not more than 66 2/3% of the average weekly wage per week as announced by the Secretary of Labor for the last calendar year for which a determination of the average weekly wage has been made, nor less than 22 2/9% of the average weekly wage per week. If at the time of the injury the employee receives wages less than 22 2/9% of the average weekly wage per week, then he shall receive the full amount of such wages per week as compensation."

Section 3. Amend Section 2330, Chapter 23, Title 19, Delaware Code, by adding the following new sentence at the end of Section (c):

"Compensation shall be payable under this section to or on account of any child beyond the age of 18 years if and while mentally or physically handicapped and actually dependent upon the deceased for at least fifty percent (50%) of their support at the time of his death."

Approved July 12, 1978.

## CHAPTER 516

FORMERLY HOUSE BILL NO. 1007  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND DELAWARE CODE, TITLE 14 BY PROVIDING A UNIT AND STAFF AUTHORIZATION FOR HANDICAPPED PUPILS WHO ARE DEAF-BLIND.

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

Section 1. Amend §1703(d), Title 14 of the Delaware Code by inserting after the words "the unit for classes for the blind shall be 8." an additional sentence as follows:

"When classes for the deaf-blind are established as approved by the State Board of Education, the unit for these classes shall be 4."

Section 2. Amend §1703(e), Title 14 of the Delaware Code by adding to the first sentence of that paragraph the words "or deaf-blind".

Section 3. Amend §1703(k), Title 14 of the Delaware Code by adding the words "deaf-blind," before the word "partially" in the first line of said subsection.

Section 4. Amend §1324, Title 14 of the Delaware Code by inserting in the first sentence after the words "hard of hearing" the following:

"the deaf-blind,"

Section 5. Amend §1321(e), Title 14 of the Delaware Code by adding a new paragraph to be designated (14) and to read as follows:

"(14) Specialist -- therapist and special services/ personnel or personal services for children who are deaf-blind -- occupational therapists, physical therapists, speech therapists, social workers, audiological specialists, ophthalmological specialists for a period of twelve (12) months per year at the rate of three (3) full time equivalents of any such person or combination of persons for each nine (9) units of deaf-blind children."

(1) When a person is employed to fill such a position full time or as part of a full time equivalency,

the person shall be paid and assigned according to the provisions of §1305 of this Chapter.

(ii) A school district may choose to purchase specialized services for any of the six categories shown in this item (i) rather than to employ a staff person to serve that function. If the option to purchase services is exercised, then the dollar value of each full time equivalent shall be the number of dollars set in the state supported salary schedule for a teacher holding a Master's Degree with 10 years of experience and employed for twelve (12) months. The calculation of this funding shall be for the current school year. Expenditures of this nature may be used for the purchase of personal services. Any school district wishing to use funds under this option shall first make application to the State Board of Education for such use and proceed to exercise the option only after approval by the State Board of Education.

(iii) Co-ordinator -- whenever the State Board of Education designates a particular school district to serve as administrator for the statewide program for deaf-blind pupils that district may employ as a statewide co-ordinator at the principal's rank and salary, a principal for eight (8) or more such units of deaf-blind children. If a principal is assigned responsibility for such a program for fewer than eight (8) units, the support for that assignment shall be in the same ratio as the number of authorized units is to 8 units."

Section 6. In order to carry out the provisions of this Act during the fiscal year beginning July 1, 1978 an amount of \$135,000 is appropriated to the State Board of Education for reassignment to such school district as the State Board may designate as the administrator for the statewide deaf-blind program.

Section 7. This appropriation shall be considered a supplementary appropriation and shall be paid out of funds not otherwise appropriated, and any portion thereof which is unexpended or unencumbered as of June 30, 1979, shall revert to the General Fund.

Section 8. The effective date of this Act shall be July 1, 1978.

Approved July 11, 1978.

CHAPTER 517

FORMERLY HOUSE BILL NO. 1116  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO REINCORPORATE THE TOWN OF HOUSTON.

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

WHEREAS, it is deemed advisable that the Charter of the Town of Houston, contained in Chapter 82, Volume 54, Laws of Delaware, as amended, be consolidated into one complete Act and in certain respects amended and revised.

NOW, THEREFORE :

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

INCORPORATION

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

TERRITORIAL LIMITS

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

Description of boundary limits of the Town of Houston located in Milford Hundred, Kent County, State of Delaware. Surveyed by Mann-Talley, Inc., November 1977.

BEGINNING at a point in the centerline of Broad Street, at 60 feet wide, also known as Delaware Road 37, the said point being in line of the northeasterly boundary of the Town of Houston, the said point of beginning is further described by the following course and distance from the centerline intersection of the said Broad Street and Conrail Railroad as referenced in Mann-Talley, Inc., survey plot of the Town of Houston:

North 5 degrees 11 minutes 00 seconds East 1,320.00 feet

to the said point of beginning. Thence from said point of beginning South 85 degrees 05 minutes 00 seconds East 30.00 feet to a concrete monument set in the southeasterly right of way of the said Broad Street as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence South 85 degrees 05 minutes 00 seconds East 2,322.50 feet to a corner for the said Town of Houston; thence South 5 degrees 11 minutes 00 seconds West 437.69 feet to a set concrete monument; thence passing over School Street, also known as Kent County Road 445, South 5 degrees 11 minutes 00 seconds West 50.00 feet to a set concrete monument as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence South 05 degrees 11 minutes 00 seconds West 802.31 feet to a concrete monument set in the northeasterly right of way of the said Conrail Railroad; thence South 5 degrees 11 minutes 00 seconds West 60.00 feet to a concrete monument set in the southwesterly right of way of the said Conrail Railroad; thence South 5 degrees 11 minutes 00 seconds West 643.88 feet to a set concrete monument; thence passing over Front Street, also known as Kent County Road 446 South 5 degrees 11 minutes 00 seconds West 27.00 feet to a set concrete monument; thence South 5 degrees 11 minutes 00 seconds West 619.12 feet to another corner for the said Town of Houston; thence North 85 degrees 05 minutes 00 seconds West 4075.50 feet to another corner for the said Town of Houston; thence North 5 degrees 11 minutes 00 seconds East 609.12 feet to a set concrete monument; thence passing over the said Front Street North 5 degrees 11 minutes 00 seconds East 50.00 feet to a set concrete monument as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence North 5 degrees 11 minutes 00 seconds East 640.88 feet to a concrete monument set 20.00 feet in line from the said centerline of Conrail Railroad; thence North 5 degrees 11 minutes 00 seconds East 50.00 feet to a concrete monument set in the said northeasterly right of way of Conrail Railroad as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence North 5 degrees 11 minutes 00 seconds East 810.16 feet to an existing concrete monument; thence passing over the said School Street North 5 degrees 11 minutes 00 seconds East 40.20 feet to an existing concrete monument as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence North 5 degrees 11 minutes 00 East 439.64 feet to another corner for the said Town of Houston; thence South 85 degrees 05 minutes 00 seconds East 1,693.00 feet to an existing concrete monument 1.05 feet below grade as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence South 85 degrees 05 minutes 00 seconds East 30.00 feet to a point in the said centerline of Broad Street, the said point and place of BEGINNING. CONTAINING within said metes and bounds 257 acres of land be the same more or less.

## ANNEXATION OF TERRITORY

Section 3. In the event it becomes feasible and necessary in the future for the Town of Houston 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 Houston, 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 Houston shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Houston. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Houston 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 Houston may then pass a second Resolution annexing such territory to the Town of Houston. 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 Houston.

(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 Houston 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 Houston shall appoint a Committee, composed of not less than three (3) of the elected members of the Town

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

(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 Houston. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Houston and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving the report, a second resolution shall then be passed by the Town Council proposed to the property owners and residents of both the Town of Houston and the territory proposed to be annexed that the Town proposes to annex certain territory contiguous to its then limits and territory. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the Committee, the Resolution proposing annexation to the property owners and residents of both the Town and the territory proposed to be annexed shall be 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 one (1) year from the date that the Resolution failed to receive the required affirmative vote. The second Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper having a general circulation in the Town of Houston 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 Houston and in the territory proposed to be annexed.

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

(e) The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the Town of Houston, or, in the discretion of the Town Council, the said notice may be posted in public places, both in the Town of Houston 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 Houston and in the territory proposed to be annexed, shall have one (1) vote. Every citizen of either the Town of Houston or of the territory proposed to be annexed over the age of eighteen (18) years who is not a property owner shall have one (1) vote. In the case of property owned by husband and wife jointly, the husband and wife shall each have one-half (1/2) vote. In the event that a person owns property both in the Town of Houston 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 Houston and in the territory proposed to be annexed but does not reside in either place, he may vote only in the Town of Houston and not in the territory proposed to be annexed. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of the Town of Houston in the case of property owners and citizens of the Town and the books and records of the Board of Assessment of Kent 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 at the said Special Election, a duly authenticated Power of Attorney shall be filed with the Town Council of the Town of Houston. Said Power of Attorney so filed shall constitute conclusive

evidence of the right of said person to vote in the Special Election.

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

☐ For the proposed annexation

☐ Against the proposed annexation

(i) The Mayor of the Town of Houston shall appoint three (3) persons to act as a Board of Special Election, with the concurrence of majority of the council, at least one (1) of whom shall own property in the Town of Houston 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. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners of the Town of Houston shall be accomplished on the other such voting machine. The polling place shall be open from one o'clock in the afternoon, prevailing time, until six o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

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

tory 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 Houston 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 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 Houston 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.

(1) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books on the Board of Assessment of Kent County, no election shall be necessary and the Town Council of the Town of Houston may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation, if such property is owned by a corporation, or by a written Petition with the signature of each such Petitioner duly acknowledged, if such property is owned by an individual, requesting the Town Council to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of the Town of Houston 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 Houston. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Houston 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 Houston may then pass a second Resolution annexing such territory to the Town of Houston. 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

evidence of the right of said person to vote in the Special Election.

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

☐ For the proposed annexation

☐ Against the proposed annexation

(i) The Mayor of the Town of Houston shall appoint three (3) persons to act as a Board of Special Election, with the concurrence of majority of the council, at least one (1) of whom shall own property in the Town of Houston 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. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners of the Town of Houston shall be accomplished on the other such voting machine. The polling place shall be open from one o'clock in the afternoon, prevailing time, until six o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

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

tory 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 Houston 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 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 Houston 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.

(1) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books on the Board of Assessment of Kent County, no election shall be necessary and the Town Council of the Town of Houston may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation, if such property is owned by a corporation, or by a written Petition with the signature of each such Petitioner duly acknowledged, if such property is owned by an individual, requesting the Town Council to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of the Town of Houston 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 Houston. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Houston 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 Houston may then pass a second Resolution annexing such territory to the Town of Houston. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the Town Council. In the

event that the committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths (3/4) of all the elected members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of the Town of Houston 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 County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of the Town of Houston from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

#### STRUCTURE OF GOVERNMENT

Section 4. The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in the Town Council, 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 two 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.

#### QUALIFICATIONS FOR TOWN COUNCILMAN

Section 5. The qualifications 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 freeholder of the Town of Houston for at least one (1) year next preceding the Annual Municipal Election; and

(b) At least eighteen (18) years of age;

(c) Be non-delinquent in their town taxes;

(d) Each of the qualifications for Town Councilman or Mayor shall be continuing qualifications to hold office, and 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.

#### METHOD OF MAKING NOMINATIONS FOR TOWN COUNCILMAN

Section 6. (a) On the last Saturday in February, two (2) members of the Council shall sit at a place designated by the Town Council within the Corporate limits of the Town of Houston between the hours of 6 p.m. and 8 p.m., to accept the names of candidates for election to the office of Mayor and for election to the office of Town Council Member. Notice stating the date, time and place of sitting shall be posted in public places in the Town of Houston at least ten (10) days prior to date of sitting.

(b) The Town Council shall cause to be printed ballots. Said ballot shall contain the names of all persons nominated. Such ballots shall be delivered to the persons appointed or selected to hold the election at the opening of the polls. Voting machines shall be used; however, in the event no contest exists, they shall not be required. Voters may also prepare for themselves ballots, either printed or written.

#### MANNER OF HOLDING ANNUAL MUNICIPAL ELECTION

Section 7. The procedure for holding the annual municipal election shall be as follows:

(a) The annual municipal election shall be held at a place designated by the Town Council within the corporate limits of The Town of Houston on the last Saturday in March of each and every year from three o'clock in the afternoon, prevailing time, until seven o'clock in the evening, prevailing time. The first said annual municipal election to be held pursuant to this Charter to be held on the last Saturday in March A.D. 1979.

(b) The present Mayor and Members of the Town Council shall, by this Act, be appointed to serve and shall continue to serve from and after the passage hereof until a Mayor and Councilmen are duly elected; and that at the annual election held on the last Saturday in March, A.D. 1979, after the passage of this Act as provided for in Section 6 of this Act, a Mayor and four (4) Councilmen shall be elected, the Mayor and two Councilmen shall be elected for the term of one year, or until their successors shall be duly qualified, and two Councilmen for the term of two years, or until their successors shall be duly qualified; and thereafter at every subsequent annual election the successors to the Mayor and Councilmen whose terms shall have expired shall be chosen to serve for the term of two years, or until their successors shall be duly qualified; and if any vacancy or vacancies shall occur among them by death, resignation, refusal to serve, or otherwise, the remaining Councilmen shall have the power to fill such vacancy or vacancies until the ensuing annual election, at which time such vacancy or vacancies shall be filled by the election of a Mayor or Councilmen to fill the unexpired term of the Mayor or Councilmen in whose stead they shall be elected.

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

shall keep a list of all persons who voted at such annual municipal election.

(d) At such annual municipal election every person, male or female, who shall have attained the age of eighteen (18) years on or before the date of the annual municipal election and who shall be a bona fide resident of the Town of Houston shall have one (1) vote. All voters must be residents of the Town of Houston. 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.

(e) All votes offered at the annual municipal election shall be offered in person.

(f) Upon the close of the election, the votes shall be read and counted publicly. The persons having the highest number of votes for each office shall be declared duly elected and continue in office for the term stated or until his successors are duly elected and qualified. In case of a tie, there shall be a run-off election between the candidates so tied.

(g) The Election Board shall enter in a Book, to be provided for that purpose, minutes of the election, containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of the Election, which Book, consisting such minutes, shall be preserved by the Council, and shall be evidence in any Court of Law and Equity. All ballots cast, all tabulations of votes from voting machines and the records of the Elections shall be preserved in the custody of the Election Board for a period of ten (10) days.

#### ORGANIZATION AND ANNUAL MEETING OF COUNCIL

Section 8. (a) Before entering upon the duties of their respective offices, the Mayor-Elect and the Councilmen-Elect shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity. At seven-thirty o'clock in the evening, prevailing time, at the first regular meeting following the annual municipal election, the Town Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid.

(b) At the annual meeting, held on the first regular meeting following the annual municipal election, the Town Council shall select a Vice-Mayor from among their own number to serve until the first regular meeting after the next annual municipal election and shall also select a Secretary, who may or may not be from among their own number, to serve until the first also select an Assistant Secretary to serve, as aforesaid, who may or may not be from among their own number, and such other officers and

employees as may be determined to be necessary.

#### REGULAR AND SPECIAL MEETINGS

Section 9. The Town Council of the Town of Houston shall hold one (1) meeting in each month on the first Thursday of the month. If the first Thursday of the month shall be a legal holiday, the monthly meeting of the Town Council of the Town of Houston shall be held on the next succeeding regular business day. Special meetings shall be called by the Secretary upon the written request of the Mayor of the Town of Houston, or upon the written request of any two (2) members of the Town Council of the Town of Houston, stating the day, hour and place of the special meeting requested, and the subject or subjects proposed to be considered thereat. The Secretary shall thereon give written notice to the Mayor and to each member of the Town Council of the day, hour and place of such special meeting and the subject or subjects to be considered thereat. Such notice of the Secretary shall be deposited in the United States mail in the main Post Office of the Town of Houston at least forty-eight (48) hours before the time of said special meeting, PROVIDED, HOWEVER, that a written waiver of such notice signed by the Mayor of the Town of Houston and by all members of the Town Council prior to or immediately upon convening of the said such special meeting shall make such written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time named in the waiver and the transaction of any business considered at the meeting if the waiver so states.

#### QUORUM

Section 10. A majority of the members elected to the Town Council shall constitute a quorum at any regular or special meeting; but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by Ordinance.

#### RULES AND MINUTES OF COUNCIL

Section 11. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings, and the yeas and nays shall be taken upon the passage of every ordinance and resolution and shall be entered in the journal with the text of the ordinance or resolution.

#### VACANCIES

Section 12. If any vacancy shall occur in the office of Mayor or Councilman by death, resignation, loss of residence in the Town of Houston, refusal to serve, or otherwise, the same may be filled by a majority vote of the remaining members of the Town Council. The person or persons so chosen to fill such

vacancy shall be qualified as in the case of newly elected members and shall hold office for the remainder of the unexpired term.

#### DISQUALIFICATIONS

Section 13. If the Mayor or any Councilman, during his term of office, shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever, or violates (a), (b) or (c) of Section 5, or shall for any reason cease to be a resident of the Town, he shall forthwith be disqualified to act as Mayor or Councilman and his office shall be deemed vacant and shall be filled by the Town Council, as aforesaid. A resignation may or may not be requested by the Town Council.

#### CONTRACTS

Section 14. (a) It shall be unlawful for the Town Council to make or enter into any contract in excess of Five Hundred Dollars (\$500.00) for materials, supplies, services, work or labor, for the benefit and use of the Town of Houston with any member of the Town Council or the Mayor or with any partnership in which any member of the Town Council or the Mayor, or with any corporation in which any member of the Town Council or the Mayor is a Director or controlling stockholder or any firm or company which any member of the Town Council or the Mayor is pecuniarily interested, provided that if all the elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.

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

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

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

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

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

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

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

(7) The 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;

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

#### DUTIES OF THE MAYOR AND PRESIDENT OF COUNCIL

Section 15. (a) The Mayor shall preside at all meetings thereat, and shall vote on all matters brought before the Town Council for a vote. He shall appoint all committees, receive complaints of nuisances, and other complaints of citizens concerning violations of law and ordinances. He shall present a report of complaints and nuisances and violations of law and ordinances to the Town Council at the first regular meeting after receiving such complaints. He may require the Alderman or the Assistant Alderman, as hereinafter provided for in this Act, to proceed upon such infractions or violations of law and ordinances immediately in the event that he deems such action to be required. The Mayor shall perform such other duties and have such other powers as the Town Council shall determine not in conflict with the provisions of this Charter.

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

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

(d) The Mayor may appoint such other committees as he deems necessary for the proper administration of the Town of Houston or the Council may, by resolution, authorize the Mayor to appoint

certain committees which are deemed necessary to carry out the provisions of this Act.

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

#### SECRETARY

Section 16. (a) The Secretary shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. They shall keep a full and complete record of all the transactions in the Town of Houston. The Secretary shall keep a record of the transactions and proceedings of the same, together with such other duties as may be prescribed by this Charter or by Ordinance or rule of the Town Council of the Town of Houston. They shall file and keep in a safe place, as may be determined by the Town Council, the seal of the Town of Houston and all papers and documents arising out of the proceedings of the Town Council of the Town of Houston relative to the affairs of the Town. They shall deliver the same to his successor in office. They shall attest the seal of the Town of Houston when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by Ordinance.

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

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

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

#### ASSISTANT SECRETARY

Section 17. The duties and powers of the Secretary as hereinbefore prescribed shall devolve upon the Assistant Secretary in the absence or inability of the Secretary. The Assistant Secretary shall likewise perform such other duties and have such other powers as may be prescribed by resolution to the Town Council of the Town of Houston and shall receive such compensation as the Town Council by Resolution shall determine.

## ALDERMAN AND ASSISTANT ALDERMAN

Section 18. (a) The Mayor may appoint some suitable person to act as Alderman and may appoint some suitable person to act as Assistant Alderman. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, shall be of good character and reputation and shall be a resident of the Town of Houston and shall not be a member of the Town Council of the Town of Houston. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be appointed for an indefinite term and any such appointment shall be confirmed by a majority of all members of the Town Council of the Town of Houston. 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 all the elected members of the Town Council of the Town of Houston.

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

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

(d) The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of the Town of Houston so far as to arrest and hold for bail or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of the Town of Houston and any Ordinance enacted thereunder; of all neglects, omissions or default of any officer, agent or employee of the Town; PROVIDED, HOWEVER, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of Five Hundred Dollars (\$500.00) nor imprison any offender for more than sixty (60) days, or both, except as otherwise provided in the Charter of the Town of Houston. The Alderman and the Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to

be assessed or imposed, impose and collect such costs as are set by Ordinance or Resolution of the Town Council of the Town of Houston; PROVIDED, HOWEVER, that no costs shall be imposed which are in excess of that which may be imposed by a Justice of the Peace for like service.

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

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

(g) If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the Council, within two days after his removal from office, all the books and papers belonging to his office, and to pay over to the Council all moneys in his hands within five (5) days after receiving the notice of his removal from office. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or the Assistant Alderman, the Council shall require the auditor of the Town, appointed as hereinafter provided, to make an audit of the books and papers of the official so removed from the office. Upon the neglect or failure to deliver all the books and papers to the Council within the time specified by this Charter, or to pay over all of the moneys to the Council within the time specified, the Alderman or Assistant Alderman, so removed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each day he fails to deliver the books and papers to the Council or to pay over all moneys to the Council.

#### TREASURER

Section 19. The Treasurer shall be a citizen and resident of the said town above the age of twenty-one years of age at the time of his appointment.

The Town Treasurer, before entering upon the duties of his office, shall be sworn or affirmed to faithfully and honestly perform the duties of his office, which oath or affirmation shall be administered by the President, or acting President of Council.

The Town Treasurer, before entering upon the duties of his office shall also give bond to the Town of Houston, with sufficient surety to be approved by Council, in the penal sum of the amount in the municipal aid account or in the amount of Five Thousand Dollars (\$5,000.00) whichever is greater, conditioned for the faithful discharge of the duties of his office and for

the payment of his successor in office of all sums of money belonging to said Town, which remain in his hands upon the settlement of his accounts, to which bond condition shall be annexed a warrant of attorney for the confession of judgement for said penalty.

The Treasurer shall pay all orders drawn on him by order of said Council out of any moneys in his hands belonging to said Town. He shall settle his accounts with said Council annually by the end of the fiscal year, and oftener and at such other times as Council may require.

#### COLLECTOR OF TAXES

Section 20. The Collector of Taxes shall be a citizen and resident of the said Town above the age of twenty-one years of age at the time of his appointment.

It shall be the duty of the Town Collector to collect all Town Taxes, water and sewer rents, charges for electric current, and all other kinds of Town revenue, and to pay the same to the Town Treasurer as herein otherwise provided.

The Town Collector, before entering upon the duties of his offices, shall give bond to the Town of Houston with sufficient surety to be approved by Council, in the sum of the amount of the municipal aid account, conditioned for the faithful performance of the duties of his office, and the payment to the Treasurer of said Town of all moneys collected by him belonging to said Town from taxes, sewer and water rents, electric current accounts, and all other Town revenue, and for the settlement of his accounts with the Treasurer of the Town at the end of each fiscal year, and oftener and at such other times as Council may require, to which bond and condition there shall be annexed the usual full warrant of attorney for confession of judgement for said penalty.

#### TOWN SOLICITOR

Section 21. The Mayor of the Town of Houston with the advice and consent of a majority of the elected members of the Town Council, shall select and appoint a Town Solicitor for an indefinite term who shall be removable at the pleasure of the Town Council of the Town of Houston either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware, with offices in Kent County. It shall be his duty to give legal advice to the Town Council and other officers of the Town and to perform other legal services as may be required of him by the Town Council.

## BOARD OF HEALTH

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

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

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

(d) If the Council fails to appoint a Board of Health, the five (5) Council members shall duly serve.

## POLICE FORCE

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

(b) Each member of the police force shall have police powers similar to those of constables within the Town limits and within

one (1) mile outside said limits and shall be conservators of the peace throughout the Town of Houston. They shall suppress all acts of violence and enforce all laws relating to the safety of persons and property and shall compel the enforcement of all laws enacted by the Town Council of the Town of Houston. 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 Houston to all parts of the State of Delaware.

(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 Kent 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 Houston 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 Kent County who shall hear and determine the charge, and who, in such case, is vested with all the authority and powers granted by this Charter under the Alderman or the Assistant Alderman. In the case of an arrest at a time when the Alderman or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Kent County for imprisonment until such reasonable time thereafter as shall enable the Alderman or Assistant Alderman or the Justice of the Peace to hear and determine the charge against such person.

(e) It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in the streets of the Town or the noisy conduct of any person in the same. Upon the view of the above or upon 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.

#### ANNUAL AUDIT

Section 24. At the annual meeting hereinbefore provided, the Mayor, with the advice and consent of a majority of the elected members of the Town Council, shall appoint an accountant to be the auditor of accounts of the Town of Houston. It shall be the duty of the auditor to addit the accounts of the Town and all its officers whose duty involves the collection, custody and payment of moneys to the Town. The auditor shall audit the books of the Alderman and the Assistant Alderman of the Town of Houston, the records of all fines, penalties, costs imposed or collected by him pursuant to any judgement, order or decree made. The auditor shall annually make and deliver a detailed report of any and all accounts, records, and books by

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

#### BOARD OF ASSESSMENT

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

(b) They shall be sworn or affirmed by the Mayor of the Town of Houston 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 Houston. Compensation to be received by them 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 Houston.

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

#### ASSESSMENT OF TAXES

Section 26. The Board of Assessment shall, within ninety (90) days prior to the beginning of the next fiscal year, make a just, true and impartial annual valuation or assessment of all real estate and improvements located thereon located within the Town of Houston. 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 Kent 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 Houston a list containing the names of all persons assessed and the amount of assessment against each. They shall also deliver at such time as many copies of said list as the Town Council shall direct.

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

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

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

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

Assessment by appropriate process.

#### LEVY OF ANNUAL TAXES

Section 27. (a) At the last regular meeting in the fiscal year, after having revised and completed the assessment, the Town Council shall determine, in its best judgement and knowledge, the total amount necessary to be raised by the Town to meet the fixed and anticipated expenses and obligations of the Town, including reasonable and appropriate reserves for the then current fiscal year as set forth in the Town budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.

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

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

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

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

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

(5) The fees or rates to be charged in respect to any other authorized source of revenue sufficient in their judgement 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 (5) aforementioned may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and that any regular or special meeting of the Town Council as the Town Council, in its own proper discretion, shall determine.

(c) Immediately after the last regular meeting prior to the end of the fiscal year of each and every year, the Town Council shall make, or cause to be made, a full, true and correct Annual

Tax List showing the amount of tax levied against each taxable thereon from sources (1), (2) and (3) abovementioned. This list shall be known as the Annual Tax List of the Town of Houston. 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 Tax Collector a duplicate of said Annual Tax List and the Town Tax Collector shall immediately proceed to collect the same as hereinafter provided.

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

#### COLLECTION OF ANNUAL TAXES

Section 28. (a) The Tax Collector, 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 Houston 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 Houston. 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 Tax Collector, shall be paid to the Town of Houston, and all taxes shall be due and payable at and from the time of the delivery of the Annual Tax List to the Tax Collector.

(d) In the collection of said taxes, there shall be an abatement of three percent (3%) on any taxes paid on or after the first day of June and prior to the last day of July. On all taxes paid after September 30 there shall be added interest at the rate of one-half of one percent (.5%) per month and an additional sum of one percent (1%) per month as a penalty for each month or fraction thereof such taxes shall remain unpaid and said penalty shall be collected in the same manner as the

original amount of the tax. The Town Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid after the 30th of September 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.

(e) The Town Council may, by ordinance, establish a tax exemption for any town resident who has reached the age of sixty-five (65) years and who has applied to the county for a tax exemption which will exempt said resident from town property tax for assessments up to \$4,000.00.

(f) The Town Tax Collector, when any tax has become delinquent, may, in the name of the Town of Houston, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Kent County, or in the Superior Court of the State of Delaware, in and for Kent County, for the recovery of the unpaid tax in an action of debt, and upon judgement obtained, may sue out writs of execution as in case of other judgements recovered before a Justice of the Peace or in the Court of Common Pleas, or in the Superior Court as the case may be.

(g) However, should the Town Tax Collector 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 Tax Collector shall present, in the name of the Town of Houston, to the Superior Court of the State of Delaware, in and for Kent 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 total amount due;

(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 Tax Collector 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 Tax Collector 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 Tax Collector 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 Tax Collector 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 Kent County, and shall endorse upon the said record of said petition the following:  
"This petition, filed the \_\_\_\_ day of \_\_\_\_, A.D. \_\_\_\_, and the Town Tax Collector of the Town of Houston 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 public places in the Town of Houston 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 Kent 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 Tax Collector 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 cost; no deed shall be made until the expiration of one (1) year from the date of the sale within which time the owner, his heirs, executors, or assigns, shall have the power to redeem the lands on payment to the purchaser, his personal representatives or assigns, the costs, the amount of the purchase price, and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(7) After satisfying the tax due and the costs of expense of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, upon the refusal of the said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the Town of Houston either to the credit of the owner or in a manner in which the fund may be identified.

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

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

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

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

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

(10) If any person is assessed for several parcels of land and tenements in the same assessment in the Town of Houston, 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 Tax Collector of the Town of Houston before the proceedings for the sale of lands shall have been completed, his successor in office shall succeed to all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment, or otherwise, may refer to the Superior Court of the State of Delaware, in and for Kent County, a petition representing the facts and praying for an order authorizing and requiring the Town Tax Collector 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 Tax Collector shall have the right to require the aid or assistance of any person or persons in the performance of his duty of sale which the Sheriff of Kent County now has by law or may hereafter have.

#### TOWN BUDGET

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

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

(c) The budget shall contain the following information:

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

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

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

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

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

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

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

(e) The budget shall be printed in a newspaper having a general circulation in the Town in an issue within one week following its adoption.

#### ENUMERATION OF POWERS

Section 30. (a) Not by way of limitation upon the power vested in the Town Council of the Town of Houston to exercise all powers delegated by this Charter to the municipal corporation or to the Town Council except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Town Council is vested by this Charter with the following powers, to be exercised by the Town Council in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs, that is to say:

(1) To prevent vice, drunkenness and immorality;

(2) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;

(3) To prohibit all gaming and fraudulent devices;

(4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

(5) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flage, 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; so specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the Town;

(6) To regulate or control the observance of the Sabbath Day;

(7) To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same;

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

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

(10) To prohibit, remove or regulate the erection of any stoop, step, platform, bay window, cellar, gate, area, descent, sign, post or any other erection or projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, strand, sidewalks, 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 Houston 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, property or rights of the Town; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipality itself.

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

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

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

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

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

(17) To grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such considerations as the Town Council shall deem in the best 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 corporation 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 upon or from any vehicle upon any present and future street, highway, lane, alley, etc.; provided that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever;

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

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

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

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

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

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

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

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

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

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

(28) To provide for the organization of a fire 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 unto any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable;

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

(30) To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; PROVIDED, HOWEVER, that the amount to be raised from this course 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 Houston 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; expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in Interstate Commerce for any and all purposes and to this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee of such construction or erections, wires or other 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 27 of this Charter, the Town Council shall have the authority to cause the same to be removed;

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

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

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

(36) To borrow money in the name of the Town for any proper municipal purpose and in order to secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town Council shall select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all state, county or municipal taxes; PROVIDED, HOWEVER, that in no event shall the indebtedness of the Town for any and all

purposes at any one time exceed in the aggregate twenty-five percent (25%) of the assessed value of all real estate in the Town subject to the assessment for the purpose of levying the annual tax hereinbefore mentioned;

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

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

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

(40) To inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena;

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

(42) To borrow money in anticipation of revenues on the full faith and credit of the Town of Houston sum or sums not exceeding One Hundred Thousand Dollars (\$100,000.00) in

any one year when, in the opinion of a majority of the Town Council of the Town of Houston, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of the Town of Houston, duly authorized by Resolution adopted by the Town Council of the Town of Houston, and signed by the Mayor of the Town of Houston, and attested by the Secretary of the Town Council with the corporate seal affixed, and no officer or member of the Town Council shall be liable for the payments of such notes because it is signed by them as officers of the Town and is authorized by the resolution of the Town Council; PROVIDED, HOWEVER, that the total sum outstanding at any one time shall not exceed One Hundred Thousand Dollars (\$100,000.00); and provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year shall be paid the general fund of the Town and shall be completely repaid at any time, but must be completely paid at the end of ten (10) fiscal years following the first fiscal year when said sum or sums were borrowed with interest thereon; and provided that such ad valorem taxes shall be levied as is necessary to pay the principal or the interest on said bonds as is required without regard to any other limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof;

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

#### STREETS

Section 31. (2) The Town Council shall have the power and authority to lay out, locate and open new streets or to widen and alter existing streets or parts thereof and to vacate or abandon streets or parts thereof, whenever Town Council shall deem it for the best interest of the Town.

(b) The procedure to be used for any of those things hereto-

fore listed in this Section shall be as follows:

(1) Whenever five (5) or more property owners in a portion of the Town directly affected or abutting on the proposed street to be opened, layed out, changed, altered, widened, vacated or closed shall by written petition, with each signature duly acknowledged, request the Town Council to lay out, locate, or open a new street or to widen or alter any existing street or any part thereof or to vacate or abandon a street or any part thereof, the Mayor of the Town of Houston shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of changing the structure of said streets in the Town. The petition presented to the Council by the property owners shall include a description of the property through which the proposed street shall be layed out or description of the street on which any of the other actions heretofore described shall take place and the reasons why the change in the structure of the streets of the Town should be undertaken; or the Town Council, by a majority vote of the elected members thereof, may, by resolution, propose that a committee composed of not less than three (3) of its elected members be appointed by the Mayor to investigate the possibility of changing the street structure of the Town.

(2) Not later than ninety (90) days following its appointment, the committee shall submit a report concerning its findings to the Mayor and to the Town Council. The report shall contain the advantages and disadvantages to the Town caused by the changes of the street structure and shall contain the conclusion of said committee either recommending or disapproving the change of said street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of the Town of Houston, the Council by resolution, passed by a majority of the elected members of the Town Council concurring therein, shall propose to the property owners and citizens of the Town that the Council proposes to change the street structure by opening a new street or by doing any of those things hereinbefore described to the existing street structure of the Town. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of the Town of Houston, the resolution proposing the change in the street structure to the property owners and citizens of the Town of Houston shall be passed by a majority of three-fourths (3/4ths) of the elected members of the Town Council. The resolution shall contain a description of the proposed change and shall affix a time and place for a public hearing on the matter of changing the street structure. The resolution adopted by the Town Council shall be printed in a newspaper having a general circulation in the Town of Houston

or, in the discretion of the Town Council, the resolution shall be posted in public places in the Town for at least one (1) week before the time set for the public hearing. The notice shall be published at least one (1) week prior to the date set for the public hearing. The resolution shall also state the hour and place where and when the Town Council shall sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the Town.

(3) Whenever the Town Council shall have determined to locate or lay out or widen any street, lane or alley, and shall have affixed compensation therefor, it shall be the duty of the Town Council immediately after the survey and location of said street, lane or alley, to notify, by certified mail with return receipt requested and postage prepaid, the owner or owners of the real estate, through or over whom such street, lane or alley may run, of their determination to open or widen the same and to furnish a general description or location thereof; also the amount of compensation or damages allowed to each such property owner; if such owner be not a resident of the Town, to notify the holder or tenant of said real estate and the owner of such property if his address be known; if there be no holder or tenant resident in said Town, and the address of the owner be unknown, or if there is a holder or tenant and the address of the owner is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the Town as aforesaid said property owner may, within ten (10) days after such notice as aforesaid was posted or mailed, appeal from written notice of assessment or compensation or damages allowed by the Town as aforesaid; said property owner may, within ten (10) days after such notice as aforesaid was posted or mailed, appeal from written notice of assessment or compensation or damages by serving written notice, by certified mail with return receipt requested and postage prepaid, on the Mayor of the Town to the effect that he or she is dissatisfied with the amount of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware, in and for Kent County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute said appeal, such owner shall, within fifteen (15) days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Kent County, for the appointment of such a commission; and thereupon the said Judge shall issue and appoint a commission directed to five (5) freeholders of said county, three (3) of whom shall be residents of the

Town of Houston, and two (2) of whom shall be nonresidents of said Town, requiring them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass, or who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof, and who shall have notified the said Town Council of their intention to appeal may incur by reason thereof, and to make a return of their proceeding to the said Judge at the time therein appointed.

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

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

#### CURBING AND PAVING

Section 32. (a) Whenever the Town Council shall have determined that any sidewalks, 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 Council 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 a resident of the Town of Houston, 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 Tax Collector 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 sidewalk or curb heretofore made or done which the said Town Council may deem insufficient or need repairing.

(d) Any street paving and/or graveling shall be the responsibility of the Town of Houston to maintain.

#### COLLECTION OF CHARGES DUE THE TOWN

Section 33. (a) In the collection of any charges due the Town for water rentals, sewer service charges, electric bills, gas bills, license fees, tapping fees, front foot assessments, charges growing out of the abatement of nuisances, laying out and repairing sidewalks, 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 Tax Collector for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

## POWER TO BORROW MONEY AND ISSUE BONDS

Section 34. (a) The Town Council may borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of the Town of Houston 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 lane or the paving, curbing or erection of gutters and curbs along the same; for the purchase of real estate for any municipal purpose; for the construction or repair of sewage disposal equipment; or to defray the cost or the share of the Town of the costs of any permanent municipal improvements; PROVIDED, HOWEVER, that the borrowing of money therefor shall have been authorized for the Town Council in the manner following:

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

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

(3) Following the public hearing, a second resolution shall then be passed by the Town Council ordering a special election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing to borrow the said money, the said special election to be for the purpose of voting for or against the proposed loan. The passing of the second resolution calling a special election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue.

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

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

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

(7) The Board of Special Elections shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special Election shall make a certificate under their Hands of the number of votes cast for and against the proposed loan and the number of void votes and shall deliver the same to the Town Council which said certificates shall be retained by the Town Council with the other papers of the Town Council.

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

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

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

(11) The faith and credit of the Town of Houston 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 Houston shown by the last assessment preceding the creation of the

said indebtedness.

#### ACTIONS OR SUITS

Section 35. No action, suit or proceeding shall be brought or maintained against the Town of Houston 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 Town of Houston, 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 Houston 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 Houston by certified mail with return receipt requested and postage prepaid.

#### COMPENDIUM

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

#### REVIVAL OF POWERS AND VALIDATING SECTION

Section 37. (a) All powers conferred upon or vested in the Town Council of the Town of Houston 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 Houston and/or the Town Council of the Town of Houston precisely as of each of said powers was expressly set forth in this Charter.

(b) All ordinances adopted by the Town Council of Houston 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 Houston under the provisions of this Charter.

(c) All of the acts and doings of the Town Council of

Houston or of any official of the Commissioners of Houston which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town Council of Houston or under any provision of any prior Charter of the Town Council of the Town of Houston 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 Town Council of Houston or the Town of Houston shall be due the Town of Houston and all debts from the Town or the Town Council of Houston shall remain unimpaired until paid by the Town of Houston.

(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 Town Council of Houston.

(f) The bonds given by or on account of any official of the Town Council of Houston 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, 1978.

## CHAPTER 518

## FORMERLY HOUSE BILL NO. 1128

AN ACT TO AMEND CHAPTER 283, VOLUME 21, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF LITTLE CREEK".

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. Chapter 283, Volume 21, Laws of Delaware, is amended by striking out all of Section 3 thereof and inserting in lieu thereof a new Section 3 to read as follows:

"Section 3. The present duly elected commissioners shall be the commissioners for the said Town of Little Creek until the first Saturday in March in the year of our Lord one thousand nine hundred and seventy-eight, and upon the said first Saturday in March, and in every even numbered year thereafter, there shall be elected three (3) commissioners for the term of two (2) years each. Upon the first Saturday of March, in the year of our Lord, one thousand nine hundred and seventy-eight there shall be elected two (2) commissioners and assessor for the term of one (1) year each. Upon the first Saturday in March in every odd numbered year thereafter there shall be elected two (2) commissioners and an assessor for the term of two (2) years each. Commissioners shall serve until their successors are duly elected and qualified.

Commissioners shall serve without compensation. Each Commissioner shall be above the age of 21 years, the owner of real estate within said Town of Little Creek, a nondeficient payer of taxes to the said Town of Little Creek, and a resident of said Town of Little Creek for at least two (2) years. Ownership of stock in a corporation owning real estate in the said Town of Little Creek shall not constitute ownership of real estate as required by this Section. Disposal of real estate shall not disqualify a Commissioner or assessor from serving the remainder of the term to which he has been duly elected. If, during his term, any commissioner or assessor shall cease to be a resident of said Town of Little Creek, he shall ipso facto vacate his office.

In case of vacancy created in any office, either by death, resignation, loss of residence, or otherwise, such vacancy shall be filled by holding a special town election within thirty (30) days.

On the first Saturday in March of each year from 2 o'clock to 6 o'clock in the afternoon every person, male or female, above the age of eighteen (18) years who shall have been a bona fide resident of the Town of Little Creek for at least one (1) year immediately preceding any such election and who is a nondelinquent payer of taxes to the said Town of Little Creek or has become eighteen (18) years of age since the last assessment of taxes shall have one (1) vote. All votes shall be offered in person and in voting the voters shall cross out the names of all the candidates for whom he does not desire to cast his vote.

Candidates for office shall file with the President of the Board of Commissioners not sooner than 9:00 a.m. on the third Monday preceding the election nor later than 4:30 p.m. on the Monday preceding the election. The President of the Board of Commissioners shall publish a list of candidates for office in at least four (4) public places in the Town of Little Creek on the day prior to the election."

Section 2. Chapter 283, Volume 21, Laws of Delaware, is further amended by striking the present Section 4 thereof and inserting in lieu thereof a new Section 4 to read as follows:

"Section 4. That in each and every year there shall be twelve (12) stated meetings of the Commissioners of the Town of Little Creek, as follows: On the first Monday of each of the months of January through December, at which meetings the said Commissioners may pass all ordinances that may be necessary for the good government of the Town of Little Creek for the improvement of the streets, pavings of sidewalks, and the proper lighting of the streets, and the planning and protection of ornamental trees, and for all other matters relating to the Town of Little Creek that may be provided for by any of the provisions of this Act. The said Commissioners shall pass ordinances, imposing fines, penalties, and forfeitures, and provide for their collection."

Section 3. Chapter 283, Volume 21, Laws of Delaware, is further amended by striking the words "one thousand dollars" where they appear in the fourth and fifth lines of Section 14 thereof and inserting in lieu thereof the words "Five Thousand Dollars".

Section 4. Amend Chapter 283, Volume 21, Laws of Delaware, as amended, by striking section 2 in its entirety and substituting in lieu thereof a new section 2 to read as follows:

"Section 2. The boundaries of the said Town of Little Creek shall be as follows:

'Beginning at a point in the center of the present draw-bridge, known as Pivot Bridge, which crosses Little

River, formerly Little Creek, and being the South terminus of Main Street in said Town of Little Creek; thence running with the center of the stream of Little River, in a southwesterly direction with its several courses and meanderings about Four Hundred (400) feet more or less to a point in said stream center opposite a post and wire fence on land of the Wilson farms; thence turning and running with said post and wire fence across the marsh land and farm land of the Wilson farms, North Nine (9) Degrees West Fifteen Hundred and Twenty-five (1525) feet more or less, passing along the West side of Clark Street, to a point in the center of the lane leading to the south Wilson farm, said point being opposite the center of Bell Street, thence continuing same bearing and crossing said lane and the West end of Bell Street across the Wilson farm lands Nine Hundred and Fifty-four (954) feet more or less, to the center of another lane leading to the north Wilson farm, called Collins Lane; thence continuing same bearing and crossing the Wilson land and land of Verona E. Pleasanton Twenty-two Hundred and Sixty-four (2264) feet more or less to a point in the center of the old concrete traffic pavement of the State Highway known as the North Road from Dover to Little Creek; thence running with said road center, through the center of the parkway dividing the drive into Little Creek and the drive leading to Leipsic. North Eighty-one (81) Degrees East Three Hundred and Seventy (370) feet to the center of the concrete pavement on road leading from Little Creek to Leipsic, and being opposite the center of property now of 'Green'; thence continuing same bearing and crossing the property of said Green One Hundred and Ninety-five (195) feet to a corner in the Green land; thence turning and crossing the land of Green and Cullen and running South Nine (9) Degrees East Five Hundred and Twenty (520) feet, more or less, to the dividing line of Bateman Cullen and land now of Herbert Winslow, thence continuing same bearing and running along the East line of a fifteen foot alley or easement of a subdivision of the Winslow lands, called Little Creek Subdivision Fourteen Hundred and Forty-two (1442) feet to a point in the center of the road leading to Port Mahon Landing, thence continuing same bearing across the Winslow lands Four Hundred and Sixty-five (465) feet to a point in the center of a ditch, called Town Line Ditch and opposite the southeast corner of the public school lot; thence running with the center of said ditch and the eastern boundaries of various lots on Main Street, in a South-easterly direction Thirteen Hundred and Fifty (1350) feet; more or less, to a point in said ditch, and being East of and opposite the Southeast corner of a lot of land now or late of Edward Little; thence by a line across the

Winslow land passing to the Northwest corner of a blacksmith shop, and being Three Hundred (300) feet from the center of the concrete pavement on South Main Street Seven Hundred and Fifty (750) feet to a point in the center of Little River; thence therewith in a Westerly direction about Three Hundred (300) feet more or less back to the beginning, and containing within said metes and bounds the old corporate lines, including the proposed new lines of said Town of Little Creek, Kent County, Delaware.'

The street running from Little Creek bridge through the said Town shall be called 'Main Street' and shall not be less than thirty (30) feet wide; the street running parallel with Main Street and to the West thereof shall be called 'Clark Street' and shall not be less than thirty feet wide; the street running from Main Street, west, along lands known as the Lowe property shall be known as 'Lowe Street' and shall not be less than thirty (30) feet wide; the street running from Main Street, west, to Clark Street and the Wilson land, shall be known as 'Bell Street' and shall not be less than thirty (30) feet wide; the street running from Main Street, west to the Wilson farm, between properties now owned by Susan Harrington and Estelle Woodley on the North and lands of George Lynch on the South, shall be known as 'Collins Lane'."

Section 5. Amend Chapter 283, Volume 21, Laws of Delaware, as amended, by striking sections 7 through 17 in their entirety and substituting in lieu thereof the following new sections:

"Section 7. The Town shall have all powers possible for the Town to have under the Constitution and Laws of Delaware as fully and completely as though they were specifically enumerated in this Act. In furtherance thereof, 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 the Town, or relating to the government of the Town, its peace and order, its sanitation, beauty, the health, safety, convenience and comfort of its population, and the protection and preservation of property and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of the Town Charter as to ordinances or resolutions on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

The 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 Kent 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 8. (a) The Justice of the Peace sitting (whether regularly, specially or otherwise) in the Justice of the Peace Court located nearest to the Town shall have jurisdiction and cognizance of all offenses against the provisions of this Act or the authorized ordinances of the Town committed within the limits of the Town as far as to arrest and hold to bail or fine and imprison offenders; provided that 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 30 days. The Kent County Jail may be used for imprisonment under the provisions of this Act provided that the Town Commissioners shall pay for the board of persons committed for breaches or ordinances which are not breaches of the general law.

(b) No ordinance of the Town shall provide for a fine in excess of \$500.00 or imprisonment of more than 30 days.

(c) Any person convicted before such Justice of the Peace for violation of any Town ordinance may appeal from such conviction to the Superior Court in and for Kent County upon giving bond to the State with or without surety, such as the Justice of the Peace shall determine, binding the person taking the appeal to appear before the Court. Notice of such an appeal shall be given to such Justice of the Peace within five (5) 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 (5) days. No bond upon appeal from a conviction for violation of a Town ordinance shall exceed the sum of five hundred dollars (\$500.00). 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 the laws relating to the operation of motor vehicles.

Section 9. 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 Kent 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.

Every person sentenced to imprisonment by the Justice of the Peace, as provided in Section 8 above, shall be delivered by a member of the police force to the proper place of incarceration, to be there imprisoned for the term of the sentence.

It shall be the duty of the police to suppress riotous, disorderly or turbulent assemblages of persons in the streets and public places of the Town, or the noisy conduct of any person in the same, and upon view of the above, or upon the view of the violation of any ordinance of the Town relating to the peace and good order thereof, the police shall have the right and power to arrest without warrant and to take the offender before the Justice of the Peace, as aforesaid.

Section 10. It shall be the duty of the Commissioners on the first Monday in March next, or as soon as conveniently may be thereafter, and annually thereafter, to elect by ballot a Treasurer and Clerk, who shall hold their offices until the first Monday in March next after their election, and until their successors shall be duly elected and qualified. The Treasurer and Clerk may or may not be the same person. The said Commissioners shall also have authority to elect by ballot a collector of taxes in any year they may think it proper to do so. The Treasurer, before entering upon the duties of his office, shall be sworn or affirmed to perform the duties of his office faithfully, honestly and diligently, and shall also, before entering upon the duties of his office, give bond to the Town of Little Creek, with sufficient sureties, to be approved by the Commissioners of said Town in the penal sum of one hundred and fifty (\$150) dollars, conditioned for the faithful discharge of the duties of his office, and for the payment to his successor in office of all sums of money belonging to said town which may remain in

his hands upon the settlement of his accounts, to which bond and condition there shall be annexed a warrant of attorney for the confession of judgement for the penalty. The said Treasurer shall pay all orders drawn on him by order of the Commissioners and signed by the President thereof out of any moneys in his hands belonging to said Town. He shall settle his accounts with the said Commissioners annually by the first Saturday in March and at such other times as the said Commissioners may require. It shall be the duty of the Clerk of said Town to keep a true and faithful record of all the proceedings of said Town at all meetings held by them, and to do and perform all other matters and things that may be prescribed by any section of this Act or any ordinance enacted by the Commissioners.

Section 11. It shall be the duty of the Commissioners of said Town, at their first meeting in March next, or as soon thereafter as may be convenient, to choose by ballot an Assessor to serve until the first Saturday in March, A. D. 1900, or until his successor shall be chosen. It shall be the duty of the Assessor within two (2) weeks after his election to make a just and impartial valuation and assessment of all the real estate and assessable personal property within said Town, and also an assessment of all the male citizens residing in said Town above the age of eighteen (18) years, as well as those owning real estate as those not owning real estate within the limits, at an amount which shall be fixed by the Commissioners at their first stated meeting, but the sum so to be fixed shall be the same for every class and description of said citizens, and shall not exceed the sum of Five Thousand (\$5,000) Dollars and the said Assessor shall forthwith after making said assessment deliver to the Commissioners a duplicate containing the names of all the persons assessed, the amount of their assessment, distinguishing the assessment of the real and personal property of each. Upon the return of the assessment as aforesaid the Commissioners shall give five (5) days public notice that they will sit together at a certain place and on a certain day, to be fixed by the Commissioners, from one to four o'clock in the afternoon, to hear appeals from the said assessment, and at such time the Commissioners shall have power to add to or decrease any assessment. When the appeal day is past, the Commissioners shall, without delay, cause the assessment list to be transcribed and the transcript shall be delivered to the collector, who shall thereupon collect from each taxable the amount of his tax, and pay over the whole amount collected, deducting commissions and delinquencies, to the Treasurer of said Town on or before the first day of October next after receiving his duplicate. The Town Commissioners shall fix the amount of the commissions to be paid to the collector for collecting the taxes, and the said collector shall have the same power and authority for the collection of taxes as are now conferred or may be hereafter conferred

by law on collectors of county taxes.

Section 12. That the Commissioners herein named and their successors in office shall, at their first stated meeting in each year, or as soon thereafter as may be, determine the amount of tax to be raised in said Town for that year, not exceeding Five Thousand (\$5,000) Dollars, including tax on real estate, personal property and poll tax, and excluding delinquencies and commissions for collection. The Commissioners or a majority of them, shall have power and authority to use any and all monies thus determined and collected for the general improvement, ornament and benefit of said Town as they may advise and for any other purpose provided for by any of the Sections of this Act, and all the money paid out by the Treasurer shall be on the order of the Commissioners and signed by the President and Clerk thereof.

Section 13. That the Town Commissioners shall have power to enact ordinances for the paving or improving of the sidewalks, which ordinances shall be applicable to those persons only who own property fronting upon the sidewalks, who shall bear all the expense of making the pavement or other improvements ordered in front of their respective properties. If such ordinance be not complied with within one month after notice be given, the Commissioners may procure the materials and cause the necessary work to be done and collect the expense so incurred from the owner or owners of the lands adjoining such sidewalks. The Commissioners shall have power to sell any real estate or personal property for the purpose of paying the expenses as aforesaid, but no sale shall be made unless thirty (30) days notice shall have been given by advertisement at three (3) of the most public places in the said Town, and if the proper notice shall have been given and the sale shall have been made as aforesaid, the purchaser at said sale shall take a valid and complete title to the property thus sold, subject to prior liens and encumbrances. The money realized from said sale shall be applied to paying the expenses of said sale, and of the work done and materials furnished, and if there should be any remaining the Commissioners shall cause the Treasurer to pay the same to the owner or owners of the property thus sold.

Section 14. That the President and Commissioners shall have the superintendence and oversight of all the roads and streets now opened or that shall hereafter be opened within the limits of said Town, and no overseer of any roads or streets that may be appointed by the Levy Court of Kent County shall have any jurisdiction or oversight over any of the streets or roads in the limits of said Town, and the Levy Court shall annually appropriate for the repair of said roads

or streets a sum of money not less than seventy-five (\$75) dollars, and shall make an order for the payment thereof to the Treasurer of the Town of Little Creek.

Section 15. The said Town Commissioners of Little Creek shall have power to enact ordinances to prevent nuisances, to preserve the health of the Town and to prevent the introduction of infections or contagious diseases, and on complaint of any citizen to cause examination of any chimney, stove pipe, fixture or any other matter dangerous to the citizens of the said Town, and if adjudged dangerous to require it to be repaired or removed. The Commissioners shall have power to define and remove nuisances, and to prohibit the firing of guns or pistols, the making of bonfires, the setting off of fireworks and to prevent or suppress any dangerous sport or practice, and generally they shall have all the powers necessary to preserve and maintain peace and good order in said Town.

Section 16. The Commissioners shall have power to levy a special tax to pay for a right of way, charges and costs incidental to the widening, straightening, extending and opening of new streets, lanes or alleys laid out previous to the passage of this Act, which tax shall be collected as other Town taxes are collected.

Approved July 13, 1978.

## CHAPTER 519

## FORMERLY HOUSE BILL NO. 1149

AN ACT TO AMEND AN ACT ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1979; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BEING HOUSE BILL NO. 888 OF THE 129TH GENERAL ASSEMBLY OF THE STATE OF DELAWARE.

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

Section 1. Amend Section 1 of House Bill No. 888 of the 129th General Assembly of the State of Delaware, being an Act entitled "An Act making appropriations for the expense of the State Government for the fiscal year ending June 30, 1979; specifying certain procedures, conditions and limitations for the expenditure of such funds; and amending certain pertinent statutory provisions", by striking certain figures in their entirety as they appear and substituting certain figures in lieu thereof; by adding new line items and figures; and by striking certain line items and figures in their entirety, with reference to the lines and pages on which the same appear in House Bill No. 888, as hereinafter prescribed:

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
2	2	<u>(01-00-000) LEGISLATIVE</u>			
2	15	<u>(01-02-000) General Assem- bly - Senate</u>			
2	17	Salaries - Attaches	\$115.0	\$126.0	\$11.0
3	1	<u>(01-08-000) Legislative Council</u>			
3	2	<u>(01-08-001) Office of Research Director</u>			
3	7	Personal Services	1.0	.5	(.5)
3	9	Contractual Services			
3	New House		-0-	21.8	21.8
3	New Senate		-0-	19.5	19.5
3	12	Other Contractual Services	76.9	35.6	(41.3)
3	16	Other Supplies & Materials	31.7	31.7	-0-
3	20	Other Capital Outlay	11.8	11.8	-0-
3	27	Personal Services	9.5	10.0	.5

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
4	1	(02-00-000) JUDICIAL			
4	18	(02-02-000) Court of Chancery			
4	31	(02-02-002) Public Guardian			
4	33	(.2) Salaries and Wages Of Employees	22.2 (2)	22.2 (2)	-0-
4	42	(02-03-000) Superior Court			
4	47	(1) Salaries and Wages of Employees	1,167.0 (87)	1,167.0 (87)	-0-
5	1	(02-06-000) Court of Common Pleas			
5	4	(1) Salaries and Wages of Employees	536.8 (42.5)	536.8 (42.5)	-0-
5	13	(02-08-000) Family Court of Delaware			
5	17	(5) Salaries and Wages of Employees	2,076.1 (189)	2,076.1 (197)	
5	23	Contractual Services	187.3	191.7	4.4
6	1	(02-13-000) Justice of the Peace Courts			
6	3	(8) Salaries and Wages of Employees	1,110.0 (118)	1,110.0 (118)	-0-
6	14	(02-17-000) Administrative Office of the Courts			
6	15	(02-17-001) Office of Director			
6	17	(7) Salaries and Wages of Employees	75.5 (6)	75.5 (6)	-0-
7	1	(10-00-000) EXECUTIVE			
7	17	(10-02-000) Office of the Budget			

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
7	18	<u>(10-02-001) Budget Office</u>			
7	30	Contingency - Prior Year's Obligation	10.0	35.0	25.0
7	New	Management Improvement Fund	-0-	50.0	50.0
7	New	Budget Office Automation Program	-0-	50.0	50.0
7	New	Payroll/Personnel Program	-0-	100.0	100.0
7	37	<u>(10-03-000) Office of Manage- ment, Budget &amp; Planning</u>			
7	40	(14.5) Salaries and Wages of Employees	177.4 (12.5)	204.6 (13.5)	27.2
7	42	Other Employment Costs	39.1	44.1	5.0
7	45	Contractual Services	16.8	20.8	4.0
7	46	Supplies and Materials	2.6	4.9	2.3
7	47	Capital Outlay	5.7	6.5	.8
8	1	<u>(10-04-000) Office of State Personnel</u>			
8	New	Contingency - Reclassifi- cations	-0-	25.0	25.0
8	New	<u>(10-05-000) Energy Office</u>			
8	New	Salary of Director - (State Funds - \$15.0, All Other Funds - \$15.0)	-0-	15.0	15.0
8	New	(13.9) Salaries and Wages of Employees	-0- (0)	15.5 (1.1)	15.5
8	New	Other Employment Costs	-0-	5.4	5.4
8	New	Travel	-0-	1.0	1.0
8	New	Contractual Services	-0-	4.8	4.8
8	New	Supplies and Materials	-0-	1.3	1.3
8	New	Capital Outlay	-0-	7.0	7.0
9	1	<u>(12-00-000) OTHER ELECTIVE OFFICES</u>			
9	11	<u>(12-02-000) Auditor of Accounts</u>			
9	16	Personal Services	50.0	215.0	165.0
9	22	<u>(12-03-000) Insurance Commissioner</u>			
9	24	Salaries and Wages of Em- ployees	309.5 (22)	346.9 (25)	37.4

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
9	25	Other Employment Costs	67.2	74.7	7.5
9	29	Insurance Premiums	382.0	417.0	35.0
11	1	<u>(15-00-000) LEGAL</u>			
11	2	<u>(15-01-000) Department of Justice</u>			
11	3	<u>(15-01-001) Office of Attorney General</u>			
11	5	Salaries of Chief Deputy Attorneys General	33.5	100.5	67.0
11	6	(19) Salaries and Wages of Employees	1,448.3 (91)	1,408.3 (89)	(40.0)
11	9	Other Employment Costs	339.8	345.2	5.4
11	New	Contingency - Litigation Expense	-0-	100.0	100.0
12	1	<u>(20-00-000) DEPARTMENT OF STATE</u>			
12	27	<u>(20-06-000) Division of Historical &amp; Cultural Affairs</u>			
13	30	<u>(20-06-016) Office of the Arts</u>			
13	31	(.9) Salaries and Wages of Employees	27.1 (2.1)	50.1 (4.1)	23.0
13	32	Other Employment Costs	6.1	9.4	3.3
13	34	Travel	3.5	4.3	.8
13	35	Contractual Services	14.3	14.5	.2
13	36	Supplies and Materials	3.1	3.5	.4
14	1	<u>(25-00-000) DEPARTMENT OF FINANCE</u>			
14	2	<u>(25-01-000) Office of the Secretary</u>			
14	3	Salary of Secretary	34.9	40.0	5.1
14	4	Salaries and Wages of Employees	152.0 (8)	154.5 (8)	2.5
14	7	Other Employment Costs	36.3	37.5	1.2
14	16	<u>(25-05-000) Division of Accounting</u>			
14	17	Salary of Director	28.0	29.6	1.6
14	21	Other Employment Costs	56.6	56.9	.3
15	21	<u>(30-00-000) DEPARTMENT OF ADMINISTRATIVE SERVICES</u>			
16	1	<u>(30-04-000) Division of Facilities Management</u>			

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
16	New	Contingency - Prior Year's Obligation	-0-	59.4	59.4
16	17	<u>(30-05-000) Division of Maintenance and Communications</u>			
16	18	<u>(30-05-003) Operations</u>			
16	31	Capital Outlay	33.6	43.6	10.0
16	34	<u>(30-05-004) Delaware State Office Building</u>			
16	41	Supplies and Materials	3.6	8.6	5.0
17	16	<u>(30-07-000) Division of Central Data Processing</u>			
17	New	Salaries -Shift Differential	-0-	12.5	12.5
17	24	Contractual Services	1,487.4	1,474.9	(12.5)
19	19	<u>(30-15-000) Division of State Banking Commissioner</u>			
19	22	Other Employment Costs	34.1	41.3	7.2
20	1	<u>(35-00-000) DEPARTMENT OF HEALTH AND SOCIAL SERVICES</u>			
20	3	<u>(35-01-000) Office of the Secretary</u>			
20	5	(9.5) Salaries and Wages of Employees	154.0 (11.5)	154.0 (11.5)	-0-
21	35	<u>(35-05-000) Division of Public Health</u>			
22	1	<u>(35-05-002) Community Health</u>			
22	2	(188) Salaries and Wages of Employees	3,263.7 (252.2)	3,290.1 (254.7)	26.4
22	3	Other Employment Costs	683.2	688.8	5.6
22	4	Personal Services	99.4	102.4	3.0
22	5	Travel	26.8	27.3	.5
22	6	Contractual Services	393.4	396.1	2.7
22	7	Supplies and Materials	149.8	150.6	.8
24	1	<u>(35-06-000) Division of Mental Health</u>			
24	9	<u>(35-06-002) Delaware State Hospital</u>			

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
24	19	Contractual Services	1,356.4	1,372.4	16.0
24	New	Supplies & Materials - Uniforms	-0-	12.0	12.0
26	1	<u>(35-06-008) Bureau of Substance Abuse</u>			
26	3	(72) Salaries and Wages of Employees	712.5 (72.5)	712.5 (72.5)	-0-
26	19	<u>(35-07-000) Division of Social Services</u>			
26	20	<u>(35-07-002) Public Welfare</u>			
26	28	Medicaid Administration Contracts	245.0	500.0	255.0
27	New	<u>(35-08-000) Division of Visually Impaired</u>			
27	New	<u>(35-08-001) Office of the Visually Impaired</u>			
27	New	(25.8) Salaries and Wages of Employees	-0- (0)	188.6 (15.2)	188.6
27	New	Other Employment Costs	-0-	41.3	41.3
27	New	Personal Services	-0-	7.5	7.5
27	New	Travel	-0-	1.8	1.8
27	New	Contractual Services	-0-	56.2	56.2
27	New	Supplies and Materials	-0-	39.5	39.5
27	New	Capital Outlay	-0-	28.1	28.1
28	1	<u>(35-12-000) State Service Centers</u>			
28	7	Contractual Services	400.4	465.4	65.0
29	1	<u>(38-00-000) DEPARTMENT OF CORRECTION</u>			
29	2	<u>(38-01-000) Office of the Commissioner</u>			
29	3	<u>(38-01-001) Commissioner's Office</u>			
29	8	Contractual Services	.8	5.8	5.0
29	New	Contingency - Inmate Work Programs	-0-	10.0	10.0
29	12	<u>(38-01-002) Administration</u>			
29	21	Capital Outlay	12.7	16.7	4.0
30	1	<u>(38-01-005) Facilities Maintenance and Construction</u>			

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>TO</u>	<u>Increase (Decrease)</u>
30	New	Salaries - Shift Differential	-0-	1.0	1.0
30	New	Salaries - Premium Pay	-0-	5.1	5.1
30	6	Other Employment Costs	77.7	78.9	1.2
30	13	<u>(38-08-000) Bureau of Adult Corrections</u>			
30	14	<u>(38-08-001) Office of the Bureau Chief</u>			
30	17	Salaries and Wages of Employees	225.0 (7)	225.0 (19)	-0-
31	1	<u>(38-08-003) Delaware Correctional</u>			
31	2	<u>Center</u>			
31	14	Supplies and Materials	552.3	594.9	42.6
33	1	<u>(38-08-009) Work Release</u>			
33	New	Salaries - Premium Pay	-0-	9.2	9.2
33	6	Other Employment Costs	49.8	51.5	1.7
36	13	<u>(40-00-000) DEPARTMENT OF NATURAL RESOURCES AND</u>			
36	14	<u>ENVIRONMENTAL CONTROL</u>			
36	15	<u>(40-01-000) Department Management</u>			
36	17	(10) Salaries and Wages of Employees	254.7 (19)	254.7 (19)	-0-
36	29	<u>(40-05-000) Division of Fish and Wildlife</u>			
36	30	<u>(40-05-001) Management and Support</u>			
36	31	(5.2) Salaries and Wages of Employees	32.9 (2.5)	32.9 (2.5)	-0-
36	36	Other - Tournament	3.0	3.0	-0-
37	13	<u>(40-05-003) Fisheries</u>			
37	14	(18) Salaries and Wages of Employees	334.3 (27)	334.3 (27)	-0-
37	28	<u>(40-05-004) Mosquito Control</u>			
37	37	Other - Spraying, Insecticides,			
37	New	University of Delaware Contract	179.1	179.1	-0-

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
38	1	<u>(40-06-000) Division of Parks</u>			
38	2	<u>and Recreation</u>			
38	15	<u>(40-06-002) Operations and Maintenance</u>			
38	16	(43.1) Salaries and Wages of			
		Employees	477.1	477.1	-0-
			(44)	(44)	
38	30	<u>(40-07-000) Division of Soil and Water Conservation</u>			
38	31	<u>(40-07-001) Management and Support</u>			
38	32	Salaries and Wages of			
		Employees	236.0	246.5	10.5
			(17)	(18)	
38	33	Other Employment Costs	50.8	52.7	1.9
38	37	Tax Ditches*	90.0	70.0	(20.0)
38	New	Other - Beach Erosion	-0-	150.0	150.0
39	1	<u>(40-08-000) Division of Environmental</u>			
		<u>Control</u>			
40	1	<u>(40-08-005) Water Supply</u>			
40	2	(4) Salaries and Wages of			
		Employees	106.6	110.9	4.3
			(7.5)	(8.0)	
40	3	Other Employment Costs	23.0	24.0	1.0
40	5	Travel	.2	.3	.1
40	6	Contractual Services	17.1	17.2	.1
40	7	Supplies and Materials	3.6	4.7	1.1
40	13	<u>(45-00-000) DEPARTMENT OF PUBLIC SAFETY</u>			
41	8	<u>(45-06-000) Division of State Police</u>			
41	9	Salary of Superintendent	30.0	31.0	1.0
41	10	Salary of Assistant Super-			
		intendent	26.6	27.6	1.0
41	11	(19) Salaries of Uniformed			
		Division	6,734.5	7,240.3	505.8
			(400)	(412)	
41	13	Salaries - Overtime -			
		Uniformed Division	180.5	184.2	3.7
41	15	Other Employment Costs	460.7	575.7	115.0
41	20	Contractual Services	574.1	-0-	(574.1)
41	New	Liability Insurance	-0-	51.1	51.1
41	New	Family Blue Cross	-0-	280.2	280.2
41	New	Other Contractual Services	-0-	574.1	574.1

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
41	21	Supplies and Materials	708.0	742.4	34.4
41	22	Capital Outlay	328.1	350.1	22.0
43	1	<u>(50-00-000) DEPARTMENT OF COMMUNITY AFFAIRS</u>			
43	2	<u>AND ECONOMIC DEVELOPMENT</u>			
43	3	<u>(50-01-000) Office of the Secretary</u>			
43	4	<u>(50-01-001) Administration</u>			
43	6	(3.0) Salaries and Wages of Employees	79.2 (7.0)	79.2 (7.0)	-0-
43	13	<u>(50-01-003) Economic Opportunity</u>			
43	14	(14.45) Salaries and Wages of Employees	86.3 (7.0)	86.3 (7.0)	-0-
43	New	Retired Senior Volunteer Program	-0-	8.5	8.5
43	New	<u>(50-01-005) Office of the Public Advocate</u>			
43	New	Salaries and Wages of Employees	-0- (0)	54.3 (3.0)	54.3
43	New	Other Employment Costs	-0-	10.3	10.3
43	New	Personal Services	-0-	21.8	21.8
43	New	Travel	-0-	1.5	1.5
43	New	Contractual Services	-0-	1.0	1.0
43	New	Rent	-0-	5.8	5.8
43	New	Supplies and Materials	-0-	.8	.8
43	New	Capital Outlay	-0-	4.5	4.5
43	41	<u>(50-06-000) Office of Human Relations</u>			
43	43	(4.5) Salaries and Wages of Employees	78.9 (6.0)	78.9 (7.0)	-0-
44	1	<u>(50-08-000) Division of Economic Development</u>			
44	3	<u>(50-08-001) Industrial Development, Tourism and Management</u>			
44	6	(2) Salaries and Wages of Employees	106.1 (10)	130.3 (10)	24.2

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
44	7	Other Employment Costs	25.8	28.6	2.8
44	New	Delmarva Advisory Council	-0-	19.4	19.4
44	18	<u>(50-08-002) Planning</u>			
44	New	(7.0) Salaries and Wages of Employees	-0-	-0-	-0-
44	New	<u>(50-08-003) Industrial Finance</u>			
44	New	Debt Service			
44	New	Principal	-0-	210.0	210.0
44	New	Interest	-0-	252.0	252.0
45	14	<u>(50-10-000) Division of Libraries</u>			
45	16	(9.0) Salaries and Wages of Employees	86.1 (8.0)	86.1 (8.0)	-0-
45	22	<u>(50-11-000) Division of Consumer Affairs</u>			
45	24	(7.0) Salaries and Wages of Employees	139.8 (11.5)	139.8 (11.5)	-0-
48	1	<u>(60-00-000) DEPARTMENT OF LABOR</u>			
48	2	<u>(60-01-000) Office of the Secretary</u>			
48	5	(4.5) Salaries and Wages of Employees	10.4 (.5)	10.4 (.5)	-0-
48	17	<u>(60-06-000) Division of Unemployment Insurance</u>			
48	18	(357.0) Salaries and Wages of Employees	-0-	-0-	-0-
48	21	<u>(60-07-000) Division of Industrial Affairs</u>			
49	9	<u>(60-07-005) Equal Employment Opportunity</u>			
49	10	(7.0) Salaries and Wages of Employees	26.4 (2.0)	26.4 (2.0)	-0-
51	1	<u>(70-00-000) DEPARTMENT OF ELECTIONS</u>			

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
51	16	(70-02-000) <u>New Castle County Department of Elections</u>			
51	24	Personal Services	122.2	176.4	54.2
51	33	(70-03-000) <u>Kent County Department of Elections</u>			
51	41	Personal Services	23.2	33.7	10.5
52	1	(70-04-000) <u>Sussex County Department of</u>			
52	2	<u>Elections</u>			
52	10	Personal Services	29.9	43.6	13.7
52	19	(75-00-000) <u>FIRE PREVENTION COMMISSION</u>			
53	1	(75-03-000) <u>State Fire Prevention</u>			
53	2	<u>Commission</u>			
53	8	Capital Outlay	1.2	3.2	2.0
54	1	(90-00-000) <u>HIGHER EDUCATION</u>			
54	2	(90-01-001) <u>University of Delaware</u>			
54	6	Aid to Needy Students	542.0	592.0	50.0
55	21	(90-04-000) <u>Delaware Technical &amp; Community College</u>			
57	1	(90-04-006) <u>Charles L. Terry Campus</u>			
57	3	Salaries - Casual&Seasonal	74.2	81.0	6.8
57	4	Other Employment Costs	263.5	263.9	.4
57	12	Other Contractual Services	84.9	88.8	3.9
57	13	Supplies & Materials	67.8	68.7	.9
58	1	(95-00-000) <u>PUBLIC EDUCATION</u>			
58	2	(95-01-000) <u>State Board of Education and</u>			
58	3	<u>State Board for Vocational Education</u>			
58	4	(95-01-001) <u>Administration</u>			
58	New	Deputy Attorney General (State Funds - \$12.5			
58	New	All Other Funds - \$12.5)	-0-	12.5	12.5
58	28	Other Employment Costs	229.9	232.4	2.5
58	New	Capital Outlay - Cars	-0-	19.5	19.5
59	1	(95-01-002) <u>Services to School</u>			
59	2	<u>Districts and Others</u>			

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	<u>Increase (Decrease)</u>
59	31	Assessment of Educational Progress	70.0	268.0	198.0
59	35	School Pupil Transportation	11,898.9	12,473.3	574.4
60	1	<u>(95-01-003) Educational Contingency</u>			
60	4	Summer School Occupational Vocational Program	346.0	388.0	42.0
60	9	Private Placement for Handicapped	763.0	778.0	15.0
60	10	Learning Disabilities - Tuition	15.0	-0-	(15.0)
64	1	<u>(95-13-000) Capital</u>			
64	New	Capital Outlay	-0-	25.0	25.0
70	1	<u>(95-19-000) Mount Pleasant</u>			
70	20	TOTAL -- Division I	3,378.5	3,578.5	-0-
73	1	<u>(95-22-000) Margaret S. Sterck</u>			
73	New	Specialists - Speech Therapists (3.6)	-0-	43.9	43.9
73	New	Specialists - Psychologist (2.2)	-0-	39.4	39.4
73	New	Specialists - Resource Teacher (2.2)	-0-	26.8	26.8
73	New	Teacher - Coordinator (1.0)	-0-	11.5	11.5
73	15	Other Employment Costs	170.5	197.4	26.9
73	17	<u>Division II - Other Costs</u> (22)	47.5	48.0	.5
73	18	Residence - Other Cost	11.5	57.0	45.5
73	19	Consultant Services	57.0	11.5	(45.5)
90	1	<u>(95-39-000) Kent Vocational-Technical</u>			
90	10	Nurse	9.7 (1)	20.1 (2)	10.4
90	13	Other Employment Costs	245.4	247.5	2.1

Section 2. Amend Section 1 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the word "United" in its entirety as it appears on line 22, page 53 of said Bill and substituting in lieu thereof the word "Unit".

Section 3. Amend Section 1 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking lines

48 through 56 in their entirety as they appear on page 26 of said Bill.

Section 4. Amend Section 1 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by recomputing all sub-totals and totals and renumbering paragraphs and sections affected by this Act.

Section 5. Amend Section 12 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the word "surveillance" in its entirety as it appears on line 18, page 99 of said Bill.

Section 6. Amend Section 12 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by inserting the words "; the surveillance vehicles of the" after the word "Police" and before the word "State" as they appear on line 19, page 99 of said Bill.

Section 7. Amend Section 15 (b) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the words "at least quarterly" in their entirety as they appear on line 20, page 100 of said Bill and substituting in lieu thereof the following words:

"on a regularly scheduled basis as determined by the Secretary of Finance".

Section 8. Amend Section 15 (c) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the words "each quarter of the fiscal year" in their entirety as they appear on lines 29 and 30, page 100 of said Bill and substituting in lieu thereof the following words:

"on a regularly scheduled basis as determined by the Secretary of Finance".

Section 9. Amend Section 15 (d) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the words "each quarter of the fiscal year" in their entirety as they appear on line 4, page 101 of said Bill and substituting in lieu thereof the following words:

"on a regularly scheduled basis as determined by the Secretary of Finance".

Section 10. Amend Section 22 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the word "classification" in its entirety as it appears on line 11, page 103 of said Bill and substituting in lieu thereof the word

"class".

Section 11. Amend Section 27 (a) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the word "and" in its entirety as it appears on line 16, page 105 of said Bill.

Section 12. Amend Section 27 (a) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the period (.) in its entirety as it appears on line 18, page 105 of said Bill and substituting in lieu thereof the following words "; and".

Section 13. Amend Section 27 (a) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new paragraph, designated as paragraph (iv), which new paragraph shall read as follows:

"(iv) family Blue Cross coverage for members of the Uniformed Division of the Delaware State Police."

Section 14. Amend Section 28 (b) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the words "and Deputy Attorneys General" in their entirety as they appear on line 30, page 105 of said Bill and substituting in lieu thereof the following words:

"Deputy Attorneys General and Department of Justice Special Investigators."

Section 15. Amend Section 31 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding the following sentence to Section 31 of said Bill to read as follows:

"The appropriation in Section 1 of this Act for Management Improvement Fund shall be subject to the aforementioned approvals prior to disbursement."

Section 16. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking Section 35 in its entirety and substituting in lieu thereof a new Section 35 to read as follows:

"Section 35. (a) Section 1 of this Act provides an appropriation to the Division of State Police (45-06-000), Salaries of Uniformed Division for four hundred and twelve (412) uniformed employees as follows: funding for three hundred seventy-eight (378) uniformed employees for twelve (12) months, and ten (10) uniformed employees for nine (9) months who shall be paid solely from Federal Funds until September 30, 1978, and twelve (12) uniformed employees upon

completion of recruit class, and twelve (12) uniformed employees who are scheduled to retire on May 1, 1979. When the twelve (12) uniformed employees retire, the positions shall remain vacant for the remainder of the fiscal year ending June 30, 1979.

(b) Section 1 of this Act provides an appropriation to the Division of State Police (45-07-000), Salaries and Wages of Employees for one hundred and thirty-six (136) employees which represents an increase of seven (7) employees over the number authorized in the 1978 Budget Appropriation Act. The additional seven (7) employees shall relieve seven (7) uniformed employees for appropriate assignment.

(c) In addition to the one hundred and thirty-six (136) employees authorized in Section 1 of this Act to the Division of State Police (45-06-000), Salaries and Wages of Employees, the Division of State Police are authorized five (5) employees who shall be paid solely from Federal Funds. In the event that Federal Funds for these positions are no longer available, the positions will be authorized and such additional sum as may be required is hereby appropriated and shall be paid from the General Fund. The five (5) employees shall relieve five (5) uniformed employees for appropriate assignment. The Division of State Police shall inform the Delaware State Clearinghouse Committee and the Budget Director if and when the source of funding changes and the positions are transferred."

Section 17. Amend Section 37 (a) (ii) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the word "and" in its entirety as it appears on line 13, page 109 of said Bill.

Section 18. Amend Section 37 (a) (ii) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the period (.) in its entirety as it appears on line 16, page 109 and substituting in lieu thereof the following: "; and".

Section 19. Amend Section 37 (a) (ii) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new paragraph, designated as paragraph (6) to read as follows:

"(6) prescription drugs."

Section 20. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to said Bill reading as follows:

"Section 111. Section 1 of this Act provides for a budget to the Division of State Banking Commissioner (30-15-000). This Budget shall be changed to a memorandum budget. This section shall become effective upon the enactment into law of House Bill No. 756, as amended, of the 129th General Assembly."

Section 21. Amend Section 44 (c) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking lines 2 and 3 of page 114 in their entirety in said Bill and substituting in lieu thereof the following:

"according to bus contract or district transportation formula as adopted by the State Board of Education on February 22, 1978, and shall not exceed \$10,625.3. Funds remaining in public."

Section 22. Amend Section 45 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking Section 45 in its entirety and substituting in lieu thereof a new Section 45 which shall read as follows:

"Section 45. The funds appropriated in Section 1 of this Act to the Department of Public Instruction, Services to School Districts and Others, Contractual Services, James H. Groves High School, shall be allocated by the Department of Public Instruction to the participating school districts in amounts equal to each participating school districts number of eligible students as of October 31, 1978, and February 28, 1979, as determined by the State Supervisor of Adult Education."

Section 23. Amend Section 46 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the words "Learning Disabilities - Tuition" in their entirety as they appear on lines 23 and 24, page 114 of said Bill and substituting in lieu thereof the following words:

"Private Placement of Handicapped".

Section 24. Amend Section 53 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking line 5 in its entirety as it appears on page 117 of said Bill and substituting in lieu thereof the following:

"Prior Year's Obligations - \$35,000 shall be used to pay Salaries and Wages, Other Employment Costs, reimbursement of overpayment of fringe benefits, and other obligations of minor amounts."

Section 25. Amend Section 65 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding the

figures and words "(45-00-000) Department of Public Safety;" after the semicolon ";" following the word "Judicial" one line 11, page 119 of said Bill.

Section 26. Amend Section 74 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the words "rent of such space" in their entirety as they appear on line 7, page 121 of said Bill and substituting in lieu thereof the words:

"use of such facility"

Section 27. Amend Section 74 of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the word "rental" in its entirety as it appears on line 9, page 121 of said Bill and substituting in lieu thereof the word "user".

Section 28. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking Section 86 of said Bill.

Section 29. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking Section 96 in its entirety.

Section 30. Amend Section 97 (d) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the words "at least quarterly" in their entirety as they appear on line 19, page 127 of said Bill and substituting in lieu thereof the following words:

"on a regularly scheduled basis as determined by the Secretary of Finance".

Section 31. Amend Section 97 (d) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking line 20, page 127 in its entirety and substituting in lieu thereof the following:

"appropriate sums from local funds to cover F.I.C.A. - Employer's Share and Pension Costs on cafeteria".

Section 32. Amend Section 100 (d) of House Bill No. 888 of the 129th General Assembly of the State of Delaware by striking the said subsection (d) in its entirety as it appears in said Bill and substituting in lieu thereof a new subsection (d) which shall read as follows:

"(d) Staff shall be exempt from the provisions of Chapter 59, Title 29, Delaware Code, and shall be hired on a non-partisan basis. The exact job descriptions shall be developed

by the Director of Research of Legislative Council."

Section 33. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 112. Amend §2505, Chapter 25, Title 29, Delaware Code, by striking all of subsection (a) and inserting in lieu thereof the following:

'(a) The Attorney General shall appoint, from among the tenured Deputy Attorneys General of each county of this State, one lawyer resident of the respective county who shall be the Chief Deputy Attorney General for the county in which he resides.'"

Section 34. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 113. Amend §2506, Chapter 25, Title 29, Delaware Code, by adding thereto a new subsection, designated as (c), to read as follows:

'(c) The salaries of the three Chief Deputy Attorneys General shall be \$33,500 each per annum.'"

Section 35. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to said Bill reading as follows:

"Section 114. Section 1 of this Act provides an appropriation of \$100,000 to Office of Attorney General (15-01-001) for the purpose of conducting litigation as is necessary to protect the best interests of the State of Delaware and crippled children and elderly who are the beneficiaries of the trust of Alfred I. duPont."

Section 36. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 115. Section 1 of this Act provides an appropriation, as well as Assistant Public Defender positions, to the Office of Public Defender for the fiscal year ending June 30, 1979. In addition to those duties and responsibilities as may be assigned by the Public Defender, the Public Defender shall provide the services of two (2) assistant Public Defenders to the Family Court."

Section 37. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to said Bill reading as follows:

"Section 116. Section 1 of this Act provides an appropriation of \$59,400 to Division of Facilities Management (30-04-000) for the purpose of making payment to the City of Dover for the costs incurred in connection with the installation of 2,735.11 feet of water main to connect the North Campus of the Kent County Vocational-Technical High School and the Terry Campus of Delaware Technical and Community College with the City of Dover's water system. These costs were incurred by the State of Delaware in a prior year and were not part of the aforementioned agencies' construction appropriation."

Section 38. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section reading as follows:

"Section 117. For fiscal year ending June 30, 1979, the following guidelines shall govern the SERVE Nutrition Program within the City of Wilmington, as it relates to duties and responsibilities of site managers at nutrition sites:

(1) Site managers are employed by and report to the grantee agency which is the Wilmington Senior Center.

(2) Site manager's primary duties/responsibilities with respect to a site location are:

(a) Assure that operating site is in full compliance with rules and regulations of Title VII Nutrition Program;

(b) Collect and report all necessary information needed for federal reports;

(c) Meet, as required, with site council for the purpose of communications, discussing problems, etc., and other matters relating to Nutrition Program responsibilities;

(d) Be aware that mandated supportive services for Title VII are being provided to host facility; and

(e) Act as liaison between federally funded Title VII project and host facility."

Section 39. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to said Bill reading as follows:

"Section 118. During the fiscal year ending June 30, 1979, the Department of Health and Social Services shall authorize the undertaking and completion of a statewide, comprehensive survey of costs of pharmacists filling prescriptions which qualify for payment under the Title XIX, Medicaid Drug Program. During the period of the survey, the cost of filling prescriptions under the auspices of Medicaid shall be at the rate of \$2.50 per prescription. At the time the results of the survey are made official, the rate of \$2.50 shall be adjusted by the Secretary of the Department of Health and Social Services, with approval of the Budget Director and the Controller General."

Section 40. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 119. The salary scale for the Uniformed Division, Delaware State Police, during fiscal year 1979, shall be as provided in 'Attachment A', to the collective bargaining agreement effective July 1, 1978."

Section 41. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 120. Section 1 of this Act provides an additional appropriation of \$115,000 to Division of State Police (45-06-000), for Other Employment Costs. This appropriation shall be utilized for a one-time non-salary payment of three hundred dollars (\$300.00) to those members of the Uniformed Delaware State Police who, during fiscal year 1978, paid for their own State group family health insurance (Blue Cross-Blue Shield) coverage."

Section 42. Amend House Bill No. 888 of the 129th General Assembly of the State of Delaware by adding thereto a new section to read as follows:

"Section 121. Amend §1301, Chapter 13, Title 14, Delaware Code, by striking subsection (d) in its entirety as it appears in §1301 and substituting in lieu thereof a new subsection (3) to read as follows:

'(3) In interpreting the salary, the salary schedule set forth in subsection (a) of §1305 of this Title, in the case of trades and industry teachers,

"bachelor's degree" means 2 years of college or technical training, plus 6 years of trade experience; "bachelor's degree plus 15 graduate credits" means 2 1/2 years of college or technical training, plus 6 years of trade experience; "bachelor's degree plus 30 graduate credits" means 3 years of college or technical training, plus 6 years of trade experience; "master's degree" means a bachelor's degree, plus 6 years of trade experience or a bachelor's degree, plus 30 graduate credits, plus 4 years of trade experience; "master's degree plus 15 graduate credits", "master's degree plus 30 graduate credits", "master's degree plus 45 graduate credits", and "doctor's degree" shall have meaning as defined in subsection (2) of this section."

Approved July 12, 1978.

## CHAPTER 520

FORMERLY SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 163  
AS AMENDED BY  
SENATE AMENDMENT NO. 1 AND  
HOUSE AMENDMENT NOS. 3, 4, 6, 7 AND 8

AN ACT TO AMEND CHAPTER 91, TITLE 29 OF THE DELAWARE CODE BY ESTABLISHING A HIGHWAY PRIORITY PLANNING SYSTEM AND BY AMENDING CHAPTER 84, TITLE 29 OF THE DELAWARE CODE TO MODIFY THE FUNCTIONS OF THE COUNCIL ON TRANSPORTATION AND BY AMENDING CHAPTER 74, TITLE 29 OF THE DELAWARE CODE BY ESTABLISHING A PRIORITY SYSTEM FOR HIGHWAY CAPITAL IMPROVEMENTS PROGRAM.

WHEREAS, the Delaware Tomorrow Commission recommended that the Capital Improvement programming process should be improved; and

WHEREAS, it is necessary to continuously plan and carry out the development of the State Transportation System in an orderly and efficient manner correlated with total relative needs and assure that the most needed projects are funded; and

WHEREAS, it is necessary to furnish the Governor, General Assembly and citizens with a continuing sound plan of transportation capital improvement.

NOW, THEREFORE:

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

Section 1. Amend §9110 of Chapter 91, Title 29 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §9110 to read as follows:

"§9110. Preparation of Capital Program; Assistance in Preparation of Annual Capital Budget

The State Planning Office shall prepare, amend and keep up to date a six year program of state public works and major capital improvement projects undertaken or recommended to be undertaken by the State. Such program, to be known as the capital program, may contain major projects undertaken or recommended to be undertaken with federal and/or state aid or under state regulation. In preparing the program, the State Planning Office shall have the collaboration of the Budget Director. This program, incorporating those projects which

must be initiated by the local officials in accordance with Section 105(d), Title 23 of the United States Code shall classify projects in regard to the urgency and need for their realization and shall recommend a time sequence for their construction. The program shall contain estimated cost of each project as well as existing sources of funds or the need for additional sources of funds for the construction and operation of each project. The capital program shall, as far as possible, be based on existing information in the possession of the State Planning Office, the Budget Director and other appropriate departments, boards, commissions, agencies and instrumentalities of state government. Heads of departments, boards, commissions, agencies and instrumentalities of state government shall transmit to the Director of State Planning a statement of all capital projects proposed to be undertaken by their departments or agencies for study, advice and recommendation by the State Planning Office and for consideration for inclusion in the capital program of the State. Upon request, the department or agency heads shall also submit such information to the State Planning Office as may be required in the preparation of the program. The State Planning Office shall assist the State Budget Director and other State agencies in the preparation of the annual budget."

Section 2. Amend Chapter 91, Subchapter 1, Title 29 of the Delaware Code by adding a new §9114 to read as follows:

"§9114. Highway Priority Planning

(a) The Department of Transportation, with Council approval, shall:

(1) Establish a method of determining current needs and cost of the entire highway requirements in the State which will be utilized in allocating capital funds by highway functional system by program. The needs and costs will be updated annually.

(2)(a) Establish a rating formula for setting priorities on all Department highway projects, which if they were contained in the Authorization Act would be categorized as corridor and non-corridor, which shall consider, but not be limited to: safety, service and condition factors; social, economic and environmental factors; regional variations, seasonality of traffic, continuity of improvement, availability of federal and State funds, and ability to utilize these funds for projects and programs.

(b) The rating formula for setting priorities on Department highway projects shall be utilized only for those categories listed in (2)(a) above and not be

applicable to other highway categories normally contained in authorization acts (intersection improvements, miscellaneous small projects, dirt road program, suburban street improvements, suburban drainage program, etc.).

(3) Develop a needs study and a rating formula along with any other relevant criteria which shall be used for the development of the Department's priority recommendations for the Department Capital Improvements Program. Department programs or projects utilizing other than State or Federal funds shall be indicated within the Capital Improvements Program with their priority rating as specified in (2)(a) of this Section, but the costs shall not be added to the total estimated cost of the overall program. An annual written report including this data shall accompany the Department's recommendations.

(4) Update and prepare annually a Statewide Six Year Department Capital Improvements Program for submission to the Council on Transportation. The first year shall consist of highway programs and projects, containing the highest priorities in the categories specified in (2)(a) above and highway programs and projects in the categories mentioned in (2)(b) above. No program or project in these categories will be funded for construction, except programs or projects that can, with reasonable certainty, be advertised for bidding that year. Proposed projects or programs for the remaining five years shall be grouped by order of priority and year that the construction or activity should begin. Department programs or projects utilizing other than State or Federal funds shall be indicated within the Capital Improvements Program with their priority rating as specified in (2)(a) of this section, but the costs shall not be added to the total estimated cost of the overall program. The estimated cost of the program for each year shall be approximately equal to estimated Federal and State funds available for highway purposes during that year. The estimated Federal and State fund availability will be developed annually by the Department of Transportation with the assistance of the State Planning Office.

(5) Review any priority changes that would result in the introduction of new projects or programs to a proposed or adopted Six Year Department Capital Improvements Program. Make recommendations on such priority changes or introduction of new projects or programs based on the criteria and rating formula which establish the priorities of projects and programs. The Department

shall fully document its recommendations in a written report to the Council on Transportation."

Section 3. Amend §8409(b) (3), Chapter 84, Title 29 of the Delaware Code by adding after the word and semi-colon "Department;" the following:

"(i) On or before July 30 of each year, the Council shall review the updated Six Year Department Capital Improvements Program prepared by the Department of Transportation, established in §9114, Chapter 91, Title 29 of the Delaware Code. On or before September 15 of each year the Council shall publish notices in a newspaper of general circulation in each county. The notices shall specify dates on which public meetings will be held, one in each County, by the Council at which time the program will be reviewed and publicly explained and objections or comments may be made by any individual or group. Following the public meetings, the Council may make priority changes to the proposed Six Year Department Capital Improvements Program in an open meeting by documenting the reasons and justifications for changes and adopt the program. The adopted program shall be submitted to the State Planning Office and members of the General Assembly on/or before October 15 of each year for inclusion into the State Capital Improvements Program for the following fiscal year.

(ii) The Six Year Department Capital Improvements Program as recommended by the State Planning Office, shall set forth estimated expenditures by project and/or program for engineering, rights-of-way and construction. The program shall include detailed information by project as to location, description and the reasons for the project's assigned priority."

Section 4. Amend Chapter 74, Title 29 of the Delaware Code by adding thereto a new §7419 to read as follows:

"§7419. Adoption of Capital Program

(a) The Authorization Act of the General Assembly appropriating moneys of the State for highways capital improvements of the State, as it is introduced, shall contain, but is not limited to the program priorities prepared by the Department of Transportation, as adopted by the Council on Transportation and approved by the State Planning Office. Modifications, insofar as applicable to those categories derived by the rating formula, to the Department of Transportation Capital Improvements Program can only be made by deleting the lowest priority projects or programs should the availability of State or Federal Funds be less than estimated by the State Planning Office or in the event more funds are

available from Federal or State sources, projects or programs can be added in priority order as developed by the Department of Transportation, and adopted by the Council on Transportation."

Section 5. Amend §8401 (b)(7), Chapter 84, Title 29 of the Delaware Code by striking said subparagraph in its entirety.

Approved July 12, 1978.

CHAPTER 521

FORMERLY SENATE BILL NO. 358  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29, DELAWARE CODE, RELATING TO A PROCESS FOR INTER-GOVERNMENTAL COORDINATION IN LAND USE PLANNING AND TO CHANGE THE NAME OF THE STATE PLANNING OFFICE.

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

Section 1. Chapter 91, Title 29, Delaware Code, is amended by changing "State Planning Office" to "Office of Management, Budget and Planning" wherever the same appears in said Chapter. All other references to the "State Planning Office" in the Delaware Code are hereby amended in accordance with the Section.

Section 2. Title 29, Delaware Code, is amended by inserting a new Chapter 92 to be entitled "Land Use Planning" to read as follows:

"CHAPTER 92. LAND USE PLANNING

SUBCHAPTER I. FINDINGS, PURPOSE AND DEFINITIONS

§9201. Findings and Purpose

(a) Land use decisions are far-reaching, complex determinations involving the commitment of finite resources by many levels of government and private investment. Such decisions must be coordinated so as to achieve efficient, effective and timely use of finite resources.

(b) The resource investment, both public and private, in land use decisions is long term and therefore a process which provides a certain and stable climate for decision-making is necessary to foster rational investment of these resources.

(c) A method of achieving consistency and coordination between the levels of government, and between government and private enterprise is essential to achieve these goals.

(d) Economic activity should be enhanced by coordinating and simplifying the various State regulatory and review processes required prior to development. It is declared, therefore, that a process for streamlining such processes be established.

§9202. Definitions

For the purpose of this Chapter:

(a) 'Applicant' means any person who has requested or applied to a local jurisdiction for approval to proceed with a project which requires a local jurisdiction to take a land use planning action.

(b) 'Capital Improvements Program' means that schedule of public investment which guides capital expenditures for major public facilities, including infrastructure and community facilities.

(c) 'Comprehensive Development Plan' means a comprehensive land use plan, master plan or comprehensive plan as provided in Titles 9, 22 or 29, Delaware Code.

(d) 'Critical Area' means an area wherein the establishment or maintenance of a viable physical, economic, or social environment is of more than local concern; or the physical, economic, or social characteristics of said area are of primary importance or uniquely sensitive, including, but not limited to wetlands, major port facilities, and historic areas. Critical Areas, however, do not include agricultural lands in productive use.

(e) 'Facilities Plan' means a long term plan for the location, timing, and sizing of public services and utilities based upon an evaluation of future and existing land use, technology and cost.

(f) 'Land Use of More Than Local Benefit' means any use or combination of uses of land or water whose economic, social, or environmental benefits extend beyond the local jurisdiction in which the use or uses take place.

(g) 'Land Use Planning Decision' means any action adopting, amending, or revising a Comprehensive Development Plan, or portion thereof.

(h) 'Local Jurisdiction' means the County of New Castle, the County of Kent, the County of Sussex, municipalities within the State, or any other political subdivision of the State, or any instrumentality of any political subdivision of the State.

(i) 'Person' means any individual, partnership, firm, association, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, local jurisdiction, any interstate body, or any other legal entity.

(j) 'Agricultural Lands in Productive Use' means those lands which are both:

(1) delineated as 'Prime Farmlands', 'Unique Farmlands' or 'Additional Farmlands of Statewide Importance', by the Soil Conservation Service of the U. S. Department of Agriculture on maps entitled, 'Important Farmlands' and dated January, 1977 for New Castle and Kent Counties and January, 1978, for Sussex County; and

(2) currently used for the commercial production of livestock, trees or nursery stock, food or fiber.

(k) 'State Agency' means the Executive Office of the Governor; the Office of Management, Budget and Planning; the State Treasurer; the Department of Administrative Services; the Department of Agriculture; the Department of Community Affairs and Economic Development; the Department of Correction; the Department of Finance; the Department of Health and Social Services; the Department of Labor; the Department of Natural Resources and Environmental Control; the Department of Public Instruction; the Department of Public Safety; the Department of State; the Department of Transportation; and all institutions of post-secondary education supported in whole or in part by State funds.

## SUBCHAPTER II. PROCESS FOR INTERGOVERNMENTAL COORDINATION IN LAND USE PLANNING

### \$9211. Local Land Use Planning Actions Subject to the Process

Local land use planning actions subject to this subchapter are ones of more than local concern and include but are not limited to: (1) the adoption or amendment of Comprehensive Development Plans or portions thereof; (2) the adoption or amendment of Capital Improvement Programs; (3) a Critical Area; (5) land use planning actions having a significant impact upon more than one local jurisdiction.

### \$9212. Preparation of Critical Areas Plans

A plan designating Critical Areas shall be prepared by each local jurisdiction and forwarded to the State Office of Management, Budget and Planning. The State Office of Management, Budget and Planning shall prepare a statewide plan designating Critical Areas with due consideration of local input.

### \$9213. Existing Local Comprehensive Development Plans

(a) Notwithstanding any provision of this Chapter or other law, local jurisdictions shall review their respective

Comprehensive Development Plans for the purpose of determining whether such plans arbitrarily exclude land uses of more than local benefit. The local interest in excluding uses of more than local benefit shall be one factor which may be considered in the determination of whether such exclusion is arbitrary.

(b) If any local jurisdiction determines its Comprehensive Development Plan arbitrarily excludes a use of more than local benefit, it shall amend such Plan, within three (3) months of such determination, to remedy the arbitrary exclusion.

(c) If a State agency determines that a Comprehensive Development Plan arbitrarily excludes a land use of more than local benefit, the State Office of Management, Budget and Planning shall, within six (6) months from the effective date of this Chapter, notify the appropriate local jurisdiction of such determination and the reasons therefor.

(d) The local jurisdiction shall, within three (3) months, thereafter determine if it agrees with any determination made pursuant to Subsection (c). If the local jurisdiction agrees, it shall amend the Comprehensive Development Plan in accordance with Subsection (b). If the local jurisdiction disagrees, the decision to retain the Plan shall constitute a land use planning decision, and shall be subject to the referrals process set forth in §9221; provided, however, that the Plan shall remain in effect until all referrals filed pursuant to this Subchapter are completed.

**§9214. Notification to State of Proposed Land Use Planning Actions**

(a) A local jurisdiction shall provide the State Office of Management, Budget and Planning with a timely written notice of any proposed local land use planning action subject to this Subchapter before local action is taken.

**§9215. State Office of Management, Budget and Planning Responsibility to Other Levels of Government**

The State Office of Management, Budget and Planning shall transmit a timely notice of the proposed land use planning action to interested regional and federal agencies.

**§9216. State Agencies' Responsibilities to Each Other**

(a) The State Office of Management, Budget and Planning shall, upon receipt of any notice provided pursuant to §9214, notify all State agencies of such notice forthwith and without delay.

(b) Each State agency, upon receipt of any notice provided in Subsection (a), shall review the proposed land use planning action, make written comments on the proposed land use planning action, and forward such written comments to the State Office of Management, Budget and Planning.

(c) When notice is received pursuant to §9214, each State agency shall provide whatever information the applicant will need to understand readily the State agency's requirements, policies and approval processes related to the proposed plan.

(d) State agency comments on any proposed local land use planning action shall expressly consider as applicable:

(1) The policy recommendations of the Delaware Tomorrow Commission as stated in the Commission's January 29, 1976, Final Report.

(2) The Delaware Comprehensive Development Plan adopted pursuant to Chapter 91, Title 29, Delaware Code.

(3) The impact of the proposed action upon the economic environment, including but not limited to matters of employment and taxation.

(4) The impact of the proposed action upon the physical environment, including but not limited to air and water quality, and natural resources.

(5) The impact of the proposed action upon the social environment, including but not limited to equal opportunity for employment, housing, education and health care.

(6) The fiscal impact of the proposed action, including capital, operating and maintenance costs.

(7) The energy implications of said action, including but not limited to resource development and utilization.

§9217. State Office of Management, Budget, and Planning's  
Responsibility to Applicant

The State Office of Management, Budget and Planning shall transmit to the applicant timely copies of any information it receives pursuant to §9216(b) from other State agencies, as well as pertinent information, if any, regarding State Office of Management, Budget and Planning's requirements related to the proposed use, which the applicant will need

to understand readily the State requirements, policies and approval processes related to the proposed plan.

§9218. State Office of Management, Budget and Planning's Responsibility to Local Jurisdictions

The State Office of Management, Budget and Planning shall transmit copies of all State agency comments on the proposed land use planning action, including its own, if any, to the appropriate local jurisdiction within twenty (20) working days of receipt of notice pursuant to §9214; provided, however, that the local jurisdiction may grant reasonable extensions to the comment period.

§9219. Local Jurisdiction Hearings

(a) Any State, regional or federal agency shall be permitted to comment on any proposed local land use planning action subject to this Subchapter at any public hearing provided by the local jurisdiction which has the final local decision-making authority over the proposed action. The local jurisdiction shall provide the State agency with a timely notice of any such hearing.

(b) Where no hearing by a local jurisdiction is provided for a proposed local land use planning action subject to this Subchapter, the State Office of Management, Budget and Planning may, within twenty (20) working days of receipt of the notice provided pursuant to §9214, require, by providing a written notice to the appropriate local jurisdiction, that the local jurisdiction provide a public hearing on the proposed local land use planning action; provided, that no such hearing shall be required unless the proposed land use planning action significantly affects the interests of more than local concern.

§9220. Local Jurisdiction Consideration, Decision and Notice

(a) Nothing in this Subchapter shall be construed to deny local jurisdictions the final decision-making authority, which such jurisdictions presently possess over proposed local land use planning actions.

(b) Local jurisdictions which have final authority for approving any proposed local land use planning action subject to this Subchapter shall not make any final decision on any such proposal until the State has had an opportunity to comment on the proposed action in accordance with this Subchapter; provided, however, that any final decision may be made if:

- (1) The prescribed period for State comment or

any extensions thereof granted pursuant §9218, has expired and the State Office of Management, Budget and Planning has not submitted comments pursuant to §9218 or required a hearing pursuant to §9219; or

(2) The State Office of Management, Budget and Planning has indicated it has no comments and does not require a hearing pursuant to the provisions of this Subchapter.

(c) If timely comments are submitted by the State Office of Management, Budget and Planning, the local jurisdiction shall consider such comments prior to making any decisions.

(d) If a public hearing is required by the State Office of Management, Budget and Planning, pursuant to §9219, the local jurisdiction shall consider the comments offered at such hearing prior to making any decisions.

(e) The local jurisdiction shall, in accordance with the provisions of this Subchapter, make its final decision and notify the State Office of Management, Budget and Planning of such decision as soon as possible. The local jurisdiction shall provide a written rationale for its decision to accompany such notice. The rationale shall include a discussion of State comments and recommendations; provided, however, that no such rationale or notice shall be required unless the State Office of Management, Budget and Planning has submitted comments pursuant to §9218.

(f) The final decision and rationale required pursuant to this section shall be filed with the appropriate office of the local jurisdiction and be made available for public review.

**§9221. Referral to Council on State Planning**

(a) The State Office of Management, Budget and Planning may, within ten (10) working days following the receipt of the notice provided pursuant to §9220 refer a final decision made under §9220 or §9213 to the Council on State Planning, established pursuant to Chapter 91, Title 29, Delaware Code, (hereinafter referred to as 'the Council'), by filing a Notice of Referral with the Council, the local jurisdiction and the applicant, on a form prescribed by the Council setting forth the grounds for the referral.

(b) Except for Capital Improvements Programs, no final decision made pursuant to §9220 shall take effect if:

(1) The ten (10) working day referral period

established by this Section has not expired and the State Office of Management, Budget and Planning has not waived the right to referral; or

(2) The State Office of Management, Budget and Planning refers the final decision pursuant to this Section.

(c) The Council shall provide the applicant, the local jurisdiction, the State and other interested parties an opportunity to submit comments on the proposed land use planning action.

(d) The Council shall have thirty (30) working days following receipt of any Notice of Referral filed pursuant to this Section to render its decision.

(e) The Council may adopt rules and regulations, as necessary, to carry out the provisions of this Section.

#### §9222. Council Decision

(a) The only grounds for requiring a reconsideration of a final decision of the local jurisdiction shall be that the decision:

(1) Is unreasonable; or

(2) Fails to adequately consider State comments.

(b) If the Council determines that the local jurisdiction's final decision issued pursuant to §9220 or §9213, is unreasonable or fails to adequately consider the State comments, the Council shall refer the decision to the local jurisdiction for reconsideration.

(c) If the Council refers the decision for reconsideration pursuant to Subsection (b), the local jurisdiction shall, within thirty (30) working days, but no sooner than ten (10) days, reconsider its action and render a final decision thereon. Notice of such final decision shall be sent as soon as possible to the Council, the State Office of Management, Budget and Planning and the applicant.

#### §9223. Waiver of Requirement

The State Office of Management, Budget and Planning, with the concurrence of all other State agencies, may, for good cause, stated in writing, waive the requirements of this Subchapter for the purpose of expediting a proposed land use planning action.

§9224. Relationship to Other State and Local Review, Comment and Permitting Provisions

This Subchapter shall not reduce any authority exercised by any State agency as it may relate to the proposed land use planning action, the applicant, or the procedural requirements relating to an application for State approval.

§9225. State Land Use Planning Actions Subject to the Process

State land use planning actions subject to this Subchapter are ones of local concern which include, but are not limited to: (1) adoption or amendment of the Delaware Comprehensive Development Plan or portion thereof; (2) the adoption or amendment of Capital Improvement Programs as defined herein; (3) the adoption or amendment of facilities plans; (4) actions relating to planning or construction of major facilities for public and private institutions; and (5) any land use planning action involving a Critical Area as defined herein.

§9226. Existing State Comprehensive Development Plan

(a) Notwithstanding any provision of this Chapter or other law, the State shall review its respective Comprehensive Development Plan, Capital Improvements Program and facilities plans for the purpose of determining whether such plans and actions arbitrarily affect local jurisdictions, socially, economically, fiscally or environmentally. The State's interest which affect local jurisdictions shall be one factor which may be considered in the determination of whether such action is arbitrary.

(b) If any State agency determines its plan or program arbitrarily affects local jurisdictions, it shall amend such plan or program within three (3) months of such determination to remedy the arbitrary action.

(c) If a local jurisdiction determines that a State plan arbitrarily affects a jurisdiction, the local jurisdiction shall, within six (6) months from the effective date of this Chapter, notify the appropriate State agency of such determination and the reasons therefor.

(d) The State agency shall, within three (3) months, determine if it agrees with any determination made pursuant to Subsection (c). If the State agency agrees, it shall amend the plan or program in accordance with Subsection (b). If the State agency disagrees, the decision to retain the plan or program shall constitute a land use planning deci-

sion and shall be subject to the referral process set forth in §9232; provided, however, that the plan or program shall remain in effect until all referrals filed pursuant to this Subchapter are completed.

**§9227. Notification to Local Jurisdiction of Proposed State Action**

Any State agency, as defined herein, undertaking a land use planning action as defined herein shall notify the local jurisdiction thirty (30) working days prior to said action. The State agency shall notify the appropriate local jurisdiction which will be impacted by said action. Such notice shall be transmitted to the appropriate office of each affected local jurisdiction.

**§9228. Local Jurisdiction's Responsibility to the State Agencies**

(a) The local jurisdiction shall, upon receipt of any notice, review the proposed land use planning action and make written comments, as it deems necessary, on the proposed land use planning action.

(b) Local jurisdiction comments on any proposed State land use planning action shall expressly consider matters subject to its purview, including but not limited to:

(1) The policy recommendations of the Delaware Tomorrow Commission as stated in the Commission's January 29, 1976, Final Report;

(2) The local jurisdiction's Comprehensive Development Plan;

(3) The impact of the proposed action upon the economic environment, including but not limited to matters of employment and taxation;

(4) The impact of the proposed action upon the physical environment, including but not limited to air and water quality, and natural resources;

(5) The impact of the proposed action upon the social environment, including but not limited to equal opportunity for employment, housing, education and health care;

(6) The fiscal impact of the proposed action, including capital, operating and maintenance costs;

(7) The energy implications of said action, including but not limited to resource development and utiliza-

tion.

**§9229. Local Jurisdiction's Responsibility to State Agencies**

The local jurisdictions shall transmit comments on the proposed land use action to the State Office of Management, Budget and Planning within twenty (20) working days of receipt of notice pursuant to §9227; and thereafter the Office of Management, Budget and Planning shall transmit such comments to all other State agencies forthwith and without delay; provided, however, that the State Office of Management, Budget and Planning may grant reasonable extensions to the comment period.

**§9230. State Hearings**

(a) Any local, regional, or federal agency shall be permitted to comment on any proposed State land use planning action subject to this Subchapter at any public hearing provided by the State agency. The State agency shall provide the local jurisdictions with a timely notice of any such hearing.

(b) Where no hearing by the State agency is provided for a proposed State land use planning action subject to this Subchapter, the local jurisdictions may, within twenty (20) working days of receipt of the notice provided pursuant to §9227, require, by providing a written notice to the appropriate State agency, that the State agency provide a public hearing on the proposed State land use planning action.

**§9231. State Agency Consideration, Decision and Notice**

(a) Nothing in this Subchapter shall be construed to deny State agencies the final decision-making authority, which such jurisdictions presently possess over proposed State land use planning actions.

(b) State agencies which have final authority for approving any proposed State land use planning action subject to this Subchapter shall not make any final decision on any such proposal until the local jurisdictions have had an opportunity to comment on the proposed action in accordance with this Subchapter; provided, however, that any final decision may be made if:

(1) The prescribed period for local jurisdictional comment and any extensions thereto granted pursuant to §9229 has expired and the local jurisdiction has not submitted comments pursuant to §9229 or required a hearing pursuant to §9230; or

(2) The local jurisdiction has indicated it has no comments and does not require a hearing pursuant to the provisions of this Subchapter.

(c) If timely comments are submitted by the local jurisdiction, the State agency shall consider such comments prior to making any decisions.

(d) If a public hearing is required by the local jurisdiction pursuant to §9230, the State agency shall consider the comments offered at such hearing prior to making any decision.

(e) The State agency shall, in accordance with the provisions of this Subchapter, make its final decision and notify the local jurisdiction of such decision as soon as possible. The State agency shall provide a written rationale for its decision to accompany such notice. The rationale shall include a discussion of local jurisdictional comments and recommendations; provided, however, that no such rationale or notice shall be required unless the local jurisdiction has submitted comments pursuant to §9229.

(f) The final decision and rationale required pursuant to this section shall be filed with the State Office of Management, Budget and Planning and be made available for public review.

§9232. Referral to Council on State Planning

(a) The local jurisdiction may, within ten (10) working days following the receipt of the notice provided pursuant to §9227, refer a final decision made under §9231 or §9226 to the Council on State Planning, established pursuant to Chapter 91, of this Title, by filing a Notice of Referral to the Council, with the State Office of Management, Budget and Planning, on a form prescribed by the Council setting forth the grounds for its referral.

(b) Except for Capital Improvements Programs, no final decision made pursuant to §9231 shall take effect if:

(1) The ten (10) working day referral period established by this section has not expired and the local jurisdiction has not waived the right to referral; or

(2) The local jurisdiction refers the final decision pursuant to this Section.

(c) The Council shall provide the applicant, the local jurisdiction, State agencies and other interested parties an

opportunity to submit comments on the proposed land use planning action.

(d) The Council shall have thirty (30) working days following receipt of any Notice of Referral filed pursuant to this Section to render its decision.

(e) The Council may adopt rules and regulations, as necessary, to carry out the provisions of this Section.

**§9233. Council Decision**

(a) The only grounds for requiring a reconsideration of a final decision of the State agency shall be that the decision:

(1) Is unreasonable; or

(2) Fails to adequately consider the comments of the local jurisdiction.

(b) If the Council determines that the State agency's final decision issued pursuant to §9231 or §9226, is unreasonable or fails to adequately consider the local jurisdiction's comments, the Council shall refer the decision to the State agency with responsibility for reconsideration.

(c) If the Council refers the decision for reconsideration pursuant to Subsection (b), the State shall, within thirty (30) working days, but no sooner than ten (10) working days, reconsider its action and render a final decision thereon. Notice of such final decision shall be sent as soon as possible to the Council, the Office of Management, Budget and Planning, the local jurisdiction, and the applicant.

**§9234. Waiver of Requirement**

The local jurisdiction may, for good cause state in writing, waive the requirements of this Subchapter for the purpose of expediting a proposed land use planning action.

**§9235. Relationship to Other State and Local Review, Comment and Permitting Provisions**

(a) This Subchapter shall not reduce any authority exercised by any local jurisdiction as it may relate to the proposed land use planning action, the applicant, or the procedural requirements relating to an application for local approval.

(b) No local jurisdiction may submit comments on a proposed State land use planning action subject to this Subchapter if, during a previous State land use planning action regarding the same proposed use and applicant, such local agency chose not to comment; except any local agency may comment if the proposal, or information related thereto, substantially has changed from that presented at the time of the previous actions, or if more than one year has expired since the previous action.

(c) All laws or ordinances inconsistent with the provisions of this Subchapter are hereby superseded to the extent of the inconsistency.

### SUBCHAPTER III. PROCESS FOR STREAMLINING STATE REGULATORY AND REVIEW PROCESSES

#### \$9241. Review of Present Processes

The State Office of Management, Budget and Planning and the Department of Community Affairs and Economic Development created pursuant to Chapter 86, Title 29, Delaware Code, shall, with the assistance and cooperation of each other and all other State agencies, review the present State regulatory and review processes required prior to development in the State for the purpose of streamlining such processes to avoid duplication and delay and to clarify and simplify such processes.

#### \$9242. Preparation of Report

(a) The State Office of Management, Budget and Planning and the Department of Community Affairs and Economic Development shall jointly prepare a report detailing the findings of the review conducted pursuant to §9241 and outlining recommendations for achieving the purposes of this Subchapter. The report shall include specific recommendations consistent with the objectives of this Subchapter to the General Assembly for amending the regulatory review process employed by State agencies under present law. In addition, the report shall include specific recommendations, consistent with objectives of this Subchapter, to the State agencies for amending their current practices and procedures within the existing State statutory and regulatory framework.

(b) The report prepared pursuant to this Section, shall be completed and distributed to the General Assembly and all State agencies forthwith.

\$9243. Immediate Modification of Current Processes

Where not otherwise prohibited and to the extent practicable, all State agencies are hereby encouraged to immediately, or as soon as possible, provide for:

(a) Joint hearings with local jurisdictions in satisfaction of said agencies' hearing requirements;

(b) Modification of permit application form(s) and procedures in order to expedite their processing of permit applications; and

(c) Consolidation of individual State review, comment and approval processes in order to facilitate State action on permit applications.

\$9244. Action Reported

Within six (6) months of the issuance of the report prepared pursuant to §9242(b), all State agencies shall advise the Governor and the General Assembly of the respective actions taken by the agencies pursuant to §9242 and §9243."

Section 3. The provisions of this Subchapter shall be severable and if any phrase, clause, sentence, or provision of this Act is declared to be unconstitutional or the applicability thereof to any legal entity is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to any other legal entity shall not be affected thereby.

Approved July 12, 1978.

## CHAPTER 522

FORMERLY SENATE BILL NO. 359  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7, DELAWARE CODE, TO PROVIDE FOR AN ACCELERATION AND EXTENSION OF THE PROGRAM FOR CONTROL OF SOIL EROSION AND SEDIMENT DAMAGE RESULTING FROM LAND DISTURBING ACTIVITIES WITHIN THE STATE; TO PROVIDE FOR ADOPTION OF A COMPREHENSIVE STATEWIDE SOIL EROSION AND SEDIMENT CONTROL PROGRAM AND GUIDELINES AND FOR ADOPTION BY SOIL CONSERVATION DISTRICTS OF SOIL EROSION AND SEDIMENT CONTROL PROGRAMS CONSISTENT WITH SUCH STATEWIDE PROGRAM AND GUIDELINES; TO REQUIRE THE FILING AND APPROVAL OF PLANS FOR THE CONTROL OF SOIL EROSION AND SEDIMENT DAMAGE IN CONNECTION WITH LAND DISTURBING ACTIVITIES; TO PROVIDE FOR INSPECTIONS AND REPORTS; TO DECLARE CERTAIN ACTS TO BE UNLAWFUL; TO PROVIDE FOR ADMINISTRATION AND ENFORCEMENT; TO PROVIDE FOR FINANCIAL AND OTHER ASSISTANCE TO DISTRICTS AND THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL FOR THE PURPOSES OF THIS ACT, AND MAKING AN APPROPRIATION FOR THOSE PURPOSES; AND FOR OTHER PURPOSES.

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

Section 1. Title 7, Delaware Code, is amended by inserting a new Chapter 40 to be entitled "Erosion and Sediment Control Act" to read as follows:

"CHAPTER 40. EROSION AND SEDIMENTATION CONTROL

SUBCHAPTER I. POLICY AND DEFINITIONS

\$4001. Policy

The General Assembly finds that erosion continues to be a serious problem throughout the State, and that rapid shifts in land use from agricultural and rural to non-agricultural and urbanizing uses, changes in farm enterprises, operations, and ownership, construction of housing, industrial and commercial developments, streets, highways, recreation areas, schools, and universities, public utilities and facilities, and other land disturbing activities have accelerated the process of soil erosion and sediment deposition resulting in pollution of the waters of the State and damage to domestic, agricultural, industrial, recreational, fish and wildlife, and other resource uses. It is, therefore declared to be the policy of this chapter to strengthen and extend the present erosion

and sediment control activities and programs of this State for both rural and urban lands, and to establish and implement, through the Department of Natural Resources and Environmental Control, hereinafter referred to as the 'Department', and the soil conservation districts created under Chapter 39 of this Title, hereinafter referred to as 'districts', in cooperation with counties, municipalities and other local governments and subdivisions of this State, and other public and private entities, a statewide comprehensive and coordinated erosion and sediment control program to conserve and protect land, water, air, and other resources of the State.

#### §4002. Definitions

(a) 'Land disturbing activity' means any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the State, including, but not limited to, tilling, clearing, grading, excavating, transporting and filling of land, other than Federal lands, except that the term shall not include such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.

(b) 'Person' means any State agency, individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or other political subdivision of this State, any interstate body, or any other legal entity.

(c) 'State waters' means any and all waters, public or private, on the surface of the ground, which are contained within, flow through, or border upon the State or any portion thereof.

(d) 'Erosion and sediment control plan' or 'plan' means a plan for the control of soil erosion and sediment resulting from a land disturbing activity.

(e) 'Conservation standards' or 'standards' means standards adopted by the Department or the districts pursuant to §4003 and §4004, respectively, of this chapter.

#### SUBCHAPTER II. DEVELOPMENT AND IMPLEMENTATION OF EROSION AND SEDIMENTATION CONTROL PROGRAM

##### §4003. State Erosion and Sediment Control Program

(a) The Department shall, in cooperation with appropriate State and Federal agencies and political subdivisions of the State, develop and coordinate a comprehensive State erosion and sediment control program.

(b) To implement this program, the Department shall develop and adopt, no later than six months from the effective date of the chapter, regulations for erosion and sediment control, which regulations may be revised from time to time as may be necessary. The regulations for carrying out the program shall:

(1) be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the State, including, but not limited to, data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

(2) include such survey of lands and waters as may be deemed appropriate by the Department or required by any applicable law to identify areas, including multi-jurisdictional and watershed areas, with critical erosion and sediment problems;

(3) contain conservation standards for various types of soils and land uses, which standards shall include criteria, techniques, and methods for the control of erosion and sediment;

(4) provide for escrow accounts or performance bonds, as necessary, to insure the financial responsibility of any person engaging in land disturbing activities.

(c) The program and regulations shall be made available for public inspection at the office of the Department.

\$4004. District Erosion and Sediment Control Program

(a) Each district in the State shall, within one year after the adoption of the State regulations, develop, in cooperation with appropriate State and Federal agencies and political subdivisions of the State, and adopt a soil erosion and sediment control program consistent with the State program and regulations for erosion and sediment control. The district program may incorporate county or municipal programs if such programs are consistent with the State program for erosion and sediment control.

(b) Prior to adoption of a new or revised district program, the district shall notify the public of the proposed program in accordance with the provisions of Chapter 64, Title 29, Delaware Code, and conduct a public hearing on the program.

(c) Upon adoption of a new or revised district program, the district shall submit the program to the Department for review and approval. If a district fails to submit a program consistent with the State program to the Department within the period specified herein, the Department shall, after such hearing or consultations as it deems appropriate with local interests in the district, develop and adopt an appropriate program to be carried out by the district.

(d) The adopted and approved district program shall be made available for public inspection at the principal office of the district.

(e) If a district fails to carry out any of its responsibilities under this chapter, the Department shall, after such hearings or consultations as it deems appropriate, carry out such responsibilities until the Department is reasonably assured the district will carry out such responsibility.

#### \$4005. Interim Program

The Department shall adopt and implement such rules and regulations as are necessary to carry out the policies of \$4001 of this chapter for that period prior to adoption and implementation of district programs pursuant to \$4004 of this Chapter. The Department may rely on existing State and local programs for erosion and sediment control to the extent practicable. Provided, the interim program shall not apply to agricultural or forestry practices, or to other activities on lands of less than 20 acres.

### SUBCHAPTER III. PROHIBITED LAND DISTURBING ACTIVITIES

#### \$4006. Certain Agricultural and Forestry Practices Exempted

(a) All agricultural or forestry practices on agricultural or forestry lands shall be deemed not to be land disturbing activities and shall not be subject to the provisions of this Chapter if:

(1) they take place on lands in parcels of one acre or less; or

(2) they take place on lands with an average slope of less than six percent as measured between points on opposite or adjacent property lines of the same parcel; or

(3) the Secretary of the Department determines, based on the standards of the soil conservation district, that such practices (i) do not create an erosion or sedimentation problem affecting State waters or other land of another owner, operator or occupier, or (ii)

are not inconsistent with the policy of this Chapter.

Provided, however, only that part of the parcel of agricultural or forestry lands in productive use shall be subject to these exemptions:

(b) Any person owning, occupying, or operating private agricultural or forestry lands who has a farm conservation plan approved by the district and is implementing and maintaining such plan with respect to normal agricultural and forestry activities, or any person whose normal agricultural and forestry practices are in conformance with the conservation standards established pursuant to this chapter, shall be deemed not to be engaged in land disturbing activity prohibited by this chapter.

(c) If there is not available to any owner, operator, or occupier of private agricultural or forestry lands at least 50 percent cost-sharing assistance or adequate technical assistance for the installation of erosion and sediment control measures required in an approved farm conservation plan, or for measures to conform agricultural and forestry practices to conservation standards established pursuant to this chapter, any such owner, occupier, or operator who shall fail to install erosion and sediment control measures required in an approved farm conservation plan, or to conform his agricultural and forestry practices to such conservation standards, shall be deemed not to be engaged in land disturbing activity prohibited by this chapter.

(d) If any owner, operator or occupier of private agricultural or forestry lands is unable to pay the private share required for participation in cost-sharing assistance pursuant to subsection (c) of this section, the District may waive such requirement, and such owner, operator or occupier shall be deemed not to be engaged in land disturbing activities. In waiving such requirement, the District shall consider:

- (1) the need for relief from the requirement;
- (2) the extent to which soil conservation practices are or have been applied by such owner, operator or occupier to the lands in question;
- (3) the expected duration of the erosion and sedimentation problem;
- (4) the extent and magnitude of the lands in question; and

(5) the willingness of the owner, operator or occupier to follow sound soil conservation practices to the best of their ability. Any waiver shall be reviewed on a year-by-year basis.

(e) Agricultural or forestry practices completed within eighteen months of the effective date of this chapter shall be deemed not to be land disturbing activities and shall not be subject to the provisions of this chapter.

**\$4007. Certain Non-Agricultural and Non-Forestry Practices Exempted**

Land disturbing activities, which are not agricultural or forestry practices, completed within eighteen months of the effective date of this chapter shall be deemed not to be land disturbing activities and shall not be subject to the provisions of this chapter unless the interim program developed pursuant to §4005 so provides. Provided, only land disturbing activities on lands of at least 20 acres shall be subject to said interim program.

**\$4008. Prohibited Land Disturbing Activities; Erosion Control Plan Submission and Approval**

(a) Except as provided in §4006 and §4007, no person may engage in any land disturbing activity until such person has submitted to the district a plan for erosion and sediment control for such land disturbing activity and such plan has been reviewed and approved by the district, except that (1) when proposed land disturbing activities are to be performed on State lands or by or on behalf of a State agency, plans for erosion and sediment control shall be submitted to the Department instead of the district for review and approval, and (2) where land disturbing activities involve lands in more than one district, plans for erosion and sediment control may, as an alternative to submission to each district concerned, be submitted to the Department for review and approval.

(b) Upon submission of an erosion and sediment control plan to a district or to the Department:

(1) The district shall review plans submitted to it and shall approve any such plan if it determines that the plan meets the conservation standards of the district, and if the person responsible for carrying out the plan certifies that the person will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this chapter; and

(2) The Department shall review plans submitted to it and shall approve any such plan if it determines that the plan adequately considers the Department's regulations and the conservation standards of the district, or districts, involved and if the person responsible for carrying out the plan certifies that the person will properly perform the conservation measures included in the plan and will conform to the provisions of this chapter.

(c) When a plan submitted for approval under this section is found, upon review by a district or the Department, to be inadequate, the district or the Department, as the case may be, may require such modifications, terms, and conditions as will permit approval of the plan.

(d) An approved plan may be changed only by the district which has approved the plan or by the Department when it has approved the plan. Such change may be made where:

(1) inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of the plan, and appropriate modifications to correct the deficiencies of the plan are agreed to by the plan approving authority and the person responsible for carrying out the plan; or

(2) the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the plan approving authority and the person responsible for carrying out the plan.

**\$4009. Approved Plan Required for Issuance of Grading, Building, or other Permits**

No agency authorized under any law or ordinance to issue grading, building, or other permits for activities involving land disturbing activities may issue any such permits unless the applicant therefor submits with his application an erosion and sediment control plan approved by the district, or by the Department where appropriate, and his certification that such plan will be followed. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

## SUBCHAPTER IV. ENFORCEMENT

§4010. Monitoring, Reports, and Inspections

(a) With respect to approved plans for erosion and sediment control in connection with land disturbing activities which involve the issuance of a grading, building, or other permit, the permit issuing authority shall provide for periodic inspections of the land disturbing activity to insure compliance with the approved plan, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from the land disturbing activities. Notice of such right of inspection shall be included in the permit. If the permit issuing authority determines that the permittee has failed to comply with the plan, the authority shall immediately serve upon the permittee by registered mail to the address specified by the permittee in the permit application a notice to comply. Such notice shall set forth the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If the permittee fails to comply within the time specified, the permittee shall be in violation of this chapter and subject to the penalties provided by this chapter.

(b) With respect to approved plans for erosion and sediment control in connection with all land disturbing activities, except agricultural and forestry operations, where no grading, building or other permit is issued, the district, or the Department in connection with plans approved by it, may require of the person responsible for carrying out the plan such monitoring and reports, and may make such on-site inspections after notice to the resident owner, occupier, or operator, as are deemed necessary to determine whether the soil erosion and sediment control measures required by the approved plan are being properly performed, and whether such measures are effective in controlling soil erosion and sediment resulting from the land disturbing activity. Such resident owner, occupier, or operator shall be given an opportunity to accompany the inspectors. If it is determined that there is failure to comply with the approved plan, the district, or the Department where appropriate, shall serve upon the person who is responsible for carrying out the approved plan a notice to comply, setting forth the measures needed to be taken and specifying the time in which such measures shall be completed. Such notice shall be by registered mail to the person responsible for carrying out the plan at the address specified by the person in the certification at the time of obtaining the approved plan. Upon failure of such person to comply within the specified period, the person will be deemed to be in violation of this chapter and subject to the penalties provided by this chapter.

(c) With respect to agricultural and forestry operations not exempted under Subsection (a), (b), (d), or (e) §4006 of this chapter, the district shall have authority to make on-site inspections to determine if the approved farm conservation plan is being followed, or where there is no such plan, to determine if the agricultural and forestry practices are being carried out in conformance with conservation standards established pursuant to this chapter. On-site inspections may be made after notice to the resident owner, operator, or occupier of the land involved, and such shall be given an opportunity to accompany the inspector. Inspectors shall not carry firearms during such inspections. If such inspections reveal that an owner, operator, or occupier of agricultural or forestry lands is not complying with the approved farm conservation plan or is not carrying out his agricultural and forestry practices in conformance with conservation standards established pursuant to this chapter, such owner, operator, or occupier shall be notified by registered mail addressed to the person at the person's usual abode or customary place of business of the measures needed for compliance. Such notice shall require that such resident owner, occupier, or operator shall commence such measures within six months from the date of the notice and shall complete the same within twelve months of such date. Upon failure to comply with such notice, the owner, occupier, or operator will be deemed in violation of this chapter and subject to the penalties provided by this chapter.

§4011. Cooperation with Federal Agencies

The districts and the Department are authorized to cooperate and enter into agreements with any Federal agency in connection with plans for erosion and sediment control with respect to land disturbing activities on lands which are under the jurisdiction of such Federal agency.

§4012. Financial and Other Assistance

The Department and the districts are authorized to receive from Federal, State, or other public or private sources financial, technical, or other assistance for use in accomplishing the purposes of this chapter. The Department may allocate, as necessary or desirable, any funds received for the purpose of effectuating this chapter to districts or other political subdivisions of the State.

§4013. Appropriation

The General Assembly shall annually appropriate to the Department a sum not in excess of \$50,000 to carry out the purposes of this chapter.

#### \$4014. Penalties

(a) Any person who violates any provision of this chapter shall be subject to a civil penalty of not more than \$2,500. Each day the violation continues shall be grounds for a separate penalty.

(b) Superior Court shall have exclusive original jurisdiction over violations under this chapter. Provided, however, that the jurisdiction of courts to hear violations of other laws or ordinances relating to erosion and sedimentation control shall not be impaired by this section.

#### \$4015. Injunctions

The Court of Chancery shall have jurisdiction to enjoin violations of this chapter. The appropriate permit issuing authority, the district, the Department, or any aggrieved person who suffers damage or is likely to suffer damage because of a violation or threatened violation of this chapter may apply to the Chancery Court for injunctive relief. Among any other appropriate forms of relief, the Chancery Court may direct the violator to restore the affected land or water area to its original condition.

#### \$4016. Cease and Desist Orders

The Attorney General shall have the power to issue a cease and desist order to any person violating any provision of this chapter by ordering such person to cease and desist from such violation. Provided, that any cease and desist order issued pursuant to this section shall expire (1) after thirty days of its issuance, or (2) upon withdrawal of said order by the Attorney General, or (3) when the order is superseded by an injunction, whichever occurs first.

#### \$4017. No Preemption

Nothing in this chapter shall be construed to prevent political subdivisions of this State from adopting and implementing more stringent standards for erosion and sedimentation control than provided by this chapter. In such case, the standards of the political subdivision shall prevail, provided the level of erosion and sedimentation control applied exceeds that required by this Chapter or regulations adopted pursuant thereto. This section shall not apply to lands owned or leased by the State of Delaware."

Section 2. If any provision of this chapter is held to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect the remaining provisions of this chapter.

Section 3. All laws or ordinances inconsistent with any provision of this chapter are superseded to the extent of the inconsistency.

Section 4. This Act shall become effective immediately upon the Governor's signature.

Approved July 12, 1978.

CHAPTER 523

FORMERLY SENATE BILL NO. 361  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 59, TITLE 29, DELAWARE CODE RELATING TO  
ENFORCEMENT OF THIS CHAPTER BY LEGAL ACTION.

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

Section 1. Amend Section 5943, Chapter 59, Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new Section 5943 to read as follows:

"§5943. Enforcement of this Chapter by Legal Action

(a) The exclusive remedy available to a classified employee for the redress of an alleged wrong, arising under a misapplication of any provision of this Chapter, the Merit Rules or the Director's Regulations adopted thereunder, is to file a grievance in accordance with the procedure stated in the Merit Rules. Standing of a classified employee to maintain a grievance shall be limited to an alleged wrong that affects his or her status in his or her present position.

(b) Any Delaware resident or State employee may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of this Chapter, the Merit Rules or the Director's Regulations adopted thereunder. Jurisdiction for such action shall lie in the Chancery Court.

(c) The State may maintain an action for the reimbursement of wages, benefits, or both, paid contrary to the provisions of this Chapter, the Merit Rules or the Director's Regulations adopted thereunder, against the recipient employee. All monies recovered in such action shall be paid to the State Treasury and credited to the account from which original payments had been drawn. The Appointing Authority may take disciplinary action against any employee in the classified service who negligently prepared the document authorizing the overpayment of wages, benefits, or both, contrary to any provision of this Chapter, the Merit Rules, or the Director's Regulations adopted thereunder. Disciplinary action shall not be taken against any employee in the classified service who merely signed such document authorizing overpayment unless the person so signing participated in the preparation of such document.

(d) Any person appointed or employed in contravention of any provision of this Chapter, the Merit Rules, or the Director's Regulations adopted thereunder, who performs services for which he is not paid may maintain an action against any officer or officers who purported to so appoint or employ him to recover the agreed wages, benefits, or both, or the reasonable value thereof, if no pay was agreed upon, plus interest, court costs, and reasonable attorney's fees.

(e) It shall be the obligation of the Appointing Authority to determine that documents necessary for placing a person on the State payroll are properly executed prior to the date that the employee begins, transfers to, promotes to, demotes to, or in any other way changes his position in State employment. Documentation, depending on the position to be filled, consists of some or all of the following:

- (1) Job application,
- (2) Certification list,
- (3) Copy of the job posting if a permanent position,
- (4) Written notification signed by the Appointing Authority stating:
  - (i) Position being filled,
  - (ii) Pay grade and step of the employee,
  - (iii) Employee's gross pay each pay period,
  - (iv) Source of funding of the position,
  - (v) Two (2) copies of the employee's Social Security card,
- (5) One (1) executed copy of the appropriate State Personnel transaction form, and
- (6) Hiring approval during a hiring freeze.

In the event that an employee otherwise qualified for classified service is properly appointed but improperly placed on the State payroll, the State shall be liable for the wages, benefits, or both, of the employee during the first ten (10) working days of the employee's employment. In the event that the employee is not properly placed on the State payroll by the end of the employee's tenth working day, the Appointing Authority shall lay off the employee until the

employee is properly so placed, or be liable to the employee for his wages, benefits, or both, in accordance with subsection (d) of this section. The review date for persons not properly placed on the State payroll shall be the date the person first reported for duty in that position.

(f) For the purpose of subsections (d) and (e) of this section, the Director of State Personnel or his designate shall determine whether an employee is properly appointed. The Director or his designate shall signify his approval by signing the State Personnel Transaction Form supplied by the Agency. The signature of the Director or his designate shall relieve any officer or Appointing Authority from liability, because of an improper appointment, except where the improper appointment was effected through the fraud of any officer or Appointing Authority. The signature of the Director or his designate shall similarly relieve any Officer or Appointing Authority from liability for the payment of wages, benefits, or both, arising under subsections (d) and (e) of this section, except where the officer or Appointing Authority is grossly negligent in disregarding any provision of this Chapter, the Merit Rules, or the Director's Regulations adopted thereunder. Such signature by the Director or his designate shall not prevent the Appointing Authority from taking disciplinary action against any employee in the classified service who negligently prepared the document authorizing the overpayment of wages, benefits, or both.

(g) If the Appointing Authority wrongfully withholds certification of the payroll account of any employee, such employee may maintain a proceeding to compel the Appointing Authority to certify such payroll account.

(h) No action for the reimbursement of wages, benefits, or both, improperly paid to a State employee shall be brought after the expiration of three (3) years from the date the wages, benefits, or both were improperly paid.

(i) The provisions of Section 8111, of Title 10, shall be applicable to employment between a person and the State.

(j) Following the passage of this Act, all State Agencies shall conduct audits of the payroll records of each of its employees. In the event that the audit indicates that a discrepancy exists between the amount actually paid and the amount that should have been paid, the Agency shall notify the employee, the Appointing Authority, the Secretary of Finance, and the Auditor of Accounts, with sufficient documentation to point out the source and amount of the discrepancy, within ten (10) calendar days of the date of the completion of the audit. In the event that the audit indicates

an overpayment, the Appointing Authority shall provide the Attorney General with the same notice provided the employee. The Attorney General may proceed in accordance with subsection (c) of this section. The Appointing Authority shall, within one pay period, correct the discrepancy on proper personnel payroll forms.

(k) For the purpose of this Chapter, 'Appointing Authority' shall be as defined in the Merit Rules adopted pursuant to Section 5914, of Title 29.

(l) Notwithstanding the provisions of any section of the Delaware Code, or any uncodified section of the Delaware law to the contrary, no action for reimbursement as hereinbefore described shall be brought by the State for the overpayment of wages or benefits made, up to and including the last day of the pay period following the date this Act becomes effective.

(m) To permit all State agencies to comply and conduct the audit required by subsection (i) of this Act, this Act shall become effective six (6) months from the date it is signed."

Approved July 12, 1978.

CHAPTER 524

FORMERLY SENATE BILL NO. 572  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 5 OF THE DELAWARE CODE RELATING  
TO LOAN LIMITATIONS.

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

Section 1. Amend §909 of Chapter 9, Title 5, Delaware Code,  
by adding at the end of paragraph (b) thereof the following:

"Nor shall such limitations apply to the sale of  
Federal funds to banks insured by the Federal Deposit Insur-  
ance Corporation, or the purchase of securities under agree-  
ments to resell provided such sales and purchases shall be  
repayable on the banking day next following their date of  
execution."

Approved July 12, 1978.

## CHAPTER 525

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

AN ACT TO AMEND PART IX, TITLE 29 DELAWARE CODE AND CHAPTER 31, TITLE 20, DELAWARE CODE ESTABLISHING THE DELAWARE ENERGY OFFICE IN THE EXECUTIVE DEPARTMENT, ACHIEVING EFFECTIVE MANAGEMENT OF ENERGY FUNCTIONS OF THE STATE GOVERNMENT, PROVIDING FOR DEVELOPMENT OF A COMPREHENSIVE STATE ENERGY PLAN AND POLICY, PROVIDING FOR DEVELOPMENT OF A STATE EMERGENCY ENERGY SHORTAGE CONTINGENCY PLAN, ENSURING FULL AND EFFECTIVE PUBLIC PARTICIPATION IN THE FORMULATION AND IMPLEMENTATION OF A DELAWARE ENERGY POLICY, PROVIDING FOR EMERGENCY POWERS TO MITIGATE SHORTAGES IN USABLE ENERGY RESOURCES AND ESTABLISHING AN ENERGY FACILITY SITING COMMITTEE.

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

Section 1. Amend Part IX, Title 29 of the Delaware Code by adding a new Chapter 92 thereto, to read as follows:

"CHAPTER 92.\* DELAWARE ENERGY ACT OF 1978

§9201. Establishment of Delaware Energy Office

(a) The Delaware Energy Office is established in the Executive Department responsible to the Governor, and shall have the powers, duties and functions vested in the Office by the provisions of this chapter.

§9202. Legislative Findings and Purpose

(a) The General Assembly finds and declares that:

(1) An adequate, reliable and continuous supply of energy is essential to the health, safety and welfare of the citizens of this State and to the sustained growth of the Delaware economy;

(2) Delaware is seriously threatened and adversely affected by the increasing shortage of nonrenewable energy resources;

(3) Growth in the consumption of energy resources is in some part due to wasteful, uneconomic and inefficient uses of energy, and continuation of this trend will adversely affect the social, economic and environmental development of Delaware.

\*Restyled as Chapter 94 by Code Revisors.

(4) It is the responsibility of State government to encourage and foster a reliable and adequate supply of energy for Delaware at a level consistent with the protection of public health and safety, the promotion of general welfare and economic wellbeing, and the protection of environmental quality.

(5) The State must provide for the development of a unified State energy policy, and the existing duplication and overlapping of responsibilities for energy policy and energy-related matters among various State departments, divisions, commissions, and agencies prevents comprehensive and effective planning to ensure a reliable and adequate supply of energy for Delaware citizens and the State economy;

(6) Therefore, the establishment of the Delaware Energy Office is in the public interest and will promote the general welfare by assuring coordinated and efficient management of State energy policy and programs.

(b) The purpose of this Chapter is:

(1) To establish the Delaware Energy Office in the Executive Department;

(2) To provide for development of a comprehensive State energy plan and policy;

(3) To achieve, through the Delaware Energy Office in cooperation with the Public Service Commission, the Office of Management, Budget and Planning, and the Department of Natural Resources and Environmental Control, effective management of energy functions of the State government;

(4) To provide for development of a State emergency energy shortage contingency plan in order to ensure the health, safety and welfare of Delaware citizens and industry during any public emergency caused by an actual or impending acute shortage in usable energy resources;

(5) To encourage and ensure full and effective public participation in the formulation and implementation of a Delaware energy policy.

#### **§9203. State Policy**

It shall be the energy policy of the State:

(a) To ensure, to the maximum extent practicable,

an adequate and reliable supply of energy for all citizens, businesses and industry of the State;

(b) To foster the prudent research, development and use within Delaware of a diverse array of energy resources, with emphasis on renewable energy resources, and on domestic offshore fossil fuel resources which by reason of their proximity to Delaware can be developed consistent with the energy, environmental and economic needs of the State and the nation;

(c) To employ energy conservation techniques, including performance standards, energy audits and life-cycle cost analysis, in the design, construction and renovation of State-owned and State-assisted facilities, and in the procurement of State materials and supplies;

(d) To promote energy conservation in the construction and operation of new residential and non-residential buildings, industrial plants, and electric power plants, through the application of heating, ventilation, cooling, insulation, and design techniques, energy efficiency guidelines, energy audits, and life cycle cost analysis;

(e) To cooperate with and assist departments and other agencies or instrumentalities of Federal, state and local governments, as well as regional, metropolitan, county, municipal or other local or private agencies in the development, implementation and coordination of energy policies and programs;

(f) To encourage energy efficient modes of transportation for people and goods, including, but not limited to public transportation, park-and-ride lots, vanpools and carpools, variable working schedules, preferential traffic controls, and urban area traffic restrictions;

(g) During emergency energy shortages, to assist Delaware citizens and industry in managing scarce energy resources in order to maintain the public health, safety and welfare and minimize the adverse impact on the physical, social and economic well-being of the State;

(h) To assist and advise industries, businesses and public utilities of this State in the application of energy conservation and supply enhancement measures in industrial and commercial apparatus and processes, and to seek and promote the availability of reliable

and abundant energy resources for the use of industrial, commercial and public utility energy users in the State.

(i) To minimize, consistent with the statutory environmental and land use policies of this State, regulatory delay in the siting of energy facilities in Delaware caused by overlapping and duplicative permit system applicable to such facilities;

(j) To promote and secure the location within Delaware of projects, programs, institutions, grants, loans, funds and other public or private capital investment for the research, development, innovation and demonstration of uses, processes, apparatus, and other applications of energy technologies utilizing renewable energy resources, or offshore fossil fuel resources;

(k) To assure that State energy policies and plans developed under this chapter shall be, to the maximum extent practicable, consistent with the statutory environmental policies of the State;

(l) To protect energy consumers and users from unfair, deceptive, and anticompetitive acts and practices employed in the marketing, advertising and sale of energy conserving goods and services;

(m) To assure, to the highest degree possible, that the productive capacity of private enterprise, public education, and voluntary initiative are utilized in the development and achievement of the policies and purposes of this chapter; and

(n) To provide a source of impartial and objective information in order that this energy policy may be achieved.

#### §9204. Definitions

(a) 'Agency' means and includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, or any independent regulatory agency.

(b) 'Appliance' means any energy consuming article or device designed for household use, the primary purpose of which is labor saving or personal convenience and which, although connected to public utilities servicing a building is not attached to the building in such a way that it would

be considered part of the building or building system. Water heaters, central heat pumps, central air conditioners, and central heating units are not appliances for the purpose of this chapter.

(c) 'Building' means any structure which includes provision for a heating, ventilating, and/or a cooling system or for a hot water system.

(d) 'Building Code' means any minimum property standards adopted by any local government or other political subdivision of the State.

(e) 'Carpool' means a joint arrangement by a group of private automobile owners in which each in turn drives his own car and carries the other passengers.

(f) 'Construction' means onsite work to install permanent equipment or structure for any facility, but does not include the installation of pollution control equipment.

(g) 'Director' means the Director of the Delaware Energy Office.

(h) 'Distillate fuel oil' means any fuel oil, gas oil topped crude oil, or other petroleum oils (except refined petroleum wax) derived by refining or processing crude oil or unfinished oils, in whatever type of plant such refining or processing may occur, which has a boiling range at atmospheric pressure which falls completely or in part between 550° and 1200° F.

(i) 'Electric power plant' means any electric generating unit, including a gas turbine or a combined cycle unit, which produces electric power for purposes of sale or exchange and has the design capability of consuming any energy resource (or mixture or combination thereof).

(j) 'Energy' means work or heat that is, or may be, produced from any fuel or source whatsoever.

(k) 'Energy audit' means a process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of an energy conservation measure or renewable energy resource measure.

(l) 'Energy conservation' means the efficient use of energy resources.

(m) 'Energy conservation measure' means a modification which has been determined by means of an energy audit or by

the Office, by rule, to be likely to improve the efficiency of energy use and to reduce energy costs in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure, without regard to any tax benefit or applicable Federal financial assistance, within the period of the useful life of the modification involved, or 15 years after the purchase and installation of such measure, whichever is less. Such term does not include the purchase or installation of any appliance, or any conversion from an energy resource to natural gas, residual fuel oil, or distillate fuel oil.

(n) 'Energy distributor' means each person, wherever resident or located, who imports into this State energy resources for use, distribution, storage, or sale in this State after the same shall reach this State; and also each person who produces, refines, manufactures, blends, or compounds energy resources and sells, uses, stores, or distributes the same within this State. In no case, however, shall a retail dealer be construed to be a distributor.

(o) 'Energy efficiency guidelines' means, with respect to particular buildings, industrial plants, appliances, or energy resource consuming articles, the measures or minimum accepted levels of energy conservation which the Office determines to be appropriate for the location and category of such or similar buildings, industrial plants, appliances, energy resources or energy consuming articles.

(p) 'Energy facility' means any plant, operation, or supporting facility thereof which produces, converts, distributes or stores energy or converts one form of energy to another; in no case, however, shall an operation conducted by a person acting only as a retail dealer be construed as an energy facility.

(q) 'Energy information' includes (A) all information in whatever form on (i) fuel reserves, exploration, extraction, and energy resources (including petrochemical feedstocks) wherever located; (ii) production, distribution, and consumption of energy and fuels wherever carried on; and (B) matters relating to energy and fuels, such as corporate structure and proprietary relationships, costs, prices, capital investment, and assets, and other matters directly related thereto, wherever they exist.

(r) 'Energy resources' means any force or material which yields or has the potential to yield energy, including but not limited to electricity, petroleum products, residual fuel oil, distillate fuel oil, natural gas, methane, lique-

fied natural gas, manufactured or synthetic fuel gases, coal, solid wastes, biomass, wood, solar radiation, geothermal or mineral formations, thermal gradients, wind, water, enriched uranium, U235 and U238, plutonium, U239 or other nuclear fuels.

(s) 'Environmental residual' means any pollutant or pollution-causing factor which results from any activity.

(t) 'Industrial plant' means any fixed equipment or facility, other than an electric power plant, which is used in connection with, or as part of, any process system for industrial production or output which includes a boiler, gas turbine unit, combined cycle unit or internal combustion engine which consumes and is designed to consume a non-renewable energy resource (or mixture or combination thereof).

(u) 'Insulation material' means any material or assembly of materials used primarily to provide resistance to heat flow, including mineral fibrous, mineral cellular, organic fibrous, organic cellular or reflective materials, whether in loose-fill, flexible, semi-rigid or rigid form.

(v) 'Life-cycle cost' means the total costs of owning, operating, and maintaining a building, industrial plant, appliance, or energy consuming article over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative costs for such buildings, industrial plants, appliances, or energy consuming articles.

(w) 'Life cycle cost analysis' means the estimation and comparison of the life-cycle costs of buildings, industrial plants, appliances, or energy-consuming articles so as to increase the efficient use of a particular building, industrial plant, appliance, or energy-consuming article.

(x) 'Local Government' means any political subdivision of the State.

(y) 'LPG' means propane and butane, but not ethane.

(z) 'Minimum property standards' means rules and regulations adopted by the Federal government, the State or any political subdivision thereof, including any local government, establishing minimum accepted levels of site design, site preparation, exterior and interior appurtenances which apply to buildings or industrial plants.

(aa) 'Nonrenewable energy resources' means energy resources which are not renewable energy resources.

(bb) 'Non-residential building' means any building which is not a residential building or industrial plant, including, but not limited to any building which is open to the public during normal business hours; any building which provides facilities or shelter for public assembly; any building used for educational, office or institutional purposes; any office building; any sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment which provides services or retails merchandise; any portion of an industrial plant used primarily as office space; any building owned by any state or any political subdivision or agency thereof, including libraries, museums, schools, hospitals, auditoriums, sports arenas, and university buildings.

(cc) 'Office' means the Delaware Energy Office established by this Chapter.

(dd) 'Offshore' means any portion of the Delaware coastal zone as defined in Title 7, Chapter 70 of the Delaware Code, of Delaware underwater lands as defined in Title 7, Chapter 61, of the Delaware Code, or of the Outer Continental Shelf, as defined by Federal law, contiguous to the Delaware coastal zone or Delaware underwater lands.

(ee) 'Operation' means the use of a facility for any purpose during its useful life following the completion of site selection and construction of such facility.

(ff) 'Performance standards' means rules and regulations adopted by the Office which establish minimum accepted levels of site design, site preparation, exterior and interior appurtenances which apply to State-owned or State-assisted buildings or industrial plants, or which establish minimum accepted levels of life-cycle cost and life-cycle cost analysis which apply to State purchasing and procurement practices.

(gg) 'Person' means any individual, public or private corporation, partnership, firm, association, organization, trustee or other fiduciary appointed pursuant to law or by any court, company, municipality, town, county, board, bureau, commission, department, authority, agency, committee, council, legislative committee, school district, public agency, public utility, the State or any agency, political subdivision, or instrumentality thereof, the United States to the extent authorized by Federal law, or other legal entity.

(hh) 'Petroleum product' means crude oil, residual fuel oil, or any refined petroleum product.

(ii) 'Public utility' means a facility that generates electricity, by any means, and sells it to the public.

(jj) 'R-value' means the numerical measure of the degree of thermal resistance of a particular material or assembly of materials, expressed at the mean temperature of the material or assembly of materials under design conditions.

(kk) 'Renewable energy resource' means energy resources which are capable of being continuously restored by natural or other means, or which are so large as to be useable for centuries without significant depletion, and include but are not limited to solar radiation, solid wastes, biomass, wind, geothermal formations, tidal and other water resources, thermal gradients, deuterium and hydrogen.

(ll) 'Renewable energy resource measure' means a modification which has been determined by means of any energy audit or by the Office, by rule, to involve changing, in whole or in part, the energy resources used to meet the requirements of any building or industrial plant from a non-renewable energy resource to a renewable energy resource; and to be likely to reduce energy costs in an amount not less than the total cost of purchasing and installing such measure, without regard to any tax benefit or any applicable Federal financial assistance, within the period of the useful life of the modification involved, or twenty-five years after purchase and installation of the modification, whichever is less. Such term does not include the purchase or installation of any appliance.

(mm) 'Residential fuel oil' means the fuel oil commonly known as: (a) No. 4, No. 5 and No. 6 fuel oils; (b) Bunker C; (c) Navy Special Fuel Oil; and all other fuel oils which have fifty percent boiling point over 700° F in the ASTM d-86 standard distillation test.

(nn) 'Retail dealer' means any person who engages in the business of selling energy resources from a fixed location such as a service station, filling station, store or garage directly to the ultimate users of said energy resources.

(oo) 'State-assisted facility' means any building, the construction, capital or operating costs of which are financed in whole or part by State general or special fund appropriations or disbursements, or by Federal funds.

(pp) 'Useful life' means that period of time for which a modification used under specified conditions is able to fulfill its intended function.

(qq) 'Major energy consumer' means any person who owns, leases, or operates a unit such as a building, industrial plant, electric power plant, appliance or energy-consuming article within the State which, alone or in combination with other such units, consumes or has a design capability of consuming any energy resource at a fuel heat input rate of one million kilowatt hours per year, one thousand barrels of petroleum products per year, one million cubic feet of natural gas per year, or one hundred short tons of coal per year; or greater.

**\$9205. Director; Appointment**

(a) The administrator and head of the Office shall be the Director of the Delaware Energy Office, who shall be a person qualified by training and experience to perform the duties of his office and preference shall be given to a resident of this State provided that he is acceptable and equally qualified. The Director shall be appointed by the Governor, with the advice and consent of the Senate, to serve at the Governor's pleasure. He shall be paid an annual salary not in excess of \$30,000.00.

**\$9206. Powers, Duties and Functions of the Director**

The Director shall:

(a) Supervise, direct and account for the administration and operation of the Office, its units, functions and employees;

(b) The personnel hired shall be exempt from the provisions of Title 29, Delaware Chapter 59;

(c) Establish, consolidate, abolish, transfer or combine the powers, duties and functions of the units and offices within the Office as the Director, with the written approval of the Governor, may deem necessary, provided that all powers, duties and functions required by law shall be provided for and maintained.

(d) Make and enter into any and all contracts, agreements or stipulations, and retain, employ and contract for the services of public and private consultants, research and technical personnel and to procure by contract, consulting, research, technical and other services and facilities, whenever the same shall be deemed by the Director necessary or desirable in the performance of the functions of the Office and whenever funds shall be available for such purposes. All

necessary legal services shall be provided pursuant to Chapter 25 of this Title. All contractual obligations shall be within the limits of the appropriation therefor.

(e) Delegate any of his powers, duties or functions to any employee, except his power to remove employees of the Office or to fix their compensation;

(f) Establish and promulgate such rules and regulations governing the administration and operation of the Office as may be deemed necessary by him and which are not inconsistent with the laws of this State;

(g) Maintain such facilities throughout the State as may be required for the effective and efficient operation of the Office;

(h) Adopt an official seal or seals for the Office.

\$9207. Powers, Duties and Functions of the Office

The Delaware Energy Office shall:

(a) Act as central repository and clearinghouse for collection and dissemination of data and information on energy resources and energy matters in the State, including but not limited to:

(1) Data on energy supply, demand, costs, projections, and forecasts;

(2) Inventory data on energy research and development projects, studies or other programs conducted in the State under public and/or private supervision or sponsorship, and the results thereof. To this end the Office shall develop an energy information reporting system for use by all government agencies and by the general public.

(b) Develop and recommend to the Governor a comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to an energy conservation plan, a State-facilities energy management plan, an annual energy supply and demand forecast, an emergency energy shortage contingency plan, and an energy research and development program.

(c) Continually review and coordinate all State government or State-assisted management, research, development and education programs relating to energy matters; and act as the lead planning agency to represent the State before the Federal government, local governments, other state and local governments, regional or inter-state agencies, and other appropriate public and private agencies in all energy and energy resource matters;

(d) Conduct public educational programs promoting conservation of energy and energy resources within the State;

(e) Recommend to the Governor and General Assembly needed energy legislation and recommend such modifications of energy policy, plans and programs as deemed necessary and desirable;

(f) Secure directly from any officer, office, department, commission, board, division, bureau, institution, authority or other agency or instrumentality of the State or its political subdivisions any information it deems necessary to carry out its functions; and all such officers and agencies and instrumentalities shall cooperate with the Office and, to the extent permitted by law, furnish such information to the Office as it may request;

(g) Develop and promulgate energy conservation performance standards and methods to be employed in the acquisition, lease, design, construction, renovation and maintenance of all State-owned or State-assisted facilities and in the procurement and purchase of all State materials and supplies. Upon promulgation by the Office, such energy conservation performance standards and methods shall be applied and enforced by the Department of Administrative Services in carrying out its functions of building construction review and procurement of State materials and supplies. Such methods and standards shall require the application of life-cycle cost analysis, in addition to initial construction, renovation or acquisition cost-analysis, in the design construction, renovation and maintenance of State-owned and State-assisted facilities and in the procurement and purchase of State materials and supplies;

(h) Act as a lead agency in the State to carry out energy related administrative and program functions and/or activities established by Federal law, regulations or guidelines, including all functions activities

delegated to the State or its political subdivisions under the Energy Operation Act of 1977, 91 Statute 565, and, where deemed necessary or desirable by the Office, apply for, accept, and expend, as well as require public and private agencies, instrumentalities, and institutions to submit for review or approve or disapprove applications for, grants-in-aid and assistance from public sources, including the Federal government, for the purposes of this chapter, including but not limited to:

(1) Federal grants-in-aid and funding for State energy conservation plans;

(2) Energy conservation programs for existing residential buildings, schools and health care facilities, state buildings, and buildings owned by units of local government;

(3) Financing of renewable energy resource systems, including solar and wind energy systems, for new and existing residential structures;

(4) Technical assistance to industries for coal conversion and use of recovered materials;

(5) Demonstration of solar heating and cooling in State buildings;

(6) Long-range energy conservation planning for State buildings;

(i) Require, in order to assure the adequate development of relevant energy information as provided in §9207(a), that all energy distributors and major energy consumers file such reports, data and forecasts and at such dates as the Office may request.

(1) In obtaining information under this subsection, the Office:

(a) Shall not request information already furnished by a person or political subdivision in this State to the Delaware Public Service Commission, the United States Environmental Protection Agency, the Delaware Department of Natural Resources and Environmental Control, the United States Department of Energy or Federal Energy Regulatory Commission thereunder, or the United States Department of

Interior, if such information is available to the Office. The Office shall also, to the maximum extent practicable avoid requesting information already furnished by a person or political subdivision in this State to any other Federal, State or local regulatory authority, if such information is available to the Office;

(b) May, with the written consent of the Governor subpoena witnesses, material and relevant books, papers, accounts, records and memoranda; administer oaths; and cause the depositions of persons residing within or without Delaware to be taken in the manner prescribed for depositions in civil actions in Delaware Superior Court.

(2) In responding to requests for information under this subsection, it shall be a sufficient answer to specify the records wherein the information is contained and either allow the Office to examine and copy same or refer the Office to a Federal, state or local regulatory authority or other public or private agency which will allow the Office to examine and copy same.

(3) Any person who is served with a subpoena to give testimony orally or in writing or to produce books, papers, correspondence, memoranda, agreements or documents or records under this subsection may apply to any Delaware Superior Court for protection against abuse or hardship in the manner provided in the Rules of that Court in the case of depositions.

(4) Information furnished under this subsection shall be confidential and maintained as such, if so requested by the person providing the information, if the information:

(i) is proprietary in nature; or

(ii) consists of geological, geothermal or geophysical information and data, including maps, concerning oil, gas, geothermal or fossil fuel wells. Nothing in this section prohibits the use of confidential information to prepare statistics or other general data for publication, so presented as to prevent

identification of particular persons or sources.

(j) Train and certify energy auditors, and conduct such energy audits as may be deemed necessary and desirable to carry out the purposes and policies of this chapter or any other energy-related law applicable to the State;

(k) Require the annual submission of energy audit reports and conservation plans by departments, offices, boards, bureaus, commissions, authorities and other agencies or instrumentalities of the State or its political subdivisions; and in cooperation with the Department of Administrative Services, evaluate said plans and the progress of said agencies and instrumentalities in meeting the goals of the plans, and advise said agencies and instrumentalities of improvements or changes to be made in the plans and goals;

(l) Have authority to conduct hearings and investigations in order to carry out the purpose and policies of this chapter and to issue subpoenas in furtherance of such authority;

(m) Have authority to sue and be sued;

(n) Have authority to acquire by purchase, grant, devise, lease or contract title to or possession of real property for the purpose of demonstrating facilities which utilize renewable energy resources, which improve the efficiency of energy use or which conserve energy;

(o) Assist the Department of Justice and Division of Consumer Affairs in protecting consumers from unfair, deceptive, and anticompetitive acts and practices in the marketing, sale or distribution of energy, energy resources, energy technologies, and energy conserving goods or services;

(p) Appoint, with the written consent of the Governor, such advisory committees, boards, and task forces as are necessary and desirable to carry out the purposes and policies of this Chapter;

(q) Exercise all other powers and functions necessary or appropriate to carry out the purposes and policies of this Chapter.

§9208. Energy Facilities Siting Liaison Committee

(a) There is established the Energy Facilities Siting Liaison Committee;

(b) The Energy Facilities Siting Liaison Committee shall consist of the following members:

- (1) Director of the Delaware Energy Office;
- (2) Chairman, Delaware Public Service Commission;
- (3) Secretary of the Department of Natural Resources and Environmental Control;
- (4) Director of the Delaware Office of Management, Budget and Planning;
- (5) Secretary of the Department of Community Affairs and Economic Development;
- (6) State geologist.

(c) The Secretary of the Department of Natural Resources and Environmental Control shall serve as Chairman, and the Director of the Delaware Energy Office as Vice-Chairman of the Committee;

(d) The Committee shall coordinate State energy facility siting activities and policies, including responses to energy facility siting inquiries presented to the Committee or any of its members by representatives of the Federal government, other states, or industry. The Committee shall also:

- (1) Evaluate the impact of energy facility siting on resources and the environment;
- (2) Plan, on a long-term basis, for energy facility siting in the State; and
- (3) Propose regulatory and legislative remedies to energy facility siting problems identified by the Committee.

(e) The Committee shall prepare an annual Energy Facilities Siting Report for transmittal to the Governor and the General Assembly, the initial report to be completed by April 1, 1979. The annual report shall include but not be limited to:

(1) An inventory of all current State and local statutes, regulations and permit requirements which affect the site selection, construction and operation of existing, proposed or potential energy facilities in Delaware;

(2) An inventory of such current Federal statutes, regulations and permit requirements which affect the site selection, construction and operation of existing, proposed or potential energy facilities in Delaware as the Committee concludes duplicate or overlap State or local statutes, regulations and permit requirements inventoried in part (1) of this subsection by reason of:

(1) The activity, facility, equipment or geographic area regulated;

(ii) The information required to be disclosed by the permit application or regulatory compliance procedure; or

(iii) The regulatory standard or objective sought to be enforced or attained.

(3) A consolidated outline by means of flow-chart, time-line diagram and prose description of the current steps and procedures applicants for the site selection, construction, and operation of energy facilities of the kind and size existing, proposed or potentially existing in Delaware must follow in order to comply with the current Federal, state and local statutes, regulations and permit requirements inventoried in parts (1) and (2) of this subsection;

(4) Recommendations for the elimination, consistent with the statutory environmental goals of the State, by either executive order or legislation, of such overlap and duplication in the statutes, regulations and permit requirements inventoried in parts (1) and (2) of this subsection as the Committee concludes to be the cause of delay and costs in the siting of energy facilities inconsistent with the policies of this Chapter;

(5) Recommendations for increased coordination and cooperation between Delaware and bordering states in the site selection, construction and operation of energy facilities consistent with the policies of this Chapter.

(f) The committee shall have access to all public books, records, reports and other documents to which its individual members have access, unless otherwise prohibited by law.

§9209. Energy Conservation Plan; Components

(a) The Office shall prepare a recommended Energy Conservation Plan for transmittal to the Governor, the initial plan to be completed by January 1, 1979;

(b) The Energy Conservation Plan shall be designed to ensure the public health, safety and welfare of the citizens and economy of Delaware and to encourage and promote conservation of energy through reducing wasteful, uneconomical or inefficient uses of energy resources. The plan shall also be designed to assure, to the maximum extent feasible, that the productive capacity of private enterprise, public education, and voluntary initiative are utilized to reduce wasteful, uneconomical or inefficient uses of energy resources.

(c) The Energy Conservation Plan shall include but not be limited to the following recommendations:

(1) Recommendation of a State energy conservation goal, consisting of a percentage reduction in projected energy consumption in the State for the years 1980, 1985 and 1990, which goal is economically feasible and is achievable by implementation of the Energy Conservation Plan;

(2) Recommendations for lighting, insulation, heating, ventilating, cooling, thermal efficiency and other building design and construction guidelines and standards which increase the efficient use of energy and are economically feasible to implement;

(3) Recommended procedures for the training and certification of energy auditors and for conducting a statewide program of energy audits of residential buildings, nonresidential buildings and industrial plants in order to increase the efficient use of energy in the State;

(4) Recommendations for a continuing program of public education to increase public awareness of the energy and cost savings likely to result from energy conservation and to provide public information and technical assistance in the planning, financing, installing and monitoring of energy conservation measures;

(5) Recommendations to the State Department of Transportation of programs and policies to encourage energy efficient modes of transportation for people and goods, including but not limited to public transportation,

park-and-ride lots, vanpools and carpools, variable working schedules, preferential traffic controls, and urban area traffic restrictions;

(6) Recommendations of energy conservation measures and renewable energy resource measures:

(i) Which can be carried out in residential, nonresidential buildings and industrial plants;

(ii) Which increase the efficient use of energy, and;

(iii) Which are economically feasible to implement, based on climatic, environmental, demographic, architectural and economic conditions within the State; and recommended programs and policies to encourage, promote and finance such measures.

(7) Recommendations on energy conservation policies, programs and procedures for local units of government in the State;

(8) Any other recommendations which the Office considers to be a significant part of a Statewide energy conservation effort and goal, and which include provisions for sufficient incentives to further energy conservation.

(d) The Energy Conservation Plan shall include a detailed description of:

(1) The estimated energy savings,

(2) The estimated effects on public budgets and revenues,

(3) The estimated impact on the State economy, and

(4) The estimated increase or decrease in environmental residuals as a result of implementing the Plan.

(e) The Energy Conservation Plan shall contain proposals for implementing such recommendations in subsection (c) of this Section as can be carried out by executive order. Upon completion of a draft recommended plan, the Office shall distribute it to interested parties, and make such plan available to the public through the use of public hearings.

(f) The Office shall hold such public hearings on the

Energy Conservation Plan as it deems necessary and desirable. Upon completion of the Plan and any public hearings on the Plan, the Office shall transmit said Plan to the Governor for approval or disapproval. Upon approval, the Governor shall assign administrative responsibility for such implementation as can be carried out by executive order to appropriate agencies of State government, and submit to the General Assembly such proposals which require legislative action for implementation.

(g) The Governor shall transmit the approved Energy Conservation Plan to the President of the Senate, to the Speaker of the House of Representatives, to the heads of all State agencies and shall further seek to publicize such plan and make it available to all units of local government and to the public at large.

(h) At least every two years or whenever such changes take place as would significantly affect energy supply or demand in Delaware, the Office shall review and, if necessary, revise the Energy Conservation Plan, transmitting such revised plan to the Governor. The public hearing procedures contained in subsection (f) of this Section shall not apply to any review or revisions of the Energy Conservation Plan which take place within two years of any public hearings held on the Plan or revised Plan.

**§9210. State-Facilities Energy Management Plan; Components**

(a) The Office shall prepare a recommended State-Facilities Energy Management Plan for transmittal to the Governor, the initial plan to be completed by December 31, 1978.

(b) The State-Facilities Energy Management Plan shall be designed to ensure that energy conservation methods and life-cycle costing analysis are employed in the design, acquisition, lease, construction, renovation, and maintenance of all new and existing State-owned or State-assisted facilities and in the procurement and purchase of all State materials, supplies and vehicles.

(c) The State-Facilities Energy Management Plan shall include but not be limited to the following:

(1) Development, promulgation and maintenance of life-cycle costing analysis methods to be applied and enforced by the Department of Administrative Services in reviewing the design, construction, renovation and

maintenance of State-owned facilities and in procurement of State materials, supplies and vehicles. The Department of Administrative Services shall also have the authority to review the design, construction, renovation and maintenance of State-assisted facilities and the procurement and purchase practices of political subdivisions of the State only for the purposes of applying and enforcing the life-cycle costing analysis methods developed under this subsection.

(2) A program of energy audits of State-owned and State-assisted facilities, which audits shall be developed and maintained by periodic revision in cooperation with designated representatives of said facilities.

(3) Development, maintenance and distribution to State-owned and State-assisted facilities of guidelines, recommendations and technical assistance for energy conservation measures and renewable energy resource measures to be employed, installed and monitored in said facilities and in the procurement and purchase of materials, supplies and vehicles by the State and political subdivision thereof.

(4) A detailed description of the estimated energy savings, effects on public budgets and revenues, impact on the State economy, and increase or decrease in environmental residuals of implementing the State-Facilities Energy Management Plan.

(d) The State-Facilities Energy Management Plan shall contain proposals for the implementation of such recommendations as can be carried out by executive order.

(e) Upon completion of the draft recommended Plan, the Office and the Governor shall follow the procedures as outlined in §9209(f), (g) of this Chapter, except that no public hearings on the Plan shall be required.

(f) The Office shall update the State-Facilities Energy Management Plan, upon a finding by it that an update is justified.

#### §9211. Emergency Energy Shortage Contingency Plan

(a) The Office in cooperation and consultation with the Public Service Commission and the Division of Emergency Planning and Operations shall prepare a recommended Emergency Energy Shortage Contingency Plan for transmittal to the Governor, the initial plan to be completed by October 1, 1978;

(b) The Emergency Energy Shortage Contingency Plan shall be designed to protect the public health, safety and welfare, minimize the adverse impact on the physical, social and economic well-being of the State, and provide for the fair and equitable allocation of scarce energy resources, during emergency energy shortages;

(c) In preparing said Plan, the Office shall collect and compile from all relevant governmental agencies, including the Public Service Commission, the Division of Emergency Services and Operations, and the United States Department of Energy, any existing contingency and energy allocation or curtailment plans for dealing with emergency energy shortages, or information related thereto;

(d) The Office shall hold one or more public hearings, investigate and review the plans submitted pursuant to this section, and shall approve and recommend to the Governor the Emergency Energy Shortage Contingency Plan to be implemented upon adoption by the Governor after the declaration of State of Emergency pursuant to Title 20, Chapter 31 of the Delaware Code by reason of an emergency energy shortage. Said Plan shall be based upon the plans collected and compiled, and upon the information provided at the hearing or hearings; provided, however, that the Plan is consistent with such Federal programs and regulations as are already in effect at that time.

(e) The Emergency Energy Shortage Contingency Plan shall include but not be limited to:

(1) Recommendations for differentiated curtailment, during an emergency energy shortage, of energy consumption by energy users on the basis of ability by users and energy distributors to accommodate such curtailments;

(2) A variety of strategies and staged conservation measures of increasing intensity and authority to reduce energy use during a state of emergency declared by the Governor pursuant to Title 20, Chapter 31 of the Delaware Code by reason of an emergency energy shortage; and guidelines and criteria for allocation of energy resources to priority users during such an emergency. The Plan shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and to allow a choice of appropriate responses;

(3) Evidence that the Plan is consistent with requirements of emergency energy conservation and allocation laws and regulations of the Federal government and the State Public Service Commission; and with procedures

for implementing the State's responsibility as delegated by any Federal programs, laws, orders, rules or regulations relating to the allocation, conservation or consumption of energy resources and all order, rules and regulations thereto;

(4) A scheduled program of such investigations and studies by the Office as are necessary to determine if and when emergency energy shortages are likely to affect Delaware;

(5) Recommendations of administrative and legislative action required to avert emergency energy shortages;

(6) Recommendations for procedures for fair and equitable review of complaints and requests for special exemptions from emergency conservation measures or emergency allocations.

(f) Upon completion of the draft recommended Plan, the Office and the Governor shall follow the procedures as outlined in §9209 (f), (g) of this Chapter, except that no public hearings on the Plan shall be required other than pursuant to subsection (d) of this Section;

(g) The Office shall update the Emergency Energy Shortage Contingency Plan every three years.

§9212. Energy Research and Development Program; Coordination of Energy and Development

The Office in cooperation and consultation with the institutions of higher education in the State, and the United States Department of Energy, shall develop and carry out an Energy Research and Development Program designed to encourage implementation of the State policies expressed in subsections (h), (i) and (l) of Section 9203 of this Chapter.

§9213. Annual Report, Annual Energy Supply and Demand Forecast

(a) The Director shall make an annual report of the Office's operations to the Governor and the General Assembly. Such report shall also include but not be limited to:

(1) An overview of statewide growth and development as they relate to future requirements for energy in the State, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and designs, and other trends and factors which, as determined by the Office, will signi-

ificantly affect State energy needs;

(2) A forecast of statewide and geographic end-use sector energy demand and statewide energy resource supply available for the coming year;

(3) An assessment of growth trends in energy consumption and production and an identification of potential adverse social, economic or environmental impacts which might be imposed by current trends;

(4) Estimates of energy savings, effects on public budgets and revenues, impact on the State economy, and increase or decrease in environmental residuals in the State of plans, programs and policies of this Chapter and Federal plans, programs and policies implemented in the past year or to be implemented in the coming year;

(5) Inventory and evaluation of energy research and development programs carried out in the past year or scheduled to be carried out in the coming year;

(6) Recommendations to the Governor and to the General Assembly for administrative and legislative actions on energy matters;

(7) A summary review of the Office's activities since its inception.

**§9214. Action by State Agencies, Instrumentalities, and Political Subdivisions**

(a) Within three (3) months (if a State agency or instrumentality) or one year (if a political subdivision) of the effective date of this Chapter, all State agencies, instrumentalities and political subdivisions shall review their present statutory authority, administrative rules and regulations, and practices and procedures to determine whether such are consistent with the purpose and policies of this Chapter; shall effect or recommend such changes as may be necessary to comply with the purpose and policies of this Chapter; shall designate officers or employees, one from each agency, instrumentality and political subdivision, to serve as the officials responsible for energy matters within the respective agencies, instrumentalities or political subdivisions and shall submit a written report to the Office of their findings and actions pursuant to this subsection;

(b) The Office shall prepare and distribute at the earliest feasible date after the effective date of this

Chapter an index of functions and responsibilities of State agencies, instrumentalities and political subdivisions relating to energy and energy resources in sufficient detail to guide the public and serve as a basis for further steps as may be deemed necessary to assure full coordination without duplication of the energy-related activities of such agencies, instrumentalities and political subdivisions. No later than one hundred twenty (120) days after completion of the index, the Office shall recommend to the Governor and the General Assembly such action as may be necessary to preclude any identified or potential duplication of energy and energy resource related functions and responsibilities of state agencies, instrumentalities and political subdivisions.

**§9215. Exemptions**

The following positions set forth in this section shall be exempt from Chapter 59 of this Title:

- (a) Director of the Delaware Energy Office.

**§9216. Transitional Provisions**

(a) The Office shall have the power to perform and shall be responsible for the performance of all of the powers, duties and functions vested by Executive Order in the Governor's Energy Resources Management Commission immediately prior to the effective date of this Chapter and which are not otherwise specifically transferred to the Office by this Chapter;

(b) Any and all rights of appeal now existing by law with respect to any act or acts constituting the exercise of any function or functions transferred to the Office shall continue to exist with respect to such act or acts as hereafter performed by the Office and each such appeal shall be perfected in the manner heretofore provided by law;

(c) All definitions and references to any Office, commission or agency or any employee, member or similar person of such an office, commission or agency which appear in any other act or law shall, to the extent that the same are consistent with this Chapter and in connection with a function transferred to the Office be construed as referring and relating to the Office or such person or persons of the Office and their powers, duties and functions as established and created by this Chapter.

**§9217. Misnomer of Office in Donation**

Any misnomer shall not defeat or annul any gift, grant,

devise or bequest of the Office if it sufficiently appears by the will, conveyance or other writing, that the party making the same intended to pass and convey thereby to the Office, or to any office, commission or agency from which have been transferred by the provisions of this Chapter to the Office any powers, duties and functions, the estate or interest therein expressed or described.

**§9218. Budgeting and Financing**

(a) The Director shall prepare a proposed budget for the operation of the Office to be submitted for the consideration of the Governor and the General Assembly. Such proposed budget, to the maximum extent feasible, shall be prepared in a program zero-base format as well as a line-item format;

(b) The Office shall be operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly. Special funds may be used in accordance with approved programs, grants and appropriations."

**Section 2. Severability**

If any provisions of this Chapter, or of any rule, regulation or order thereunder or the application of such provision to any person or circumstances shall be held invalid, the remainder of this Chapter and the application of such provisions of this Chapter or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

**Section 3. Supremacy**

All other laws or parts of laws now in effect inconsistent with this Chapter are repealed, superceded, modified or amended, so far as necessary to conform to, and give full force and effect to, this Chapter.

**Section 4. Sunset Review and Repeal**

(a) In the year 1980, and every four years thereafter if the Office is continued in existence, the State Auditor shall conduct an audit of the Office. The audit shall be completed and the results and report thereof submitted to the Governor and the General Assembly by April 1, 1981. The report shall recommend whether or not the Office should continue in operation, should be changed or modified, or should be dissolved and shall contain findings on which to base such recommendations;

(b) This Chapter is repealed effective July 1, 1981. The Office established under this Chapter shall have six (6) months from the effective date of the repeal of this Chapter to wind up its affairs, complete dissolution of its powers, duties and functions and render a final accounting to the Governor and the General Assembly.

Section 5. Amend Chapter 31, Part II, Title 20, Delaware Code, by adding thereto a new Section 3130 to read as follows:

"§3130. Emergency Powers of the Governor During Energy Crisis

(a) 'State of Emergency' means an emergency proclaimed as such by the Governor pursuant to Section 3125 of this Title;

(b) As used in Section 3125 of this Title, 'Disaster' or 'Emergency' are defined to include situations where the health, safety and welfare of the citizens of this State are threatened by reason of an actual or impending acute shortage in useable energy resources, whether resulting from natural disasters, disruptions in fuel supplies, national defense circumstances, international trade obstructions, or other causes;

(c) In determining whether an actual or impending acute shortage in useable energy resources exists, the Governor shall consider the energy resources and requirements of the entire region including all states with contiguous borders with the State of Delaware.

(d) Upon reasonable determination by the Governor that a disaster or emergency exists, the Governor may proclaim a state of emergency and in connection therewith issues orders rules and regulations which may, by way of example rather than of limitation, provide for:

(1) Public appeals requesting customers to voluntarily reduce their energy consumption;

(2) A voltage reduction on a continuous basis;

(3) Elimination of all outdoor flood and advertising lighting, except for the minimum level to protect life and property and a single illuminated sign identifying commercial facilities that are open after dark.

(4) Reduction of general lighting levels in stores and offices as close to minimum safety levels as possible;

- (5) Elimination of show window and display lighting;
- (6) Reduction in the number of elevators operating in office buildings during non-peak hours;
- (7) Reduction in parking lot lighting by a designated percentage,
- (8) Maintaining temperatures in buildings at fixed minimum temperatures by operation of cooling equipment and fixed maximum temperatures by operation of heating equipment;
- (9) Minimizing work schedules, as for building cleaning, maintenance and restocking, which would require offices or industrial facilities to be open beyond normal working hours;
- (10) Curtailment of nighttime sports, entertainment and recreational activity;
- (11) Closing of public museums, art galleries and historic buildings;
- (12) Requiring Sunday closings of retail establishments, except for services essential to the public;
- (13) Requiring closings of all retail establishments during certain specified hours of the day, except for services essential to the public;
- (14) Directing all utility customers except those performing services essential to the public to reduce their use of energy, as compared to a similar billing period in the preceding twelve (12) months, by a designated percentage;
- (15) Interrupting loads on a rotating basis during certain prescribed hours;
- (16) Implementing a progressive reduction in the use of energy by manufacturing and commercial customers on an as required basis down to minimum levels required for basic plant and employee security;
- (17) Requiring residential customers to curtail their use down to normal life support requirements;
- (18) Establishing and implementing programs, controls, standards, priorities and quotas for the

allocation, conservation and consumption of available energy reserves;

(19) Establishing and implementing regional programs and agreements for the purposes of coordinating the energy resource program and actions of this State with those of the Federal government and other states and localities;

(20) Imposing an excess power and energy surcharge on any amounts by which a customer's energy consumption exceeds the level fixed by curtailment directives;

(21) Directing that utility service be disconnected to customers who fail to comply with curtailment directives."

Section 6. It is declared to be the legislative intent that, if any subsection, sentence, clause, or provision of Section 5 of this Act is held to be invalid, the remainder of the Section shall not be affected.

Section 7. This Act shall take effect on July 1, 1978.

Approved July 12, 1978.

CHAPTER 526

FORMERLY SENATE BILL NO. 634  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE STATE OF DELAWARE TO CONVEY TO THE TOWN OF BETHANY BEACH PROPERTY TO BE USED FOR WATER STORAGE FACILITIES AND EQUIPMENT.

WHEREAS, by deed dated November 10, 1969, recorded in the Office of the Recorder of Deeds in and for Sussex County, Deed Book 649, Page 383, the State of Delaware did convey to the Commissioners of Bethany Beach, a municipal corporation of the State of Delaware, a certain tract of land in Baltimore Hundred, Sussex County, Delaware, as therein described, subject to all of the conditions and restrictions set forth in Volume 56, Delaware Laws, Chapter 298; and

WHEREAS, said Act provides that said tract of land shall revert to the State of Delaware under certain circumstances as stated therein; and

WHEREAS, the Town has agreed to allow said tract of land to revert to the State of Delaware so that the National Guard of the State of Delaware may use said tract of land for its own proper purposes in exchange for another tract of land, as hereinafter described, suitable for the purposes of the Town installing water storage facilities; storing material and equipment used in connection with the Town water system; and storing other material, equipment and property of the Town; and

WHEREAS, the tract of land, hereinafter described, is not used by the National Guard of the State of Delaware, and the National Guard has agreed that the Town should have and use said land, subject to certain conditions as hereinafter set forth; and

WHEREAS, it is in the best interest of the State of Delaware that the Town acquire and use said tract of land, hereinafter described, for the purposes and subject to the conditions herein set forth.

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 Governor and the Secretary of State of the State of Delaware are hereby authorized, empowered and directed

to execute and deliver, in the name of and under the Great Seal of the State of Delaware, a deed conveying to the Town of Bethany Beach, a municipal corporation of the State of Delaware, its successors and assigns, the following described tract of land for the purposes of installing water storage facilities; storing material and equipment used in connection with the Town water system; and storing other material, equipment and property of the Town, said tract of land to revert to the State of Delaware in the event the Town fails to use said tract of land for installing the aforementioned water-storage facilities within 10 years of the date of conveyance to the Town of if, subsequent to the date of commencement of such use, the Town abandons such use for a period of one year:

ALL that certain tract, piece and parcel of land, situate, lying and being in Baltimore Hundred, Sussex County, Delaware, and being more particularly described as follows:

Beginning at a concrete monument in the western right-of-way of Delaware Route 1, being a corner for these lands and the lands of Wm. P. Short (heirs) and Sea & Pines, thence south  $8^{\circ} 16' 40''$  east 235 feet, more or less, along said right-of-way to a point, thence north  $79^{\circ} 39' 40''$  west 660 feet more or less to the waters' edge of the Salt Pond, thence following the meandering of the Salt Pond in a northerly direction 225 feet, more or less, to northerly property line of the National Guard Camp lands, thence south  $79^{\circ} 34' 40''$  east 15 feet more or less to a concrete monument thence south  $79^{\circ} 34' 40''$  east 568.40 feet to the place of beginning, containing 3.24 acres of land, more or less. Being a portion of the same lands of Wm. P. Short conveyed to the State of Delaware by deed, dated the 29th day of April A. D. 1927 and recorded in the Office of the Recorder of Deeds in and for Sussex County in Deed Book 264 Page 359.

Section 2. Any conveyance of land described in Section 1 shall be subject to the condition that the National Guard of the State of Delaware shall have the right to place signal antennas on any water tower or towers erected by the Town and the right from time to time to connect and disconnect wires and cables to such signal antennas, together with the right of ingress and egress across the aforesaid tract of land to and from such water tower or towers for the purposes of installing, connecting, disconnecting and maintaining of such signal antennas, wires and cables, provided however, that the National Guard of the State of Delaware shall give the Town at least 14 days' prior notice of its intention to enter upon such said tract of land for the aforesaid purposes.

Section 3. The Town of Bethany Beach shall pay to the State of Delaware an annual fee of One Dollar (\$1.00) for each and every year that the said tract of land is used for the aforesaid purposes, the first such annual payment to be made on or before February 1 of the first year following the date of approval of this Act by the Governor of the State of Delaware and continuing on a like day each year thereafter for the duration of said use.

Approved July 12, 1978.

## CHAPTER 527

## FORMERLY SENATE BILL NO. 643

AN ACT TO AMEND CHAPTER 86, TITLE 29, DELAWARE CODE RELATING TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT, TO CREATE THE OFFICE OF THE PUBLIC ADVOCATE.

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

Section 1. Amend Chapter 86, Title 29 of the Delaware Code by adding thereto a new subchapter which shall read as follows:

"SUBCHAPTER III. OFFICE OF THE PUBLIC ADVOCATE

§8640. Establishment of the Office of the Public Advocate

(a) There is established within the Department of Community Affairs and Economic Development of the Office of the Public Advocate. The Public Advocate shall be a person qualified by training and/or experience to perform the duties of this office. The Public Advocate shall be appointed by the Governor with the advice and consent of the majority of the Senate and shall hold office at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the Public Advocate's successor. The Public Advocate shall be a full-time employee of the State of Delaware.

(b) No person shall be eligible for appointment to be Public Advocate who owns or controls, in his own name or as a fiduciary, or whose spouse or minor child residing in his household owns or controls, any stock, note or debenture in any public utility, or who holds any office or position with any public utility or whose employment or vocation depends directly upon or is under the control of a public utility.

(c) The Public Advocate shall comply with and be held strictly accountable for compliance with the highest standards of Chapter 58A, Title 29 of the Delaware Code and Section 22, Article II of the Delaware Constitution. The Office of Public Advocate is an agency subject to the provisions of Chapters 64 and 100, Title 29 of the Delaware Code.

§8641. Salary and Expenditures

(a) The salary of the Public Advocate shall be \$30,000 annually.

(b) The Office of the Public Advocate shall submit its budget requests to the General Assembly as any other separate agency in accordance with Chapter 63, Title 29 of the Delaware Code, Chapter 65, Title 29 of the Delaware Code and all other applicable statutes.

**\$8642. Powers and Duties**

The Public Advocate shall have the following powers and duties:

(a) To appear before the Public Service Commission on behalf of the interest of consumers in any matter or proceeding over which the Commission has jurisdiction and in which he deems the interest of consumers requires such participation.

(b) To advocate the lowest reasonable rates for consumers consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all classes of consumers.

(c) To appear on behalf of the interest of consumers in the courts of this state, the federal courts, and federal administrative and regulatory agencies and commissions in matters involving rates, service and practices of public utilities.

(d) To hire, from time to time, as needed, in connection with proceedings before the Commission experts in the utility regulation field, including but not limited to economists, cost of capital experts, rate design experts and, to the extent staff of the Public Service Commission cannot be utilized, accountants, engineers and transportation specialists. An aggregate sum of not less than ten thousand dollars (\$10,000) for compensation and/or expenses of these experts shall be provided annually in the budget, and if not used for this purpose shall revert to the General Fund of the State Treasury. Nothing in this section shall be construed to preclude the Public Advocate from applying to the General Assembly for additional funds in specific instances, including emergencies, and from receiving such additional amounts as the General Assembly shall determine.

(e) To have the same access to and the same right to inspect any and all books, accounts, records, memoranda, property, plant facilities and equipment of public utilities as is granted to the Public Service Commission by Section 2 of Title 26, Delaware Code.

(f) To have full access to the records of the Public Service Commission.

(g) To call upon the assistance of the staff and experts of the Public Service Commission in the performance of his duties.

(h) To appoint, fix the compensations and terms of service and prescribe the duties and powers of such staff as may be necessary for the proper conduct of the work of the Office of Public Advocate, within the conditions and limitations imposed by the Merit System of Personnel Administration.

§8643. Proceedings before the Public Service Commission

(a) The Public Service Commission shall notify the Public Advocate of all hearings and meetings of the Commission and shall forward to the Public Advocate copies of all applications submitted by public utilities and all formal complaints and petitions filed with the Commission. No formal action taken by the Commission, without proof of the receipt of notice by the Public Advocate, shall have any legal effect.

(b) The Public Advocate shall be entitled to be present and be heard at any meeting of the Public Service Commission.

(c) When the Public Advocate shall determine to intervene in a matter before the Public Service Commission, he shall file a statement to that effect with the Public Service Commission. Thereupon, he shall be deemed a party in interest and shall have full power to present evidence, subpoena and cross-examine witnesses, submit proof, file briefs, appeal and do any other act appropriate for a party to the Commission.

§8644. Council to the Public Advocate

(a) The Council to the Public Advocate is established and shall serve in an advisory capacity to the Public Advocate concerning matters within the jurisdiction of the Public Advocate and such other matters as may be referred to it by the Governor, the Secretary of Community Affairs and Economic Development, or the Public Advocate. The Council may also study, research, plan and advise the Public Advocate, the Secretary, and the Governor on matters it deems appropriate to enable the Public Advocate to function in the best possible manner.

(b) The Council to the Public Advocate shall be composed of seven members, appointed by the Governor. The terms of the members shall be staggered. The first two appointees

shall serve for a term of one year, the next two appointees shall serve for a term of two years and the next three shall serve for a term of three years. Thereafter, all new appointees shall serve for a term of three years.

(c) At least three, but not more than four, members of the Council shall be affiliated with one of the major political parties, and at least two, but no more than three, members shall be affiliated with the other major political party, provided, however, that there shall be no more than a bare majority representation of one major political party over the other major political party. Any person who declines to announce his political affiliation shall also be eligible for appointment as a member of the Council.

(d) Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council.

(e) A chairman of the Council shall be chosen by the members of the Council from among its members and shall serve in that capacity for a term of one year and shall be eligible for re-election.

(f) Any appointment pursuant to the provisions of this section to replace a member whose position becomes vacant prior to the expiration of his term shall be filled only for the remainder of that term."

Section 2. If any provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are hereby declared to be severable.

Approved July 12, 1978.

## CHAPTER 528

## FORMERLY SENATE BILL NO. 715

AN ACT TO AMEND CHAPTER 86, TITLE 29, SUBCHAPTER III, DELAWARE  
CODE RELATING TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND  
ECONOMIC DEVELOPMENT, OFFICE OF THE PUBLIC ADVOCATE.

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

Section 1. Amend Chapter 86, Title 29, Subchapter III, Section 8642 (e) to read as follows:

"(e) To have the same access to and the same right to inspect any and all books, accounts, records, memoranda, property, plant facilities and equipment of the public utilities as is afforded by law or by rule of the Public Service Commission to any other party in interest."

Section 2. Amend Chapter 86, Title 29, Subchapter III, Section 8643 by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) which shall read as follows:

"(b) The Public Advocate shall be entitled to be present and be heard at any public meeting of the Public Service Commission."

Approved July 12, 1978.

CHAPTER 529

FORMERLY HOUSE BILL NO. 196  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT PROPOSING AN AMENDMENT TO ARTICLE III OF THE DELAWARE  
CONSTITUTION RELATING TO THE ELECTION AND TERM OF OFFICE  
FOR CERTAIN STATE OFFICERS.

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 Article III of the Constitution of the  
State of Delaware by striking Section 21 in its entirety, and  
substituting in lieu thereof a new Section, which new Section  
shall read as follows:

"Section 21. Election and Term of Office for Certain State  
Officers

Section 21. The terms of the office of the Attorney-  
General, the Insurance Commissioner, the Auditor of Accounts  
and the State Treasurer shall be four years. These officers  
shall be chosen by the qualified electors of the State at  
general elections, and be commissioned by the Governor."

Section 2. The four-year term for the offices of Auditor  
of Accounts and State Treasurer shall be effective commencing  
with the elections to be held in the year 1982.

Approved January 25, 1978.

## CHAPTER 530

## FORMERLY HOUSE BILL NO. 981

AN ACT PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO THE SALARIES AND EMOLUMENTS OF PUBLIC OFFICERS.

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 §4, Article XV, Constitution of the State of Delaware, by adding at the end thereof the following:

"The term 'salary or emoluments' as used herein refers to the actual salary or emoluments being provided an officer at any time during his tenure in office and shall not be construed to mean increases in salary or emoluments scheduled by statute for a future date and not yet received by the officer."

Approved June 22, 1978.

CHAPTER 531

FORMERLY HOUSE BILL NO. 994

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 "July 1, 1978", and  
inserting in lieu thereof the phrase "July 1, 1979".

Section 2. Amend Section 2, Chapter 663, Volume 60, Laws of  
Delaware, by striking the phrase "June 30, 1978", and inserting  
in lieu thereof the phrase "June 30, 1979".

Approved August 15, 1978.

## CHAPTER 532

FORMERLY HOUSE BILL NO. 1020  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF ELECTIONS FOR SUSSEX COUNTY FOR THE PURCHASE OF A POWERED FILING DEVICE FOR THE STORAGE OF PERMANENT VOTER REGISTRATION CARDS.

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

Section 1. The sum of \$5,500 is appropriated to the Department of Elections for Sussex County for the purchase of one automatic, powered filing device for the storage of permanent voter registration cards.

Section 2. This is a supplemental appropriation and is to be paid by the State Treasurer from the General Fund out of monies not otherwise expended.

Section 3. Any part of this appropriation not expended or encumbered on June 30, 1979, shall revert to the General Fund.

Approved August 15, 1978.

## CHAPTER 533

## FORMERLY HOUSE BILL NO. 581

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE 4, SECTIONS 2, 3 AND 12 OF THE CONSTITUTION OF THE STATE OF DELAWARE BY INCREASING THE SUPREME COURT TO FIVE JUSTICES AND PROVIDING FOR A QUORUM OF THE SUPREME COURT.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 128th General Assembly, being Chapter 540, Volume 60, Laws of Delaware, as follows:

"An Act Proposing an Amendment to Article 4, Sections 2, 3 and 12 of the Constitution of the State of Delaware by Increasing the Supreme Court to Five Justices and Providing for a Quorum of the Supreme Court.

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

Section 1. Article 4, Section 2 of the Constitution of the State of Delaware of 1897 is amended by striking the word "three" as it appears after the words "shall be" and before the word "Justices" in the first line of said section, and substituting in lieu thereof the word "five".

Section 2. Article 4, Section 3, paragraph 3 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

"First, three of the five Justices of the Supreme Court in office at the same time, shall be of one major political party, and two of said Justices shall be of the other major political party."

Section 3. Article 4, Section 3, paragraph 5 of the Constitution of the State of Delaware of 1897, as amended, is amended by striking the word "three" as it appears in Article 4, Section 3, paragraph 5.

Section 4. Article 4, Section 12 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

"§12. Composition of Supreme Court; designation of temporary Justices, quorum; opening and adjourning court

Section 12. A quorum of the Supreme Court shall consist of not less than three Justices. The entire Court shall sit

## CHAPTER 532

FORMERLY HOUSE BILL NO. 1020  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF ELECTIONS FOR SUSSEX COUNTY FOR THE PURCHASE OF A POWERED FILING DEVICE FOR THE STORAGE OF PERMANENT VOTER REGISTRATION CARDS.

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

Section 1. The sum of \$5,500 is appropriated to the Department of Elections for Sussex County for the purchase of one automatic, powered filing device for the storage of permanent voter registration cards.

Section 2. This is a supplemental appropriation and is to be paid by the State Treasurer from the General Fund out of monies not otherwise expended.

Section 3. Any part of this appropriation not expended or encumbered on June 30, 1979, shall revert to the General Fund.

Approved August 15, 1978.

## CHAPTER 533

## FORMERLY HOUSE BILL NO. 581

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE 4, SECTIONS 2, 3 AND 12 OF THE CONSTITUTION OF THE STATE OF DELAWARE BY INCREASING THE SUPREME COURT TO FIVE JUSTICES AND PROVIDING FOR A QUORUM OF THE SUPREME COURT.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 128th General Assembly, being Chapter 540, Volume 60, Laws of Delaware, as follows:

"An Act Proposing an Amendment to Article 4, Sections 2, 3 and 12 of the Constitution of the State of Delaware by Increasing the Supreme Court to Five Justices and Providing for a Quorum of the Supreme Court.

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

Section 1. Article 4, Section 2 of the Constitution of the State of Delaware of 1897 is amended by striking the word "three" as it appears after the words "shall be" and before the word "Justices" in the first line of said section, and substituting in lieu thereof the word "five".

Section 2. Article 4, Section 3, paragraph 3 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

"First, three of the five Justices of the Supreme Court in office at the same time, shall be of one major political party, and two of said Justices shall be of the other major political party."

Section 3. Article 4, Section 3, paragraph 5 of the Constitution of the State of Delaware of 1897, as amended, is amended by striking the word "three" as it appears in Article 4, Section 3, paragraph 5.

Section 4. Article 4, Section 12 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

"§12. Composition of Supreme Court; designation of temporary Justices, quorum; opening and adjourning court

Section 12. A quorum of the Supreme Court shall consist of not less than three Justices. The entire Court shall sit

in any criminal case in which the accused has been sentenced to death and in such other civil and criminal cases as the Court, by rule, or the General Assembly, upon the concurrence of two-thirds of all the members elected to each house, shall determine. In case of a lack of quorum by reason of vacancies in their number, incapacity, or disqualification to sit by reason of interest, or to constitute a three-member panel of the Court, the Chief Justice of the Supreme Court, or if he is disqualified or incapacitated or if there is a vacancy in that office, the Justice, who by seniority is next in rank to the Chief Justice, shall have the power to designate judges from among the judges of the constitutional courts to sit in the Supreme Court temporarily to fill up the number of Justices required by law. It shall be the duty of the judges of the constitutional courts so designated to sit accordingly. No judge shall be so designated to sit in the Supreme Court in any cause in which he sat below. Any one of the Justices of the Supreme Court may open and adjourn court."

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

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 August 8, 1978.

CHAPTER 534

FORMERLY HOUSE BILL NO. 1092  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTION TO ACQUIRE A CERTAIN PARCEL OF PROPERTY AND TO EXERCISE THE RIGHT OF EMINENT DOMAIN.

WHEREAS, the Department of Correction has determined that the construction and operation of a multi-purpose intake and diagnostic center housing approximately 360 inmates is necessary for the health, safety and welfare of the people of Delaware; and

WHEREAS, the Department of Correction, after a thorough feasibility study has determined that the most suitable location for such a diagnostic center is 14.00 acres of land situate within the City of Wilmington sometimes known as the "Gander Hill" or "12th Street B Site."

NOW, THEREFORE:

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

Section 1. The Department of Correction may acquire, by lease, purchase, condemnation proceedings or otherwise, and hold in the name of the State for the use of the Department, all or so much of as may be necessary, that certain lot or piece of land, with improvements erected thereon, situated in New Castle County, City of Wilmington, generally but not by way of limitation bounded and described as follows:

"Approximately 14 acres, generally bounded on the north and west by the main right-of-way of the successor to the Pennsylvania Railroad, and thence on the north and east by the southwesterly edge of the right-of-way known as Fourteenth Street, and thence on the east (approximately 375 feet along the easterly edge of the right-of-way known as Marsh Road) to the northeasterly corner of the intersection of the rights-of-way known as 13th Street and Dure Street, and thence in a southeasterly direction, approximately 300 feet along a line represented by the extension of the northeasterly edge of the right-of-way known as 13th Street, and thence southwesterly approximately 340 feet along a line perpendicular to the right-of-way known as 12th Street, and thence northwesterly along the northeasterly edge of the right-of-way known as 12th Street to the main right-of-way of the successor to the Pennsylvania Railroad."

Section 2. If the Department of Correction cannot agree with the owner of any land, building, franchise, easement or other property interest to be taken under Section 1 hereof, the Department of Correction may exercise the right of eminent domain, in the name of the State, by instituting condemnation proceedings in accordance with

Chapter 61 of Title 10.

Section 3. The right of eminent domain herein conferred extends to and includes the right to acquire the fee simple title to any lands taken by the Department pursuant to this Act.

Section 4. The fact that the property so needed has been acquired by the owner under power of eminent domain, or is currently committed to other public use, or is subject to any land or zoning restrictions imposed by ordinance, rule or regulations of a political subdivision of the State shall not prevent its acquisition by the Department of its use for any purpose authorized by Chapter 65, Title 11, Delaware Code.

Section 5. All property acquired in accordance with this enactment is deemed public property for public use.

Approved September 7, 1978.

## CHAPTER 535

## FORMERLY HOUSE BILL NO. 1152

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE FISCAL YEAR ENDING JUNE 30, 1979, TO PROVIDE OPERATING FUNDS FOR A NEW FACILITY.

WHEREAS, the General Assembly is committed to guaranteeing a sufficient number of prison beds so as to enable the courts to incarcerate all persons determined to warrant such treatment; and

WHEREAS, the current lack of such facilities has created an emergency situation threatening the health, safety and welfare of the citizens of the State of Delaware.

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

Section 1. The sum of four hundred and sixty-seven thousand and seven hundred dollars (\$467,700) is hereby appropriated to the Department of Correction for the purposes and in the amounts set out below:

(38-00-000) DEPARTMENT OF CORRECTION

(38-01-000) Office of the Commissioner

(38-01-005) Facilities Maintenance  
& Construction

Salaries and Wages of Employees (1)	5.9
Salaries - Hazardous Duty	.3
Other Employment Costs	<u>1.2</u>

TOTAL - Facilities Maintenance & Construction	<u>7.4</u>
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TOTAL - Office of the Commissioner	7.4
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(38-08-000) Bureau of Adult Correction

(38-08-012) Court and Transportation

Salaries and Wages of Employees (2)	8.0
Salaries - Overtime	.7
Salaries - Hazardous Duty	.6
Other Employment Costs	1.8
Supplies and Materials	<u>.7</u>

TOTAL - Court and Transportation	11.8
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(38-08-017) Delaware Correction Center Expansion

Salaries and Wages of Employees (33)	185.8
Salaries - Overtime	11.0
Salaries - Shift Differential	4.6
Salaries - Hazardous Duty	12.3
Salaries - Premium Pay	15.4

Other Employment Costs	43.6
Personal Services	
Payment to Inmates	2.0
Contractual Services	57.7
Supplies and Materials	78.4
Capital Outlay	<u>57.7</u>
TOTAL - Delaware Correction Center Expansion	448.5
TOTAL - Bureau of Adult Correction	460.3
TOTAL - DEPARTMENT OF CORRECTION	467.7

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 September 7, 1978.

## CHAPTER 536

## FORMERLY SENATE BILL NO. 729

AN ACT TO AMEND VOLUME 61, CHAPTER 408, LAWS OF DELAWARE THE 1979 CAPITAL IMPROVEMENTS ACT, BY REPEALING A PORTION OF THE SUM AUTHORIZED FOR CONSTRUCTION OF A MULTI-PURPOSE CRIMINAL JUSTICE FACILITY AND BY AUTHORIZING FUNDS FOR THE CONSTRUCTION OF A FACILITY AT DELAWARE CORRECTIONAL CENTER, AND TO APPROPRIATE SUCH FUNDS TO THE DEPARTMENT OF CORRECTION.

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 Volume 61, Chapter 408, Laws of Delaware by repealing the authorization to issue obligations of the State in the amount and for the project set forth below:

<u>Department</u>	<u>Project Account Code</u>	<u>Amount</u>
Department of Correction	38-01-002-79-80	\$1,195,000
TOTAL -		<u>\$1,195,000</u>

Section 2. Further amend Volume 61, Chapter 408, Laws of Delaware, by authorizing the State to borrow the sum of \$1,195,000 by the issuance of bond and bond anticipation notes upon the full faith and credit of the State of Delaware, subject to all terms and conditions set out in such Chapter, and to be used for the purposes set forth in Section 3 of this Act.

Section 3. The sum of \$1,195,000, authorized pursuant to Section 2 of this Act, is hereby appropriated to the Department of Correction for the purpose of constructing a new security facility at the Delaware Correctional Center.

Section 4. The Department of Correction shall include, in any contract executed by the Department on behalf of the State for the construction of the security facility authorized by this Act, an appropriate provision or provisions expressly requiring that said facility shall be available for occupancy on or before December 31, 1978, and further requiring that the contractor shall be obligated to pay to the State, by way of liquidated damages which shall begin to accrue on a per diem basis on January 1, 1979 and for each day thereafter that the facility is not available for occupancy, a sum sufficient to reasonably assure timely completion.

Approved September 7, 1978.

## CHAPTER 537

FORMERLY SENATE BILL NO. 728  
AS AMENDED BY  
SENATE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND CHAPTER 409, VOLUME 61, LAWS OF DELAWARE, BEING THE BUDGET APPROPRIATION ACT FOR FISCAL YEAR 1979, AND PROVIDING TRANSPORTATION FOR CERTAIN PUBLIC SCHOOL PUPILS.

WHEREAS, in accordance with the recent Federal desegregation Order, Conrad High School will be the only high school to be closed; and

WHEREAS, pupils who attended the former Conrad High School during the last preceding school year are now assigned to the Wilmington High School; and

WHEREAS, for many pupils who might be denied bus transportation or who are considered to be "within walking distance," the walking route contains those types of unique hazards which ordinarily qualify a pupil for transportation to a public school.

NOW, THEREFORE:

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

Section 1. Amend Section 62, Chapter 409, Volume 61, Laws of Delaware, by adding thereto the following new subsections:

"(c) Pupils within the attendance area of the former Conrad High School who take courses in facilities which formerly composed the Wilmington High School, whose most direct walking route would include duPont Road, Faulkland Road, Cleland Avenue in Colonial Heights, the Kirkwood Highway from the Wilmington City line to Price's Corner, Maryland Avenue from Germay Drive to the Wilmington City line, or students residing in Cleland Heights.

(d) Pupils attending classes in the new Conrad Junior High School facilities (the former Conrad High School facilities) whose most direct walking route would include duPont Road, Faulkland Road, Cleland Avenue in Colonial Heights, the Kirkwood Highway from the Wilmington City line to Price's Corner, or Maryland Avenue from Germay Drive to the Wilmington City line.

(e) Pupils enrolled in nonpublic schools who attend public vocational-technical schools and who meet the minimum distance requirements shall be entitled to transportation at State expense:

(1) From home to the vocational school on regularly established public school bus routes if the student attends a morning session at the vocational school.

(2) From the vocational school to the nonpublic school on a public school bus if the student attends a morning session at the vocational school.

(3) From the nonpublic school to the vocational school on a public school bus if the student attends an afternoon or third session at the vocational school.

(4) From the vocational school to the nonpublic school on a public school bus if the student attends an afternoon session and bus connections can be made to get the student home, otherwise transportation would be provided to the student's home.

(5) From the vocational school to the student's home if the student attends a third session at the vocational school."

Approved September 8, 1978.

## CHAPTER 538

## FORMERLY HOUSE BILL NO. 1042

## AN ACT TO AMEND PART V, TITLE 29, DELAWARE CODE TO PROVIDE FOR LEAVE FOR STATE EMPLOYEES TO PARTICIPATE IN OLYMPIC COMPETITION.

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

Section 1. Amend Chapter 51, Part V, Title 29, Delaware Code, by adding thereto a new Section 5113, to read as follows:

"§5113. Leave for Olympic competition

(a) The State shall grant to any employee leave from employment to participate as a member of the United States Team in any competition sanctioned by the United States Olympic Committee. Any leave so granted shall not exceed the time required for actual participation in the competition, plus a reasonable time for travel and return from the site of the competition and a reasonable time for pre-competition training with the team at the site, or 90 working days, whichever is less. The State shall compensate the employee at his regular rate of pay during any leave granted for participation in such Olympic competition. Pay for each day of leave shall not exceed the amount the employee would receive for a standard work day and the employee shall not be paid for any day spent on such leave for which he would not ordinarily receive pay as part of his regular employment.

(b) For purposes of subsection (a) the term 'employee' includes all those individuals who are employed by the State and receive a paycheck from the State for such work as they normally do for the State.

(c) For the purposes of subsection (a) the term 'United States Team' includes any group leader, coach, official, trainer, or athlete who is a member of the official delegation of the United States in competition sanctioned by the United States Olympic Committee.

(d) The State Personnel Commission shall implement this section by the adoption of appropriate rules and regulations."

Approved September 14, 1978.

CHAPTER 539

FORMERLY HOUSE BILL NO. 975

AN ACT TO AMEND CHAPTER 3, TITLE 18, AND CHAPTERS 27 AND 29, TITLE 29 OF THE DELAWARE CODE RELATING TO THE SALARIES OF CERTAIN STATE OFFICERS.

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

Section 1. Amend Section 307, Title 18 of the Delaware Code by deleting the figure "\$18,000" and substituting in lieu thereof the figure "\$24,000".

Section 2. Amend Chapter 27, Title 29 of the Delaware Code by re-numbering Sections 2703 through 2714 as Sections 2704 through 2715 and adding a new section thereto to be designated as Section 2703 as follows:

"§2703. Salary

The annual salary of the State Treasurer shall be \$24,000."

Section 3. Amend Section 2903, Title 29 of the Delaware Code by deleting the figure "\$18,000" and substituting in lieu thereof the figure "\$24,000".

Section 4. This Act shall take effect on January 1, 1979.

Approved September 15, 1978.

## CHAPTER 540

## FORMERLY HOUSE BILL NO. 1072

## AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR PAYMENT OF ACCUMULATED LEAVE OF AN EMPLOYEE.

WHEREAS, Dorothy Sbriglia was an employee of the State Department of Agriculture; and

WHEREAS, Dorothy Sbriglia was placed on layoff by the Department of Agriculture on June 15, 1976; and

WHEREAS, Dorothy Sbriglia, under Merit System rules, was entitled to payment of accumulated annual leave and sick leave; and

WHEREAS, Dorothy Sbriglia did not receive payment for said annual leave and sick leave subsequent to being placed on layoff by the Department of Agriculture.

NOW, THEREFORE:

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

Section 1. The sum of \$454.57 is hereby appropriated to the Department of Agriculture (65-00-000) for the purpose of compensating Dorothy Sbriglia for accumulated annual leave and sick leave and to be broken down as follows:

Annual Leave . . . .12-3/4 days at \$27.76	= \$353.94
Sick Leave . . . . .7-1/4 days + 1/2 at \$27.76	= <u>\$100.63</u>
TOTAL. . . . .	\$454.57

Section 2. This is a supplemental appropriation, and the funds hereby appropriated shall be paid from the General Fund of the State of Delaware from monies not otherwise appropriated; and any portion thereof which is unexpended or unencumbered as of June 30, 1979, shall revert to the General Fund.

Approved September 15, 1978.

CHAPTER 541

FORMERLY HOUSE BILL NO. 1102

AN ACT TO AMEND CHAPTER 9, TITLE 10, DELAWARE CODE, TO INCREASE THE  
NUMBER OF FAMILY COURT JUDGES TO 12.

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

Section 1. §906, Chapter 9, Title 10, Delaware Code, is amended by striking the number "11" in subsection (b) and inserting in lieu thereof the number "12".

Section 2. §906, Chapter 9, Title 10, Delaware Code, is amended by striking the second sentence of subsection (b) and inserting in lieu thereof the following second sentence:

"There shall be an equal number of judges from each of the major political parties."

Approved September 15, 1978.

## CHAPTER 542

## FORMERLY HOUSE BILL NO. 1104

AN ACT TO AMEND CHAPTER 9, TITLE 31 OF THE DELAWARE CODE RELATING TO JOB TRAINING AND PLACEMENT OF WELFARE RECIPIENTS AND MAKING AN APPROPRIATION THEREFOR.

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

Section 1. Amend Section 911, Title 31 of the Delaware Code by striking the said section and substituting in lieu thereof the following:

"§911. Job training and placement by non-profit corporations

(a) The Department of Labor (WIN) is authorized:

(1) to refer welfare recipients to non-profit corporations for training designed to improve employability and for job placement or job referral; and

(2) to pay the sum of five hundred dollars (\$500.00) to non-profit corporations, which have an approved proposal by August 1st of the current fiscal year, for each welfare recipient placed in an unsubsidized job."

Section 2. Amend Section 911, Title 31 of the Delaware Code by adding a new subsection (b) as follows:

"(b) 'Placed' or 'placement' as used in this section shall mean placement of a WIN referral in an unsubsidized substantially full-time job of not less than 100 hours per month for a minimum of 30 days."

Section 3. The sum of \$75,000 is hereby appropriated to the Department of Labor for the purposes of carrying out the provisions of Section 911, Title 31 of the Delaware Code. The monies herein appropriated shall be paid by the State Treasurer out of the funds in the General Fund of the State of Delaware not otherwise appropriated. None of these funds shall revert to the General Fund.

Approved September 15, 1978.

CHAPTER 543

FORMERLY HOUSE BILL NO. 1127

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE JIMMY JENKINS SENIOR CENTER IN WILMINGTON.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$10,000 is hereby appropriated to the Jimmy Jenkins Senior Center, Fourteenth and Claymont Streets, Wilmington, Delaware, to be used for special-care guests of the center who are not provided for in the Grant-in-Aid appropriation for Fiscal 1979.

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

Section 3. Any part of this appropriation remaining unexpended or unencumbered on June 30, 1979, shall revert to the General Fund.

Approved September 15, 1978.

## CHAPTER 544

## FORMERLY SENATE BILL NO. 641

AN ACT TO AMEND CHAPTER 1, TITLE 5, DELAWARE CODE, RELATING TO THE POWERS OF THE STATE BANK COMMISSIONER.

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

Section 1. Amend §101, Chapter 1, Title 5, Delaware Code, by adding a new paragraph (5) as follows:

"(5) 'Financial institution' means any bank, trust company or other institution either licensed under this Title or subject to the supervision and regulation of the State Bank Commissioner."

Section 2. Amend Chapter 1, Title 5, Delaware Code, by adding a new §136 as follows:

"§136. Cease and desist orders

(a) If, in the opinion of the Commissioner, a financial institution subject to the provisions of this Title is engaging in or has engaged in, or if the Commissioner has reasonable cause to believe that such institution or company is about to engage in any of the following:

(1) an unsafe or unsound practice in conducting the business of such financial institution or company;

(2) violation of a law, rule or regulation relating to the supervision of such institution or company;

(3) violation of any written agreement entered into with the Commissioner,

the Commissioner shall have the power and authority to issue and serve an order upon such institution or company requiring the institution or company to cease and desist from such violation or practice.

(b) Where, in the opinion of the Commissioner, extraordinary circumstances make such action necessary and appropriate for the protection of depositors, shareholders or the public, the Commissioner may, by order, restrict the withdrawal of funds from one or more financial institutions.

(c) Such order may require the officers or directors of the institution or company to take affirmative action to correct any violation or practice.

(d) A cease and desist order issued pursuant to this section

shall include a statement of the facts upon which the order is based, and specific activities which the financial institution must cease, the affirmative acts required of the financial institution and the effective date of the order. A cease and desist order may be served by any member of the State Bank Commissioner's Office who is designated by the Commissioner. Service may be effected by hand delivering the order to the financial institution at its principal place of business during normal working hours.

(e) Except as provided in subsection (f), a cease and desist order shall not become effective in less than ten (10) days after the order is served. After an order is served, but before its effective date, upon petition of any interested party the Commissioner shall conduct a hearing. At the conclusion of such hearing, the Commissioner may affirm the cease and desist order as originally issued, or, he may modify, amend, or rescind such order.

(f) Whenever, in the opinion of the Commissioner, the violation or practice set forth in subsection (a) represents an immediate danger or substantial harm to the interests of depositors or shareholders or the public, or where such violation or practice, or the continuation thereof, is likely to cause insolvency or substantial dissipation of the assets or earnings of the institution, the Commissioner may issue a cease and desist order pursuant to subsection (a) which shall become effective upon service thereof, without prior notice or hearing. Upon the application of an interested party, the Commissioner shall afford an opportunity for a hearing to consider rescission of any order issued pursuant to this subsection and any action taken promptly thereafter."

Section 3. Amend Chapter 1, Title 5, Delaware Code, by adding a new §137 as follows:

"§137. Removal of officer or director

The Commissioner shall have the power to remove any officer or director of a financial institution organized pursuant to this Title, in accordance with the procedures and subject to the conditions and limitations set forth in this section.

(a) The Commissioner may serve written notice of intent to remove an officer or director from office or to prohibit his further participation in any manner in the conduct of the affairs of the financial institution if, in the opinion of the Commissioner, such officer or director has:

(1) violated a law, rule, regulation or cease and desist order which has become final;

(2) engaged in or participated in any unsafe or unsound practice; or

(3) committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duties as such

officer or director;

and the Commissioner determines that as a result of such action by the officer or director the financial institution has suffered or probably will suffer substantial financial loss or other damage, or that the interests of depositors or shareholders could be seriously prejudiced by reason of such violation, practice or breach of fiduciary duty; provided, however, that such violation, practice or breach of fiduciary duty must be found by the Commissioner to be one involving personal dishonesty on the part of such officer or director. The Commissioner may serve written notice of intent to remove an officer or director from office or to prohibit his further participation in any manner in the conduct of the affairs of the financial institution if, in the opinion of the Commissioner, such officer or director has, by conduct with respect to any other business entity which resulted, or is likely to result, in substantial financial loss or other damage, evidenced his personal dishonesty and unfitness to continued as an officer or director.

(b) The written notice required by subsection (a) shall set forth the following:

(1) a statement of the facts upon which such removal or prohibition is based;

(2) the time and place at which a hearing shall be held thereof, which date shall be not less than 30 nor more than 60 days after the service of the notice, unless such officer or director shall request an earlier or later hearing for good cause. The Commissioner shall serve written notice in accordance with Chapter 64, Title 29, Delaware Code, upon the officer or director involved and copies of such notice shall be served upon the financial institution of which he is an officer or director or in the conduct of whose affairs he has participated.

(c) If the Commissioner deems it necessary for the protection of the institution or the interests of its depositors or shareholders, such written notice may suspend the officer or director from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution.

(d) Any officer or director adversely affected by a suspension or prohibition contained in a written notice pursuant to subsection (c) may apply to the Court of Chancery in the county where the financial institution of which he is an officer or director has its main officer for a stay of such suspension or prohibition pending completion of administrative proceedings required under this section. Such court shall have jurisdiction to stay such suspension or prohibition.

(e) The Commissioner shall hold a hearing at the time and place specified by the notice required under subsection (b). Unless the officer or director affected shall appear at such hearing, he shall be deemed to have consented to the issuance of an order for his

removal or prohibition. In the event of consent, or if upon the record made at any such hearing the Commissioner shall find that any of the grounds specified in the notice have been established, he may issue such orders of suspension or removal from office or prohibition from participation in the conduct of the affairs of the financial institution, as he may deem appropriate. Notwithstanding any provision to the contrary such orders shall be issued not later than thirty (30) days after the close of the hearing, if any, held pursuant to this section.

(f) Any order issued pursuant to subsection (e) shall become effective at the expiration of thirty (30) days after service upon the officer or director and the financial institution concerned; provided, however, that an order issued upon consent shall become effective within the time specified therein. In either event, such order shall remain effective and enforceable except to the extent it is stayed, modified, terminated or set aside by action of the Commissioner or a court of competent jurisdiction.

(g) The Commissioner may issue written notice of a suspension or prohibition pursuant to subsections (b) and (e) to any officer or director charged in any information, complaint, or indictment with commission of or participation in a felony involving dishonesty or breach of trust, pursuant to laws of the State of Delaware or of the United States. Such suspension or prohibition shall remain in effect until terminated by the Commissioner or until final disposition of such information, complaint, or indictment. When a judgment or conviction with respect to such offense is entered against an officer or director, and such judgment is not subject to further appellate review, the Commissioner may issue and serve upon such officer or director an order removing him from office or prohibiting him from further participation in the conduct of the affairs of the financial institution except with the written consent of the Commissioner. Such order shall become effective on service upon the officer or director and the financial institution. A finding of not guilty or other disposition of the charge in this subsection shall not preclude the Commissioner from instituting proceedings pursuant to this section on the grounds set forth in subsection (a)."

Section 4. Amend Chapter 1, Title 5, Delaware Code, by adding a new §138 as follows:

"§138. Hearings

A hearing conducted pursuant to §136 or §137 of this Chapter shall be conducted in accordance with the provisions of Chapter 64, Title 29, Delaware Code; provided, however, that such a hearing shall be a non-public hearing, notwithstanding any statute or rule to the contrary. A non-public hearing shall be identical in all respects to a public hearing; provided, however, that the notice of hearing, the transcript, the proposed findings and the conclusions of the Commissioner, the findings and conclusions of the Commissioner, and other papers which are filed in connection with any hearing shall

not be made public."

Section 5. Amend Chapter 1, Title 5, Delaware Code, by adding a new §139 as follows:

"§139. Judicial review

Orders issued by the Commissioner pursuant to §136 and §137 shall be enforced by the Court of Chancery, subject to the following conditions and limitations:

(a) Any person aggrieved and directly affected by an order of the Commissioner issued pursuant to §136 and §137 may appeal to the Court of Chancery within thirty (30) days after the issuance of such order.

(b) The filing of an appeal shall not stay the enforcement of an order, but the Court may order a stay on such terms as it deems proper.

(c) The Court may affirm, modify, terminate or set aside, in whole or in part, the order of the Commissioner if such order was issued pursuant to an invalid statute or regulation, in excess of statutory authority, or if such order was not supported by substantial evidence in the record.

(d) The judgment and decrees of the Court shall be final, except that it shall be subject to review by the Supreme Court.

No person shall be subjected to any civil or criminal liability for any act or omission to act in good faith in reliance upon a subsisting order, regulation or definition of the Commissioner, notwithstanding a subsequent decision by any court invalidating the order, regulation or definition."

Section 6. Amend Chapter 1, Title 5, Delaware Code, by adding a new §140 as follows:

"§140. Notice to Federal authorities

In connection with any proceeding under this Chapter involving a financial institution under the concurrent supervision of a Federal agency and the Commissioner, the Commissioner shall provide the appropriate Federal agency with notice of any such proceedings and the grounds therefor. Such proceeding may then be continued jointly or by either the Federal agency or the Commissioner. Failure of the Commissioner to give such notice shall not constitute a ground for attacking the validity of the order."

Approved September 15, 1978.

## CHAPTER 545

## FORMERLY SENATE BILL NO. 66

AN ACT TO AMEND VOLUME 60, CHAPTER 691, SECTION 37, LAWS OF DELAWARE, ENTITLED, AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CAPITAL IMPROVEMENTS AND EXPENDITURES IN THE NATURE OF CAPITAL INVESTMENTS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO VARIOUS AGENCIES OF THE STATE AND TO BORROW MONEY TO BE USED FOR THE LOCAL SHARE OF SCHOOL CONSTRUCTION PROGRAMS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO THE STATE BOARD OF EDUCATION ON BEHALF OF LOCAL SCHOOL DISTRICTS; AMENDING VOLUME 56, CHAPTER 369, LAWS OF DELAWARE; AMENDING VOLUME 57, CHAPTER 299, LAWS OF DELAWARE PERTAINING TO CAPITOL COMPLEX ELECTRIC DISTRIBUTION SYSTEM AND CENTRAL HEATING AND AIR CONDITIONING; AMENDING VOLUME 57, CHAPTER 306, LAWS OF DELAWARE; AMENDING VOLUME 57, CHAPTERS 320 AND 736, VOLUME 58, CHAPTER 347, AND VOLUME 59, CHAPTER 223, LAWS OF DELAWARE, PERTAINING TO BOND AUTHORIZATION FOR LOCAL SCHOOL DISTRICTS; AMENDING VOLUME 60, CHAPTER 271, LAWS OF DELAWARE, PERTAINING TO THE TRANSFER OF FUNDS FROM THE CONSTRUCTION OF A WOMEN'S PRISON TO THE CONSTRUCTION OF A MAXIMUM SECURITY BUILDING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fourths of all members elected to each House thereof concurring therein):

Section 1. Amend Section 37, Chapter 691, Volume 60, Laws of Delaware by striking the words "Odessa Methodist Church State Museum" as the same appears under appropriations to the Department of State and substituting in lieu thereof the words "Odessa Methodist Church Building".

Approved September 15, 1978.

## CHAPTER 546

## FORMERLY HOUSE BILL NO. 937

AN ACT TO AMEND DELAWARE CODE, TITLE 14, IN ORDER TO PROVIDE A BASIC SKILLS INSTRUCTIONAL FUNDING UNIT AND AUTHORIZING STAFF OR SERVICES OR MATERIALS FOR SUCH UNITS IN PUBLIC SCHOOLS.

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

Section 1. Amend Delaware Code, Title 14, §1321 (e) by inserting an additional item to be inserted and numbered after item (13) but prior to the final paragraph of subsection (e) as follows:

"(14) Specialists - (i) basic skills specialist which shall be assigned at the teacher salary level and may include a teacher of pupils or a specialist serving other teachers in the reading and communication skills or in mathematics for a period of ten (10) months per year at the rate of 1 for each 600 pupils enrolled in a school district, grades K through 12. Districts shall qualify for partial funding for a basic skills specialist for a fractional part of 600 pupils enrolled in grades K through 12.

(ii) Each pupil may be counted only once in a district or districts. For pupils who attend schools in more than one district during each school day, the pupil is to be counted in the school district from which he or she will receive a high school diploma or certificate of attendance.

(iii) When a single person is employed to fill the position herein described that person shall be paid and assigned according to the provisions of this Chapter; §1305, except that the assignment of 180 pupil days and 185 employment days described in §1305 (c) may be assigned during any of the months of a 12 month fiscal year beginning July 1.

(iv) A school district may exercise the option of substituting for the employment of a teacher/specialist in this position, certain basic skills services as described in Chapter 17 of this Title under the heading of 'Basic Skills Unit and Funding'.

(v) The provisions of this Title, §1716, relating to the supplemental nature of a basic skills unit are applicable to this Section (14)."

Section 2. Amend Delaware Code, Title 14, by adding to Chapter 17 a new section as follows:

"§1716. Basic skills unit and funding

(a) 'Basic skills unit' is defined for funding purposes as one (1) funding unit for each six hundred (600) enrollees in a

school district, grades K through 12. Districts shall qualify for partial funding for a basic skills unit for a fractional part of 600 pupils enrolled in grades K through 12.

(b) 'Basic skills' shall include reading and the communication skills and mathematics, further defined according to rules and regulations of the State Board of Education.

(c) Funds appropriated in support of this unit may be used for expenditures under Division I or Division II for the purchase of services from persons or agencies or for the purchase of supplies to be used in the teaching of basic skills only, upon the decision of a school district board of education to use the funds for that purpose in substitution for the employment of a teacher or specialist as authorized in §1321 (e) of this Title under the heading of 'Specialists - Basic skills specialist'.

(d) The dollar value of this unit when applied to the employment of a 'specialist or teacher' shall be as provided in this Title, but when applied as herein described for services or supplies and materials shall be the number of dollars set in the State supported salary schedule for a teacher holding a Master's Degree with ten (10) years of experience and employed for ten (10) months. The calculation of this funding shall be for the current school year. Expenditures on behalf of this unit when used for the purchase of services, supplies, or materials shall be up to, but not in excess of, the amount herein authorized.

(e) Any school district wishing to use funds under any of the options set forth in this section shall make application to the State Board of Education for that use. The application shall indicate that these funds are being used to supplement programs in the school district and that their use will not supplant personnel, services, supplies or materials provided during fiscal year 1978 from local funding sources.

(f) In the case of New Castle County, these funds may be used to carry out a part of the Order of the U.S. District Court for the District of Delaware, January 9, 1978, in the establishment of reading and communication skills programs and shall, as indicated in this section, supplement not supplant previous programs. The provisions of this paragraph shall also be applicable to the employment of 'Specialists - basic skills specialist' as authorized in this Title, §1321 (e).

(g) Funds appropriated to a school district under the provisions of this section and §1321 (e) relating to 'Specialists - basic skills' may be used by the district, subject to Federal statutes and regulations, as matching funds to earn any Federal funds available in the area of reading, mathematics or compensatory education."

Approved September 16, 1978.

CHAPTER 547

FORMERLY HOUSE BILL NO. 1120

AN ACT TO AMEND CHAPTER 41, PART 1, TITLE 14, OF THE DELAWARE CODE  
RELATING TO DAILY STUDENT ACTIVITIES.

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

Section 1. Amend §4101, Chapter 41, Part 1, Title 14, of the  
Delaware Code by adding, to subsection (b), the following:

"For purposes of this section, 'religious activity' shall in-  
clude voluntary prayer at the beginning of each school day."

Approved November 1, 1978.

R E S O L U T I O N S

CHAPTER 548

SENATE JOINT RESOLUTION NO. 7

DIRECTING THE STATE BOARD OF EDUCATION TO EXTEND THE SCHOOL BUS CONTRACTORS DEADLINE OF NOTIFICATION TO THE STATE BOARD FOR THE IMPENDING ACADEMIC YEAR FROM JANUARY 31 TO APRIL 30.

WHEREAS, it has been the policy of the State Board of Education to require school bus contractors to give notice by January 31 of each year if they plan to discontinue their services the following September; and

WHEREAS, because of the lateness this year on adopting a formula the deadline was extended to February 28; and

WHEREAS, the formula has not been approved by the school bus contractors nor funded by the State.

NOW THEREFORE,

BE IT RESOLVED by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that the State Board of Education is hereby directed to extend to April 30, 1977 the date by which school bus contractors may serve notice if they do not intend to provide services for the school year commencing in September 1977.

BE IT FURTHER RESOLVED that upon passage of this Resolution the Secretary of the Senate shall forward a copy of the Resolution to the State Board of Education.

Approved January 27, 1977.

## CHAPTER 549

## SENATE JOINT RESOLUTION NO. 8

REQUESTING THE NEW CASTLE COUNTY COUNCIL TO POSTPONE BILLING NEW CASTLE COUNTY RESIDENTS FOR SEWAGE SERVICE FEES UNTIL MARCH 31, 1977 SO AS TO PERMIT THE COUNCIL TIME TO ARRIVE AT A MORE EQUITABLE SERVICE CHARGE.

WHEREAS, it is generally recognized that the recently instituted sewer service charge based on the consumption of water assessed against all residents of New Castle County, to include the elderly, is most inequitable and unfair; and

WHEREAS, there is every indication that all parties concerned are resolutely determined to reach a fair and equitable fee for sewer and water services, particularly for those who are assessed a flat rate, and those who have wells, and more particularly the elderly who can least afford any disruption of their eroding income; and

WHEREAS, the next billing is due at the end of February, 1977 thus leaving insufficient time to reach an equitable and fair service fee.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that New Castle County Council is hereby requested to postpone billing residents of New Castle County for sewer and water service charges to March 31, 1977 in lieu of March 2, 1977 to enable the parties involved to reach an amicable, fair and equitable service charge for all residents.

BE IT FURTHER RESOLVED that upon passage of this Resolution that the Secretary of the Senate forward a copy to the President and members of New Castle County Council.

Approved February 7, 1977.

## CHAPTER 550

## SENATE JOINT RESOLUTION NO. 11

REQUESTING THE DEPARTMENT OF ADMINISTRATIVE SERVICES TO SUPPLY MEMBERS OF THE DELAWARE LEGISLATURE AND LEGISLATIVE COUNCIL WITH CERTAIN DATA RELATING TO THE LEASING AND/OR RENTAL OF PROPERTY FOR STATE USE.

WHEREAS, the State of Delaware leases and/or rents property from the commercial and private sector for State use; and

WHEREAS, in order that the legislature may assess, evaluate and establish uniform policy with respect to the leasing and/or rental of property for State use, certain essential data is critically needed; and

WHEREAS, this type of data herein requested should be immediately available to the legislature through the Legislative Council Library; and

WHEREAS, presently the Council Library has little information on file regarding the leasing and/or rental of property for State use.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that the Department of Administrative Services is hereby requested to furnish the following data to the Council Library and to members of the Delaware Legislature regarding the leasing and/or rental of property for State use:

- (a) a list of all properties leased and/or rented.
- (b) the lease and/or rental prices of each property.
- (c) what Departments, Divisions, Agencies, Commissions, or authorities are leasing and/or renting such properties.
- (d) the location and address of the properties leased and/or rented.
- (e) the individual, organization, corporation, partnership from which the property is leased and/or rented.

BE IT FURTHER RESOLVED that the data herein requested from the Department of Administrative Services is desired no later than April 15, 1977.

Approved March 22, 1977.

## CHAPTER 551

## SENATE JOINT RESOLUTION NO. 3

RELATING TO CONTRACTS AND PURCHASES MADE BY AGENCIES OF THIS STATE.

WHEREAS, the unemployment rate in Delaware has reached unprecedented levels; and

WHEREAS, the high unemployment rate is largely attributed to the fact that many construction companies and retail outlets have had to close down or cut back due to lack of business; and

WHEREAS, the State of Delaware, through its many agencies, does an enormous dollar volume of business with the business community, both within the State as well as outside the State; and

WHEREAS, during the bleak inflationary spiral the State should, wherein possible, grant preference to business firms located within this State so as to enable the general business community throughout Delaware to become more economically viable and thus re-employ Delawareans who have been temporarily discharged because of the decline in sales and contracts.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that all agency heads and all individuals within any department, division or commission in this State charged with the responsibility of making purchases or letting contracts for their respective agencies are hereby requested, wherever possible, to make purchases and to let contracts to Delaware based firms so as to enable such businesses to become economically viable and thus re-employ Delawareans who are unemployed.

BE IT FURTHER RESOLVED that this Resolution be made a part of the Senate and House Journals and that copies be forwarded by Legislative Council to every State Agency within this State.

Approved April 21, 1977.

## CHAPTER 552

## HOUSE JOINT RESOLUTION NO. 9

AUTHORIZING THE GOVERNOR TO ENTER INTO A CONTRACT OR CONTRACTS WITH THE FEDERAL DEPOSIT INSURANCE CORPORATION AND THE FARMERS BANK OF THE STATE OF DELAWARE.

WHEREAS, the 128th General Assembly of the State of Delaware, by House Joint Resolution No. 45, dated May 12, 1976, did authorize Governor Sherman W. Tribbitt to enter into a contract with the Federal Deposit Insurance Corporation and the Farmers Bank of the State of Delaware, to "adopt a plan to restore the Farmers Bank to a viable, competitive institution"; and

WHEREAS, such contract, known as the "Assistance Agreement", was duly executed by Governor Tribbitt and the Chief Executive Officers of the Federal Deposit Insurance Corporation and the Farmers Bank on May 20, 1976; and

WHEREAS, by Memorandum of Intent entered into on March 25, 1977 among Governor Pierre S. du Pont, IV, Chairman Robert Barnett of the Federal Deposit Insurance Corporation, and Edward Hagemeyer, President of the Farmers Bank, the said parties further agreed in principle upon certain additional terms and conditions designed to realize the purpose and intent of the original agreement.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 129th General Assembly, the Governor concurring therein, that the Governor is authorized to enter into a contract or contracts with the Federal Deposit Insurance Corporation and the Farmers Bank of the State of Delaware, which said contract or contracts shall be consistent in all pertinent respects with the aforementioned Memorandum of Intent dated March 25, 1977, by and among the same parties, and which said contract or contracts may further provide as the need shall appear, for the modification or rescission, in whole or in part, of the Assistance Agreement dated May 20, 1976.

Approved May 5, 1977.

## CHAPTER 553

## SENATE JOINT RESOLUTION NO. 19

DIRECTING THE STATE BOARD OF EDUCATION TO EXTEND THE DATE BY WHICH SCHOOL BUS CONTRACTORS MAY SERVE NOTICE IF THEY DO NOT INTEND TO PROVIDE SERVICE DURING THE SCHOOL YEAR STARTING IN SEPTEMBER 1977.

WHEREAS, the General Assembly has yet to adopt a budget for Fiscal 1978; and

WHEREAS, the amounts appropriated in that budget will determine the rate of compensation school bus contractors may depend upon for the school year starting in September 1977; and

WHEREAS, the current cutoff date for contractors to notify school districts whether they will provide transportation service next year is April 30; and

WHEREAS, it would be more appropriate for the notification date to be made effective after the budget is approved.

NOW, THEREFORE:

BE IT RESOLVED by the members of the General Assembly of the State of Delaware, the Governor concurring therein, that the State Board of Education is directed to extend the date by which school bus contractors may serve notice if they do not intend to provide service for the school year starting in September 1977, until 30 days after the Budget Bill has been signed into law by the Governor.

BE IT FURTHER RESOLVED that upon adoption of this resolution the Secretary of the Senate should forward a copy to the State Board of Education.

Approved May 10, 1977.

CHAPTER 554

SENATE JOINT RESOLUTION NO. 5  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

REQUESTING THE STATE BANKING COMMISSIONER AND THE COUNCIL ON BANKING TO STUDY THE STATE OF DELAWARE'S BANKING CODE AND GENERAL BANKING CONDITIONS AND REPORT TO THE SENATE-HOUSE JOINT BANKING COMMITTEE AND THE GOVERNOR.

WHEREAS, the State of Delaware has in recent history experienced problems with regard to its Banking Industry; and

WHEREAS, the Banking Code of the State needs study and revision; and

WHEREAS, former Governor Sherman W. Tribbitt and the General Assembly have in the past expressed great concern and interest in the Banking Industry of the State of Delaware and desire to bring its problems to light and resolve them; and

WHEREAS, having a healthy Banking Industry regulated by a concise and workable Banking Code, in the end, is beneficial to all the citizens of Delaware; and

WHEREAS, the first step to discovering and resolving the problems of Delaware's Banking Industry and the Banking Code is necessarily to have responsible and knowledgeable state officers study the industry and the code that regulates it.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 129th General Assembly of the State of Delaware, with the approval of the Governor as evidenced by his signature appended hereto, that the State Bank Commissioner, the Council on Banking and four members of the Legislature are hereby requested to study the Delaware State Banking Code and the Banking Industry in the State of Delaware with a view toward discovering matters relative to the Industry and the Bank code which need to be changed in order to protect the public interest. Such study shall have due regard for the requirement of confidentiality respecting individual bank records and reports of Federal Regulatory Agencies. The Speaker of the House shall select one Representative from each party and the President Pro Tem shall select one Senator from each party for the study group.

BE IT FURTHER RESOLVED that a summary of the results of the study herein requested be given to each Legislator, that the full

report be given to the members of the Senate-House Joint Banking Committee and the Governor, and that the full report be made available on request to all legislators.

BE IT FURTHER RESOLVED that a copy of this joint resolution be sent to the State Bank Commissioner and the members of the Council on Banking.

Approved May 16, 1977.

## CHAPTER 555

## HOUSE JOINT RESOLUTION NO. 11

TO ADOPT ENERGY CONSERVATION AS A STATE POLICY AND TO SET GOALS FOR THE STATE OF DELAWARE.

WHEREAS, the energy crisis has dictated that all users of energy must continue to conserve energy; and

WHEREAS, since the Federal Government has failed to adopt an energy policy, it is the responsibility of the States to provide the leadership in setting energy conservation goals and establishing energy conservation programs.

BE IT RESOLVED by the House of Representatives of the 129th General Assembly, the Senate and the Governor concurring therein, that the State of Delaware adopt the conservation of energy as an official policy.

BE IT FURTHER RESOLVED that the State of Delaware, as a major energy user, set an example by:

- (1) Reducing energy use in state buildings.
- (2) Designing all new buildings and renovations to be energy saving.
- (3) Giving consideration to energy conservation and life cycle costing in all its purchasing.
- (4) Disposing of all items in an energy conserving manner.
- (5) Reducing energy use by state operated vehicles by  
(a) purchasing more efficient vehicles, (b) driving fewer miles, (c) encouraging car pools, and (d) observing 55 mph maximum speed limits.

BE IT FURTHER RESOLVED that a copy of this resolution be distributed to all Divisions and Agencies and brought to the attention of all State employees, and that all State employees be requested to extend their fullest cooperation and show ingenuity to conserve energy in all their activities.

Approved May 26, 1977.

## CHAPTER 556

## SENATE JOINT RESOLUTION NO. 18

DIRECTING THE DELMARVA POWER & LIGHT COMPANY AND THE CHESAPEAKE UTILITIES CORPORATION TO FORMULATE A COMPREHENSIVE ENERGY DISTRIBUTION PLAN, THE OBJECTIVE OF WHICH IS TO MAINTAIN THE HIGHEST AMOUNT OF EMPLOYMENT POSSIBLE IN EVERY TYPE OF ENERGY CRISIS OR EMERGENCY.

WHEREAS, during the winter of 1977 the State of Delaware, in addition to other States in the Northeastern section of the United States, was deprived of natural gas when expected deliveries were curtailed or diverted; and

WHEREAS, because of this unexpected energy crisis Delmarva Power & Light Company informed a number of its industrial customers that gas normally supplied to them would be restricted or shut off entirely; and

WHEREAS, because some commercial and industrial customers were taken by surprise and had no alternative or back-up source of energy, they were compelled to suspend operations, laying off many Delaware wage earners; and

WHEREAS, the spring and summer of 1977 is an ideal time to utilize in attempting to provide advance planning for the winter of 1977 - 1978 and for formulating a comprehensive plan which would reduce or eliminate unemployment resulting from an energy crisis.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 129th General Assembly of the State of Delaware, with the approval of the Governor as attested by his signature affixed hereto, that the Delmarva Power & Light Company and the Chesapeake Utilities Corporation are hereby directed to promulgate a comprehensive plan which has, as its primary objective, the reduction or elimination of unemployment, to the extent such is possible, resulting from an energy crisis or emergency.

BE IT FURTHER RESOLVED that a preliminary progress report on the formulation of such a plan shall be made, copies of which shall be delivered to each member of the Senate and House of Representatives on or before August 1, 1977, by Delmarva Power & Light Company and Chesapeake Utilities Corporation.

BE IT FURTHER RESOLVED that the comprehensive plan shall make recommendations regarding the allocation of each energy resource and what, for purposes of such allocation, the highest priorities should be.

Approved June 7, 1977.

## CHAPTER 557

## SENATE JOINT RESOLUTION NO. 24

DIRECTING THE DIVISION OF ECONOMIC DEVELOPMENT TO REPORT TO THE GENERAL ASSEMBLY ON ITS EFFORTS TO BRING BUSINESS AND INDUSTRY TO DELAWARE.

WHEREAS, Delaware has been in a severe economic slump characterized by high unemployment; and

WHEREAS, it is the function of the Division of Economic Development, Department of Community Affairs and Economic Development, to encourage new businesses and industry to locate in Delaware.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 129th General Assembly, with the approval of the Governor as attested by his signature affixed hereto, that the Secretary of the Department of Community Affairs and Economic Development, is hereby directed to report to the General Assembly within the next fourteen days the efforts made by said Department during the current fiscal year to bring business and industry to Delaware.

Approved June 25, 1977.

## CHAPTER 558

## HOUSE JOINT RESOLUTION NO. 24

TO PROVIDE AN OPPORTUNITY FOR THE GENERAL ASSEMBLY TO REVIEW THE PLAN OF THE STATE BOARD OF EDUCATION WHICH IS TO BE SUBMITTED TO THE UNITED STATES DISTRICT COURT IN THE CASE OF EVANS V. BUCHANAN.

WHEREAS, the May 18, 1977 Order of the United States District Court for the District of Delaware in the case of Evans v. Buchanan, Civil Action Nos. 1816-1822, provides for the General Assembly or the State Board of Education to prescribe a desegregation plan; and

WHEREAS, the May 18, 1977 Order provides that the State Board of Education or other appropriate State authority shall file with the District Court a formal report of the State's efforts to carry out the mandate of the District Court; and

WHEREAS, the General Assembly is concerned that the highest quality education be provided for all the students in the State of Delaware; and

WHEREAS, the May 19, 1976 Opinion of the United States District Court in Evans v. Buchanan recognized the authority of the State Board of Education and the General Assembly to "take such steps as are not violative of constitutional rights to change the pattern set" by the Court; and

WHEREAS, the General Assembly and its Special Legislative Committee on School Desegregation established by the House Concurrent Resolution No. 51 of the 128th General Assembly is and has been studying the situation created by the case of Evans v. Buchanan; and

WHEREAS, the General Assembly is responsible for protecting the interests of the people of the State of Delaware; and

WHEREAS, in the interests of the people of the State of Delaware, the General Assembly deems it appropriate that it be afforded an opportunity to review any report, program, plan or proposal of the State Board of Education which is to be submitted formally to the United States District Court for the District of Delaware in accordance with the Order of May 18, 1977.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives of the 129th General Assembly, the Senate concurring therein, that at least ten

(10) days prior to submitting any formal report, program, plan or proposal to the United States District Court for the District of Delaware for the purpose of complying with the May 18, 1977 Order in the case of *Evans v. Buchanan*, the State Board of Education shall, by certified mail, submit a copy of such report, plan, program or proposal to each member of the Special Legislative Committee on School Desegregation, provided, however, that nothing in this Resolution shall preclude compliance with the time limitations imposed upon the State Board of Education or the General Assembly by the May 18, 1977 Order.

Approved June 28, 1977.

## CHAPTER 559

## HOUSE JOINT RESOLUTION NO. 27

RECOMMENDING THE ESTABLISHMENT OF A MANDATORY ENERGY SAVINGS PROGRAM  
FOR THE PUBLIC SCHOOLS IN THE STATE OF DELAWARE.

WHEREAS, the Committee on Energy of the House of Representatives of the 129th General Assembly of the State of Delaware has met several times since its organization in January; and

WHEREAS, among the problems in the serious energy shortage that were brought to the attention of the Energy Committee was the immediate need for a policy for energy conservation in the public schools; and

WHEREAS, House Concurrent Resolution No. 23 established a committee to work with the public schools in the development and enforcement of an energy saving program, which committee submitted a report to the House Energy Committee concerning needed energy saving procedures in the State public schools; and

WHEREAS, the stated report showed that public schools are currently consuming energy at a rate exceeding \$8,000,000 a year, that there is no mandatory energy saving program in the public school system, that there is not a centralized data collection of energy used in the public school system, that energy reductions in the range of 15 to 20 percent are attainable in FY-78, and there exists adequate knowledge and expertise to implement an energy saving program under the guidance of a committee appointed for that specific purpose.

## NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 129th General Assembly of the State of Delaware, with the approval of the Governor, that all school districts be required to adopt and follow the energy saving program approved by the State Board of Education on March 17, 1977, "Energy Conservation Program for School Facilities."

BE IT FURTHER RESOLVED that all school districts be required to participate in a state-wide energy use reporting system.

BE IT FURTHER RESOLVED that the implementation of this program be under the direction of the Committee to Work with the Public Schools in the Development and Enforcement of an Energy Saving Program.

BE IT FURTHER RESOLVED that this committee report on a recurring basis to the House Energy Committee throughout FY-78.

Approved July 18, 1977.

## CHAPTER 560

## HOUSE JOINT RESOLUTION NO. 25

REQUESTING THE DIVISION OF PURCHASING OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES TO ESTABLISH A FORMAL PROGRAM TO IMPROVE PURCHASING PRACTICES.

WHEREAS, there is an opportunity for the State to save several million dollars by improving the understanding and skills of employees purchasing needed materials and services; and

WHEREAS, a sound purchasing program clearly delineates which materials and services should be purchases centrally versus locally; and

WHEREAS, a sound central purchasing program must be based upon appropriate specifications and contracting procedures; and

WHEREAS, the State has a central purchasing warehouse and distribution system.

NOW, THEREFORE:

BE IT RESOLVED by the 129th General Assembly of the State of Delaware, the Governor concurring therein, that the Division of Purchasing establish a formal program jointly with the advice and involvement of at least one professional purchasing agent with at least five years of experience in business and industry from each county of the State which will:

1. Improve the understanding and skills of employees purchasing materials and services for the State;
2. Develop a library of appropriate specifications to cover all major items purchased by the State;
3. Develop a plan which specifies how (local versus central; spot versus contract) materials and services shall be purchased for the State.

BE IT FURTHER RESOLVED that the Division shall report to the General Assembly before December 31, 1977, including recommendations about what will be required to implement the proposed program and how much money can be saved for the State.

BE IT FURTHER RESOLVED that a copy of this Joint Resolution, upon approval by the Governor, shall be delivered without delay to the Division of Purchasing.

Approved July 20, 1977.

## CHAPTER 561

## SENATE JOINT RESOLUTION NO. 27

URGING ALL COUNSEL FOR THE STATE BOARD OF EDUCATION AND DEFENDANT SCHOOL DISTRICTS TO APPEAL THE COURT DECISIONS IN EVANS V. BUCHANAN WHICH ARE NOT BASED UPON PROVEN VIOLATIONS.

WHEREAS, the United States Supreme Court by a four to three vote (with two Justices not participating) refused to grant a Writ of Certiorari in the case of Evans v. Buchanan and thereby denied the State of Delaware a review of the District Court decision (by a two to one vote of the three Judges) and the Third Circuit Court of Appeals decision (by a four to three vote of the seven Judges); and

WHEREAS, the United States Supreme Court in many recent cases has repeatedly stated that intent on the part of state officials to discriminate must be proven and that the scope of any remedy imposed in a school desegregation case must be commensurate with specified and proven violations; and

WHEREAS, the United States District Court for the District of Delaware did not find discriminatory intent by state officials; and

WHEREAS, there has been no showing that the scope of the remedy approved by the Third Circuit Court of Appeals is commensurate with the alleged violation found by the District Court; and

WHEREAS, the 129th General Assembly of the State of Delaware finds that the Supreme Court's refusal to grant a Writ of Certiorari under these circumstances is an affront to the standards of justice and an affront to the people of the sovereign State of Delaware.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that all counsel for the State Board of Education and the defendant suburban New Castle County School Districts are hereby urged to petition for a reargument to the United States Supreme Court in order to obtain a definitive ruling in Evans v. Buchanan by the Supreme Court, or a remand to a lower Court for further evidentiary hearings.

BE IT FURTHER RESOLVED that all counsel for the State Board of Education and the defendant suburban New Castle County School Districts are hereby urged to vigorously appeal any District Court-imposed remedies to the Third Circuit Court of Appeals and to the United States Supreme Court which do not, in their view, represent compliance with the applicable Constitutional and legal standards for remedial desegregation plans.

Approved October 15, 1977.

## CHAPTER 562

## SENATE JOINT RESOLUTION NO. 28

AUTHORIZING THE GENERAL ASSEMBLY TO PETITION FOR LEAVE TO APPEAR AS AMICUS CURIAE IN THE CASE OF EVANS V. BUCHANAN.

WHEREAS, the General Assembly represents the interests of the people of the State of Delaware and is vitally concerned that the United States Courts in Evans v. Buchanan do not issue orders which will be detrimental to the interests of the people of the State of Delaware and to the educational system of the State of Delaware; and

WHEREAS, a Special Legislative Committee has been formed pursuant to House Concurrent Resolution No. 51, of the 128th General Assembly and has been continued by Laws of Delaware, Volume 60, Chapter 487 for the purpose of, among other things, studying the function which the Legislature should assume in the desegregation case of Evans v. Buchanan; and

WHEREAS, the Special Legislative Committee is currently studying, and will continue to study, the advisability of the General Assembly moving for leave to file briefs and copies of pertinent legislation and to present oral argument as an amicus curiae in the litigation; and

WHEREAS, the Special Legislative Committee may determine that it is in the best interests of the people and of the State of Delaware in such proceedings for it to petition for leave to file briefs and documents and present oral argument as amicus curiae; and

WHEREAS, the Special Legislative Committee may reach this determination at a time when the 129th General Assembly is not in session and/or at a time during which, under the Federal Rules of Civil Procedure, or the Federal Rules of Appellate Procedure or the Rules of the Supreme Court of the United States any such formal proceedings to be timely must be instituted immediately.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that the Special Legislative Committee formed pursuant to House Concurrent Resolution No. 51, of the 128th General Assembly, and continued by Laws of Delaware, Volume 60, Chapter 487 for the purpose, among others, of studying the function which the General

Assembly should assume in the desegregation case of Evans v. Buchanan, may file a petition for leave to file briefs and documents and to present oral argument as an amicus curiae, in any and all proceedings in the case of Evans v. Buchanan, if the Committee deems such action to be in the best interests of the people and the State of Delaware. If the Committee determines that such petition should be made, the Committee's legal counsel is authorized and empowered to prepare all appropriate legal documents and pleadings, to file same with the appropriate Courts, to represent the Special Legislative Committee and to take all other and subsequent legal steps and to prepare and submit all other and subsequent legal papers, legal briefs and legal arguments and to make all oral arguments which are deemed by such counsel to be appropriate to implement and carry out the decision of the Committee for active participation in the said proceedings.

BE IT FURTHER RESOLVED that the Committee shall report on any such action taken by it and its legal counsel, such report to be made promptly to the General Assembly then in session and if no General Assembly is then in session such report shall be made to the next session thereof promptly upon the convening thereof; and in either case, the Committee shall also report to the Governor promptly upon any such action or actions taken by it and its legal counsel.

Approved October 15, 1977.

## CHAPTER 563

## SENATE JOINT RESOLUTION NO. 29

NOTIFYING THE NEW CASTLE COUNTY PLANNING BOARD OF EDUCATION, AND ALL OTHER INTERESTED PERSONS, THAT THE STATE OF DELAWARE DOES NOT CONSIDER THE FINDINGS, RECOMMENDATIONS, POLICIES OR ANY OTHER ACTION OF SUCH BOARD TO BE FINDINGS OF THE STATE OR OF A DULY CONSTITUTED BOARD OF EDUCATION.

WHEREAS, in the litigation known as Evans v. Buchanan, it is understood that the United States District Court for the District of Delaware ordered the State Board of Education of the State of Delaware to appoint a five-person new Board to plan for the implementation of an almost county-wide School District in New Castle County in connection with an Order of that Court which provides for, among other things, the elimination of eleven public school districts created under the authority of the General Assembly of the State of Delaware and their replacement by the Court-created single almost county-wide public school district; and

WHEREAS, the new Board was so appointed and we understand it has presented to the Court such a plan; and

WHEREAS, the 129th General Assembly of the State of Delaware does not recognize said new Board to be a duly constituted and representative Board of Education under the laws of the State of Delaware.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that the findings, recommendations, policies and other actions of the five-person Planning Board appointed by the State Board of Education are not actions or findings of the State of Delaware or any local school district in New Castle County, notwithstanding any statement, rule or regulation of the State Board of Education to the contrary; and

BE IT FURTHER RESOLVED that the action and policies of the New Castle County Planning Board of Education are not endorsed by the State of Delaware and that unless the General Assembly takes effective action in support of any such actions or policies said actions and policies shall have only such force as they receive from orders of the United States Courts.

Approved October 15, 1977.

## CHAPTER 564

## HOUSE JOINT RESOLUTION NO. 62

DIRECTING THE DIVISION OF ECONOMIC DEVELOPMENT TO STUDY AND INVESTIGATE THE MANNER IN WHICH FACTORY OUTLETS ARE CONCENTRATED IN READING AND SMALLER TOWNS IN PENNSYLVANIA AND MARYLAND, TO DETERMINE AND ASSESS THE MANNER IN WHICH SUCH FACTORY OUTLETS ARE ATTRACTED TO THESE LOCATIONS, AND TO PREPARE A FEASIBILITY REPORT AS TO WHETHER OR NOT ATTRACTING FACTORY OUTLETS TO THE WILMINGTON MERCHANDISE MART WOULD BE DESIRABLE.

WHEREAS, an informal survey indicates that each year more and more Delaware residents are traveling out-of-state to various locations, sometimes small towns with no other form of commerce, to spend a day or a weekend shopping at factory outlets; and

WHEREAS, "factory outlets" are of many differing types, but the phrase usually refers to stores where manufacturers place on sale those items which do not meet the high standards imposed for retail sale, or stores where the owner holds a franchise from several manufacturers or distributors to be the outlet for rejected or returned merchandise; and

WHEREAS, although there are a few outlet stores in Delaware, suggestions have been made from time to time that the Wilmington Merchandise Mart is ideally situated and has tremendous potential to be an exceptionally good factory outlet center, containing a wide variety of differing factory outlet shops.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 129th General Assembly of the State of Delaware, with the approval of the Governor, that the Division of Economic Development is hereby directed to study and investigate the manner in which factory outlets are concentrated in Reading and smaller towns in Pennsylvania and Maryland, to determine and assess the manner in which such factory outlets are attracted to these locations, and to prepare a feasibility report as to whether or not attracting factory outlets to the Wilmington Merchandise Mart would be desirable.

BE IT FURTHER RESOLVED that the Division issue a progress report to the General Assembly on or before June 23, 1978, and that a Final Report be issued to the General Assembly no later than January 9, 1979.

Approved May 19, 1978.

## CHAPTER 565

## HOUSE JOINT RESOLUTION NO. 58

DIRECTING THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DIRECT THE NEW CASTLE COUNTY PLANNING BOARD OF EDUCATION TO ADMINISTER THE STATE CERTIFICATION RULES CONCERNING GUIDANCE PERSONNEL WITHOUT ANY LOWERING OF STANDARDS.

WHEREAS, the State Board of Education is responsible by law for determining the certification of professional personnel employed in the public schools of Delaware; and

WHEREAS, the Laws of Delaware require in 14 Del. C., Section 1092 that "every employee of a reorganized school district must meet the standards for qualification as adopted by the State Board of Education and be certified or otherwise licensed in accordance with these standards in order to be placed on the official payroll of the reorganized school district"; and

WHEREAS, in the Opinion of the United States District Court for the District of Delaware dated January 9, 1978, the Court made the following requirement:

"Fourth, to ameliorate the racial pressures on students undergoing desegregation and to prevent resegregation under the guise of curriculum or program choices, the NCCPBE must institute an effective and nondiscriminatory counseling and guidance program..."; and

WHEREAS, in the Order of the said Court issued on January 9, 1978, the Court further indicated that:

"In the event of the necessary transfer or reassignment of any school employee, who is certified under state law in any of the Component Districts to a position in the New District for which such employee is not qualified for certification by the State Board of Education or other certifying authority, as the case may be, such school employee so reassigned shall remain in a fully certified status for so long as he or she holds any assigned position in the New District"; and

WHEREAS, on or about April 5, 1978, the New Castle County Planning Board of Education in announcing vacancies for the position of Guidance Advisor set forth the following in a statement of qualifications:

"Although guidance certification is not a requirement, a strong interest in helping students, and some training

and/or experience are necessary especially in job and/or college placement for students"; and

WHEREAS, it is the desire and intention of the General Assembly of the State of Delaware that if desegregation is to occur in New Castle County by the reassignment of pupils from one school to another, the services provided to those pupils in this difficult time of transition should indeed be the best services available.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 129th General Assembly of the State of Delaware, with the approval of the Governor, that the State Superintendent of Public Instruction is directed to immediately advise the New Castle County Planning Board of Education through its Superintendent Designate that the persons employed for guidance positions necessary to the transition from eleven to one school district in New Castle County shall be persons appropriately certified according to the existing rules and regulations of the State Board of Education.

BE IT FURTHER RESOLVED that the State Superintendent of Public Instruction shall further direct the New Castle County Planning Board of Education that in hiring personnel for the guidance positions necessary, it shall be guided by the Opinion of the Court concerning the quality and necessity of that program; and that in the application of the Order of the Court, the Board shall make every effort to avoid "... the event of necessary transfer or reassignment...to a position in the New District for which such employee is not qualified for certification by the State Board of Education...

Approved May 23, 1978.

## CHAPTER 566

## HOUSE JOINT RESOLUTION NO. 67

DIRECTING THE BINGO CONTROL COMMISSION TO GRANT A LICENSE TO  
THE REHOBOTH BEACH VOLUNTEER FIRE COMPANY FOR A BINGO GAME  
ON JUNE 3, 1978.

WHEREAS, the Rehoboth Beach Volunteer Fire Company applied for  
a license to conduct a bingo game on June 3, 1978; and

WHEREAS, the application for a game on that night was refused  
solely because the Rehoboth Beach Volunteer Fire Comapny missed  
the application filing date by two days; and

WHEREAS, the Rehoboth Beach Volunteer Fire Company should not  
be penalized by virtue of a technical administrative requirement.

NOW, THEREFORE:

BE IT RESOLVED by the members of the House of Representatives  
and the Senate of the 129th General Assembly of the State of  
Delaware, with the approval of the Governor as attested by his  
signature affixed hereto, that the Bingo Control Commission  
is directed to review the application of the Rehoboth Beach  
Volunteer Fire Comapny for a bingo game on June 3, 1978, and  
that if the appliciation is in order and if all of the requirements  
of the law and regulations established by the Bingo Control  
Commission have been met except for the time requirements for  
filing the application, that the Bingo Control Commission shall  
issue a license to the Rehoboth Beach Volunteer Fire Company to  
conduct a bingo game on June 3, 1978.

BE IT FURTHER RESOLVED that upon passage of this Resolution  
an appropriately prepared copy of this Resolution shall be  
delivered to the Bingo Control Commission which shall take  
immediate action to grant a license in accordance with the terms  
of this Resolution.

Approved June 1, 1978.

## CHAPTER 567

## HOUSE JOINT RESOLUTION NO. 59

DIRECTING THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DIRECT THE NEW CASTLE COUNTY PLANNING BOARD OF EDUCATION TO ADMINISTER THE STATE CERTIFICATION RULES CONCERNING READING PERSONNEL WITHOUT ANY LOWERING OF STANDARDS.

WHEREAS, the State Board of Education is responsible by law for determining the certification of professional personnel employed in the public schools of Delaware; and

WHEREAS, the Laws of Delaware required in 14 Del. C., Section 1092 that "every employee of a reorganized school district must meet the standards for qualification as adopted by the State Board of Education and be certified or otherwise licensed in accordance with these standards in order to be placed on the official payroll of the reorganized school district"; and

WHEREAS, in the Opinion of the United States District Court for the District of Delaware dated January 9, 1978, the Court made the following requirement:

"Second, reading and communication skills merit particular attention. '(S)peech habits acquired in a segregated system do not banish simply by moving the child to a desegregated school. The root condition shown by this record must be treated directly by special training at the hands of teachers prepared for that task.' In order to remedy the effects of past discrimination, the New Board will be directed to institute an affirmative reading and communication skills program which does not resegreated pupils."; and

WHEREAS, in the Order of the said Court issued on January 9, 1978 the Court further indicated that:

"In the event of the necessary transfer or reassignment of any school employee, who is certified under state law in any of the Component Districts to a position in the New District for which such employee is not qualified for certification by the State Board of Education or other certifying authority, as the case may be, such school employee so reassigned shall remain in a fully certified status for so long as he or she holds any assigned position in the New District"; and

WHEREAS, on or about April 5, 1978 the New Castle County Planning Board of Education in announcing vacancies for the position of Reading Teacher set forth the following in a statement

of qualifications:

"Teachers with exceptional ability to teach reading. Candidates without full state certification are encouraged to apply. Reading personnel will be expected to function in both a resource and teaching role in an effort to improve instruction and achievement. It is understood that some training and/or experience and a strong interest in helping children are necessary for consideration."; and

WHEREAS, it is the desire and intention of the General Assembly of the State of Delaware that if desegregation is to occur in New Castle County by the reassignment of pupils from one school to another, the services provided to those pupils in this difficult time of transition should indeed be the best services available; and

WHEREAS, members of this Assembly recognize reading skill as one of the most necessary skills for an American youth to possess.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 129th General Assembly of the State of Delaware, with the approval of the Governor, that the State Superintendent of Public Instruction is directed to immediately advise the New Castle County Planning Board of Education through its Superintendent Designate that the persons employed for reading positions necessary to the transition from eleven to one school district in New Castle County shall be persons appropriately certified according to the existing rules and regulations of the State Board of Education.

BE IT FURTHER RESOLVED that the State Superintendent of Public Instruction shall further direct the New Castle County Planning Board of Education that in hiring personnel for the reading positions necessary, it shall be guided by the Opinion of the Court concerning the quality and necessity of that program; and that in the application of the Order of the Court, the Board shall make every effort to avoid "...the event of necessary transfer or reassignment...to a position in the New District for which such employee is not qualified for certification by the State Board of Education..."

Approved June 13, 1978.

## CHAPTER 568

## HOUSE JOINT RESOLUTION NO. 68

## ESTABLISHING A JUDICIAL PENSION REFORM COMMITTEE.

WHEREAS, members of the Judiciary of the State of Delaware are, by reason of their office, entitled to participate in a pension plan offering benefits which are among the most substantial offered to any State officer or employee; and

WHEREAS, the State Judiciary Retirement Fund created by Chapter 56, Title 29, Delaware Code, is beset by an unfunded past service liability which, unless addressed by the General Assembly, will increase in major proportion with each fiscal year; and

WHEREAS, as a result of recent litigation before the Delaware Supreme Court, it has been finally determined that members of the Judiciary first appointed after June 30, 1976, must contribute to the State Judiciary Retirement Fund at a rate higher than the rate of contribution for those members of the Judiciary appointed prior to June 30, 1976; and

WHEREAS, the aggregate rate of contribution by the members of the Judiciary to the State Judiciary Retirement Fund is not commensurate with the substantial level of benefits to which the said members of the Judiciary are entitled upon retirement or reaching the age of 65, whichever should later occur; and

WHEREAS, in the absence of meaningful reform, the current pension plan for the members of the Judiciary will assure inequities in the rate of contribution among the members of the Judiciary, promote the risk of further litigation, and contradict the policy of the State of Delaware that its pension funds be maintained on an actuarially sound basis, consistent with available resources; and

WHEREAS, it is the belief of the General Assembly that it is possible to achieve agreement on meaningful reform of the Judiciary pension plan if the General Assembly and the Judiciary negotiate promptly and in good faith to that end.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the State of Delaware, the Governor concurring therein, as follows:

1. There is hereby created a Committee to be known as the Judicial Pension Reform Committee, with responsibility for

recommending to each House of the General Assembly and to the Governor actuarially provident reforms in the nature of benefits payable to members of the Judiciary from the State Judiciary Retirement Fund, and in the level and manner of contributions thereto by members of the Judiciary.

2. The Judicial Pension Reform Committee shall consist of nine members, two of whom shall be appointed by the President Pro Tempore from the membership of the Senate; two of whom shall be appointed by the Speaker from the membership of the House of Representatives; two of whom shall be appointed by the Chief Justice from the membership of the Judiciary; and three of whom shall be appointed by the Governor. Among those appointed by the Governor shall be a member of the Board of Pension Trustees, and the Chairperson of said Board who shall also serve as Chairperson of the Committee.

3. The Judicial Pension Reform Committee shall submit, in the form of draft legislation, its recommendations for reform of the Judiciary pension plan not later than June 20, 1978, to the Speaker of the House, the President Pro Tempore of the Senate, the Chief Justice of the Delaware Supreme Court, and the Governor. Each such recommendation shall be accompanied by a written narrative explaining the basis therefor, and a statement of the actuarial implications thereof.

4. The Board of Pension Trustees shall provide such actuarial and other technical and administrative assistance to the Committee as the Committee may from time to time request.

Approved June 13, 1978.

CHAPTER 569

SENATE JOINT RESOLUTION NO. 39

DIRECTING THE DIVISION OF HIGHWAYS TO CONDUCT A FEASIBILITY STUDY FOR A RAILROAD OVERPASS AT DIVISION OR FORREST STREET IN DOVER.

WHEREAS, the Conrail railroad track crossings at Division Street and Forrest Street in Dover have created a traffic bottleneck; and

WHEREAS, the Conrail tracks split the town of Dover in two, separating residents of the fast-growing western section of the city from hospital services, fire protection and police when freight trains cross these major traffic arteries; and

WHEREAS, it is in the public interest to eliminate this major traffic bottleneck; and

WHEREAS, rail service is essential to the economy of Dover and Southern Delaware.

NOW, THEREFORE:

BE IT RESOLVED that the Senate of the 129th General Assembly, the House of Representatives concurring therein, directs and hereby authorizes the Division of Highways, Department of Highways and Transportation, to conduct a feasibility study of an overpass of the Conrail crossings at either Division or Forrest Streets in Dover; and

BE IT FURTHER RESOLVED that a copy of this Joint Resolution be forwarded to Secretary George Jarvis of the Department of Highways and Transportation immediately upon its passage.

Approved June 29, 1978.

## CHAPTER 570

## SENATE JOINT RESOLUTION NO. 46

ESTABLISHING THE OFFICIAL ESTIMATES OF GENERAL FUND REVENUES FOR THE FISCAL YEAR ENDING JUNE 30, 1979.

WHEREAS, the Governor and the General Assembly are committed to restrain the level of State spending within available revenues for Fiscal Year 1979; and

WHEREAS, this requires a determination of the impact of revenue and appropriation bills on the General Fund; and

WHEREAS, such determination would be facilitated by an agreement upon and the adoption of official estimates of Fiscal Year 1979 revenues for the purpose of establishing a reference point; and

WHEREAS, any indicated deficiency in revenues is information that is vital to determine the need for and magnitude of additional revenue legislation and/or reduced appropriation legislation required to preserve the fiscal integrity of the State of Delaware; and

WHEREAS, the Governor and the General Assembly, after receipt of and independent evaluations of information and advice, and in order to act responsibly upon appropriation and revenue bills for Fiscal Year 1979, deem it necessary and desirable to reach a mutual accord in establishing the official revenue estimate for Fiscal Year 1979.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 129th General Assembly of the State of Delaware, with the approval of the Governor as attested by his signature hereon, that the estimated General Fund revenue for Fiscal Year 1979, including federal revenue sharing receipts and countercyclical aid, is hereby estimated to be \$534.9 million.

Approved July 1, 1978.

CHAPTER 571

SENATE JOINT RESOLUTION NO. 41

CONTINUING THE COMMITTEE CREATED BY SENATE JOINT RESOLUTION NO. 5 OF THE 129TH GENERAL ASSEMBLY AND REQUESTING SAID COMMITTEE STUDY THE SUBJECT OF ELECTRONIC FUNDS TRANSFER SYSTEMS.

WHEREAS, the Committee established by Senate Joint Resolution No. 5 of the 129th General Assembly is concluding its current study of the Banking Code; and

WHEREAS, certain subjects were not studied due to time constraints; and

WHEREAS, the subject of electronic funds transfer systems, more commonly known as "EFTS", was not addressed; and

WHEREAS, EFTS is sufficiently complex to require a separate study; and

WHEREAS, EFTS legislation is currently under consideration in the Federal Congress; and

WHEREAS, thirty-one states have enacted some form of EFTS legislation; and

WHEREAS, the protection of both the citizens of Delaware and the financial institutions thereof would best be served by enactment of proper legislation.

NOW, THEREFORE:

BE IT RESOLVED by the members of the Senate of the 129th General Assembly of the State of Delaware, the Governor concurring therein that the Committee established by Senate Joint Resolution No. 5 of the 129th General Assembly is hereby continued. The Committee shall study the EFTS subject considering the report of the National Commission on Electronic Fund Transfers, federal legislation, legislation of other states and the unique requirement for Delaware.

BE IT FURTHER RESOLVED that a report of such study including proposed legislation, if legislation is found necessary, be given to the Governor and members of the Senate-House Joint Banking Committee, and that such report be made available on request to all legislators.

BE IT FURTHER RESOLVED that the report shall be due no later than May 1, 1979 and shall contain recommendations on such other matters as the Committee deems appropriate.

BE IT FURTHER RESOLVED that a copy of this Joint Resolution shall be sent to the members of the Committee established by Senate Joint Resolution No. 5 of the 129th General Assembly.

Approved July 11, 1978.

## CHAPTER 572

## SENATE JOINT RESOLUTION NO. 44

ESTABLISHING A WORKMAN'S COMPENSATION COMMISSION TO STUDY THE STATUS OF WORKMAN'S COMPENSATION INSURANCE IN THE STATE OF DELAWARE AND ELSEWHERE AND TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AS TO A SUGGESTED TOTAL REVISION OF DELAWARE'S WORKMAN'S COMPENSATION LAW.

WHEREAS, there exists an immediate need to make a comprehensive overall review and revision of Delaware's Workman's Compensation law both to make needed revisions to that law and as part of the State's efforts to improve its business climate for economic development; and

WHEREAS, many separate and frequently conflicting revisions to this law have been attempted; and

WHEREAS, the General Assembly finds it extremely difficult to determine which revisions are necessary when they are made on a piecemeal basis and deems it more appropriate to have a total comprehensive review made by a commission of the nature of the recent medical malpractice study committee, which commission shall also recommend suggested legislation.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and House of Representatives of the 129th General Assembly of the State of Delaware with the approval of the Governor as attested by his signature appended hereto that the Delaware Workman's Compensation Commission is hereby created.

BE IT FURTHER RESOLVED that the commission shall consist of the following members: the State Insurance Commissioner, the Secretary of the Department of Labor, a representative appointed by the Industrial Accident Board and 17 other members, two to be members of the Senate appointed by the President of the Senate, two to be members of the House appointed by the Speaker or acting Speaker of the House, two to be appointed by the President of the Senate, two to be appointed by the Speaker or acting Speaker of the House and the remaining 7 to be appointed by the Governor. Of the 7 members appointed by the Governor, two shall be representatives of labor residing and working in the State of Delaware, one shall be a representative of the Delaware State Chamber of Commerce and one shall be a representative of other business interests in the State of Delaware, two shall be representatives of the insurance industry in Delaware and the three remaining members, shall be members of the public unaffiliated with any of the groups represented above.

BE IT FURTHER RESOLVED that the Governor shall also name a Chairman of the Commission who shall be one of the members of the commission. A majority of the commission members then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the commission. An affirmative vote of the majority of the quorum present at a duly called and noticed meeting shall be required to exercise any power or function of the commission. Each member shall be entitled to one vote on all matters which come before the commission. The commission may delegate to one or more of its members such duties as it deems proper.

BE IT FURTHER RESOLVED that the Insurance Commissioner, the Secretary of the Department of Labor and the representative designated by the Industrial Accident Board may each designate a deputy or other person from their agency to exercise their power and perform their duties including the right to vote as a member of the commission.

BE IT FURTHER RESOLVED that the Commission is hereby charged with the responsibility for developing a long term comprehensive revision of Delaware's workman's compensation law which will provide prompt and equitable compensation to those injured and covered by those laws while doing so at the most reasonable cost and in the most reasonable manner possible.

BE IT FURTHER RESOLVED that the commission shall return its first report and recommendations to the Governor and to the General Assembly on or before March 1, 1979.

Approved July 11, 1978.

EXECUTIVE ORDERS  
CHAPTER 573  
STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
DOVER

EXECUTIVE ORDER  
NUMBER SEVEN

In compliance with the provisions of Section 122, Title 20, Delaware Code, and by virtue of the authority vested in me as Governor of the State of Delaware, I do hereby APPOINT:

COLONEL FRANCIS A. IANNI

as the Adjutant General of the State of Delaware with the rank of Brigadier General.

Approved This 3rd day of March, 1977.

(GREAT SEAL)

PIERRE S. DUPONT, IV  
Governor

Attest:  
GLENN C. KENTON  
Secretary of State

CHAPTER 574  
STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
DOVER

EXECUTIVE ORDER  
NUMBER THIRTY-FOUR

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: ABOLISHMENT OF THE DIVISION OF SERVICES TO CHILDREN AND YOUTH  
IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND RESCISON  
OF EXECUTIVE ORDERS NO. 63 AND 67

WHEREAS, Executive Order Number 63 was duly signed by Governor  
Shermen W. Tribbitt on November 27, 1974; and

WHEREAS, Executive Order Number 67 was fully signed by Governor  
Sherman W. Tribbitt on January 27, 1975; and

WHEREAS, these two Executive Orders established the Division  
of Services to Children and Youth within the Department of Health and  
Social Services and established a nine-member Council to assist the  
Director of that Division; and

WHEREAS, the Division of Services to Children and Youth was  
created to assess, plan, coordinate, develop and stimulate services  
to children and youth; and

WHEREAS, the Council of State Governments, after a study of the  
Department of Health and Social Services, has recommended that the  
Division of Services to Children and Youth be abolished; and

WHEREAS, it is the intention of the Executive Department to  
vest the responsibilities of the Division of Services to Children  
and Youth in the Division of Social Services in the Department of  
Health and Social Services; and

WHEREAS, the advisory council established by Executive Orders  
61 and 63 has been superseded by the Juvenile Justice Advisory Group  
established by Executive Order Number 91, duly signed by Governor  
Sherman W. Tribbitt on December 17, 1975; and

WHEREAS, pursuant to Title 29, Delaware Code, Section 7903(7),

"The Secretary may:

... (7) Establish, consolidate, abolish, transfer or  
combine the powers, duties and functions of the

divisions, subdivisions and offices within the Department as the Secretary, with the written approval of the Governor, may deem necessary, providing that all powers, duties and functions required by law shall be provided for and maintained..."; and

WHEREAS, the Secretary of the Department of Health and Social Services has concluded that the Division of Services to Children and Youth should be abolished and its functions assigned to the Division of Social Services; and

WHEREAS, it is desirable that this action be officially noted and formally recognized by Executive Order.

NOW, THEREFORE, I PIERRE S. du PONT, IV, Governor of the State of Delaware, do hereby declare and order as follows:

1. The Division of Services to Children and Youth in the Department of Health and Social Services is abolished effective November 30, 1977.

2. The powers, duties and functions of the Division of Services to Children and Youth shall be transferred to and vested in the Division of Social Services within the Department of Health and Social Services.

3. The Juvenile Justice Advisory Group, established by Executive Order Number 91, signed by Governor Sherman W. Tribbitt and dated December 17, 1975, shall consult with and coordinate its activities with the Division of Social Services within the Department of Health and Social Services.

4. Executive Orders Number 63 and 67, signed by Governor Sherman W. Tribbitt, dated November 27, 1974 and January 27, 1975, are hereby rescinded in their entirety.

Approved This 16th day of November, 1977.

(GREAT SEAL)

PIERRE S. DU PONT, IV  
Governor

Attest:

GLENN C. KENTON  
Secretary of State

PATRICIA C. SCHRAMM  
Secretary of Health and Social Services

PROCLAMATIONS

CHAPTER 575

STATE OF DELAWARE

EXECUTIVE DEPARTMENT  
DOVER

PROCLAMATION

I, Pierre S. du Pont, IV, Governor of the State of Delaware, pursuant to Article 3, Section 16 of the Constitution of the State of Delaware, do hereby convene the Senate of the 129th General Assembly into Extraordinary Session on Monday, February 7, 1977, at 2:00 p.m., to consider and act upon certain nominations previously submitted to it by the Governor.

IN WITNESS WHEREOF, I, PIERRE S. du PONT, IV, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this third day of February, in the year of our Lord, one thousand nine hundred and seventy-seven, and of the Independence of the United States of America, the two hundred and first.

(GREAT SEAL)

PIERRE S. DU PONT, Governor

GLENN C. KENTON, Secretary of State

CHAPTER 576

STATE OF DELAWARE

EXECUTIVE DEPARTMENT

DOVER

PROCLAMATION

WHEREAS, I, Pierre S. du Pont, IV, Governor of the State of Delaware, do hereby find that a State of Emergency exists for the State due to extremely cold weather; and

WHEREAS, extremely cold weather conditions have created serious economic problems for citizens in the State of Delaware; and

WHEREAS, the extreme low temperatures will create serious budget problems for the State and local communities in Delaware; and

WHEREAS, the impact of unemployment is a fact of life due to frozen conditions on the various rivers and the Delaware Bay in lower Delaware; and

WHEREAS, the projected costs to restore and repair pilings, wharves and sunken boats will present serious economic consequences to individuals and municipalities when the Spring thaws occur; and

WHEREAS, the long term impact on the commercial fishery industry and the recreational industry along the southern part of Delaware River and Delaware Bay and seacoast will reduce by several millions of dollars, the income normally derived from these enterprises during the coming Spring and Summer months.

WHEREAS, the weather has helped to develop unprecedented demands on the State's available fuel supply and severe natural gas shortages have developed; and

WHEREAS, a number of industrial plants and factories have been forced to curtail production or to shut down completely; and

WHEREAS, shopping centers, commercial establishments and many businesses have been forced to shorten their working hours, lower thermostats and adopt other measures to lessen the impact of the fuel crisis; and

WHEREAS, the State, faced with a severe economic problem finds that a loss of tax base brought about by the energy crisis and the cold weather will result in compounding the problem.

NOW, THEREFORE, I, PIERRE S. du PONT, IV, by the authority vested in me as the Governor of the State of Delaware pursuant to Chapter 31, Title 20, Delaware Code, proclaim that a State of Emergency exists in the State of Delaware. I therefore, invoke the provisions of the Delaware Emergency Operating Plan and I direct each local government in the State to cooperate, in every possible way, with the implementation of the emergency plan in order to assist the State.

IN WITNESS WHEREOF, I, PIERRE S. du PONT, IV, Governor of  
the State of Delaware, have hereunto set my  
hand and caused the Great Seal of the said State  
(GREAT SEAL) to be hereunto affixed at Dover, this ninth day  
of February, in the year of our Lord, one thousand  
nine hundred and seventy-seven, and of the inde-  
pendence of the United States of America, the two  
hundred and first.

PIERRE S. DU PONT, Governor

GLENN C. KENTON, Secretary of State

CHAPTER 577

STATE OF DELAWARE

EXECUTIVE DEPARTMENT  
DOVER

PROCLAMATION

I, PIERRE S. du PONT, IV, Governor of the State of Delaware, pursuant to Article 3, Section 16 of the Constitution of the State of Delaware, do hereby convene the 129th General Assembly into Extraordinary Session on Tuesday, March 15, 1977, at 1:30 p.m. for the purpose of considering and acting upon House Bill No. 172, and such further business as may lawfully come before it.

IN WITNESS WHEREOF, I, PIERRE S. du PONT, IV, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover, this twelfth day of March, in the year of our Lord, one thousand nine hundred and seventy-seven, and of the Independence of the United States of America, the two hundred and first.

(GREAT SEAL)

PIERRE S. DU PONT, Governor

GLENN C. KENTON, Secretary of State

CHAPTER 578  
STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
DOVER

PROCLAMATION

I, PIERRE S. du PONT, IV, Governor of the State of Delaware, pursuant to Article 3, Section 16 of the Constitution of the State of Delaware, do hereby convene the 129th General Assembly into Extraordinary Session on Tuesday, July 5, 1977, at 12:00 Noon, for the purpose of considering and acting upon the Continuing Budget Resolution, and such further business as may lawfully come before it.

IN WITNESS WHEREOF, I, PIERRE S. du PONT, IV, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover, this second day of July, in the year of our Lord, one thousand nine hundred and seventy-seven, and of the Independence of the United States of America, the two hundred and first.

(GREAT SEAL)

PIERRE S. DU PONT, Governor

GLENN C. KENTON, Secretary of State

## CHAPTER 579

## STATE OF DELAWARE

EXECUTIVE DEPARTMENT  
DOVER

## PROCLAMATION

WHEREAS, a severe winter storm struck the State of Delaware on February 5 and 6, 1978, depositing in excess of 18 inches of snow as of this date and causing, by reason of accompanying severe winds, substantial drifts; and

WHEREAS, the aforementioned snowstorm and severe winds immobilized and isolated the citizenry of Delaware in its homes and on the highways and roads of the State; and

WHEREAS, the aforementioned snow and severe winds jeopardize the health, safety and property of the citizenry and threaten the livelihood of the many persons dependent upon the commerce and agriculture of the State; and

WHEREAS, it is the responsibility of the Governor to take all ordinary and extraordinary action necessary to mitigate the many hardships which threaten the health, safety and welfare of the citizens of Delaware resulting from such natural emergencies.

NOW, THEREFORE, I PIERRE S. DU PONT, IV, Governor of the State of Delaware, by the authority of the powers vested in me under Article III, Section 1 of the Delaware Constitution and 20 Delaware Code, Sections 3125 and 3126, do hereby find and declare that a state of emergency affecting life, health and property within the State of Delaware exists. Accordingly, I do hereby impose the following restrictions for the duration of the State of Emergency now proclaimed:

1. All public vehicles equipped for snow removal or rescue, including vehicles of the Delaware National Guard, shall be mobilized, and all the public resources of the State shall be committed to securing the safety and welfare of the citizenry as expeditiously as possible;
2. U. S. Route 13 shall be closed to all non-emergency vehicles;
3. The State of Delaware, its Departments, Agencies, Boards and Commissions shall be closed on February 7, 1978, and from day to day thereafter as the Governor in his

discretion shall direct, except that all essential personnel as heretofore designated or hereafter designated by the officials empowered to do so shall report for work as usual;

4. Banks, Savings and Loan Companies, Building and Loan Associations, and Trust Companies of the State shall be free to close for business at the discretion of each such institution;
5. All citizens are requested to avoid traveling on any highway, road or street of the State, except in the event of a bona fide emergency, so that the roads may be cleared and emergency vehicles are not impeded;
6. All other public and private sector employers are requested to close for business;
7. The State of Emergency herein declared shall remain in affect until the issuance of a further proclamation by the Governor declaring its termination;
8. Every stationary vehicle shall be removed from the rights of way of all state highways and roads. The Secretary of Transportation shall have the authority to remove any vehicle which he shall deem to be blocking the right of way of any state highway or road such that it is hindering the snow-removal operations of the Department.

IN WITNESS WHEREOF, I PIERRE S. du PONT, IV, have hereunto  
set my hand and seal this sixth day of February,  
(GREAT SEAL) 1978, at 10:30 p.m.

PIERRE S. DU PONT, Governor

GLENN C. KENTON, Secretary of State

CHAPTER 580

STATE OF DELAWARE

EXECUTIVE DEPARTMENT  
DOVER

PROCLAMATION

I, PIERRE S. du PONT, IV, Governor of the State of Delaware, pursuant to Article IV, Section 3 of the Constitution of the State of Delaware, do hereby convene the Senate of the 129th General Assembly into session on Tuesday, August 8, 1978 at 1:00 p.m. for the purpose of confirming the appointment of the Honorable Albert J. Stiftel to be President Judge of the Superior Court and for the transaction of such other executive business as may come before it.

IN WITNESS WHEREOF, I PIERRE S. du PONT, IV, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover, this twenty-eighth day of July, in the year of our Lord, one thousand nine hundred seventy-eight, and of the Independence of the United States of America, the two hundred and second.

(GREAT SEAL)

PIERRE S. DU PONT, Governor

GLENN C. KENTON, Secretary of State

## CHAPTER 581

## STATE OF DELAWARE

EXECUTIVE DEPARTMENT  
DOVER

## PROCLAMATION

I, PIERRE S. du PONT, IV, Governor of the State of Delaware, pursuant to Article 3, Section 16 of the Constitution of the State of Delaware, do hereby convene the 129th General Assembly into Extraordinary Session on Thursday, August 31, 1978, at 1:00 p.m., for the purpose of considering and acting upon House Bill 1092 as amended by Senate Amendment 1, which authorizes the Department of Correction to acquire a certain parcel of property and to exercise the right of eminent domain, and legislation authorizing construction of additional housing at the Delaware Correctional Center, and such other business as may lawfully come before it.

(GREAT SEAL) IN WITNESS WHEREOF, I, PIERRE S. du PONT, IV, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of said State to be hereunto affixed at Dover, this twenty-third day of August, in the year of our Lord, one thousand nine hundred seventy-eight, and of the Independence of the United States of America, the two hundred and second.

PIERRE S. DU PONT, Governor

GLENN C. KENTON, Secretary of State

CHAPTER 582

STATE OF DELAWARE

EXECUTIVE DEPARTMENT

DOVER

PROCLAMATION

I, PIERRE S. du PONT, IV, Governor of the State of Delaware, pursuant to Article IV, Section 3, of the Constitution of the State of Delaware, do hereby convene the Senate of the 129th General Assembly into session on Monday, October 30, 1978, at 1:00 p.m. for the purpose of confirming the appointments of the Honorable William T. Quillen and Henry R. Horsey, Esq. to be Justices of the Supreme Court and for the transaction of such other executive business as may come before it.

IN WITNESS WHEREOF, I PIERRE S. du PONT, IV, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover, this eighteenth day of October, in the year of our Lord, one thousand nine hundred seventy-eight, and of the Independence of the United States of America, the two hundred and second.

(GREAT SEAL)

PIERRE S. DU PONT, Governor

GLENN C. KENTON, Secretary of State



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