

LAWS
OF THE
STATE OF DELAWARE

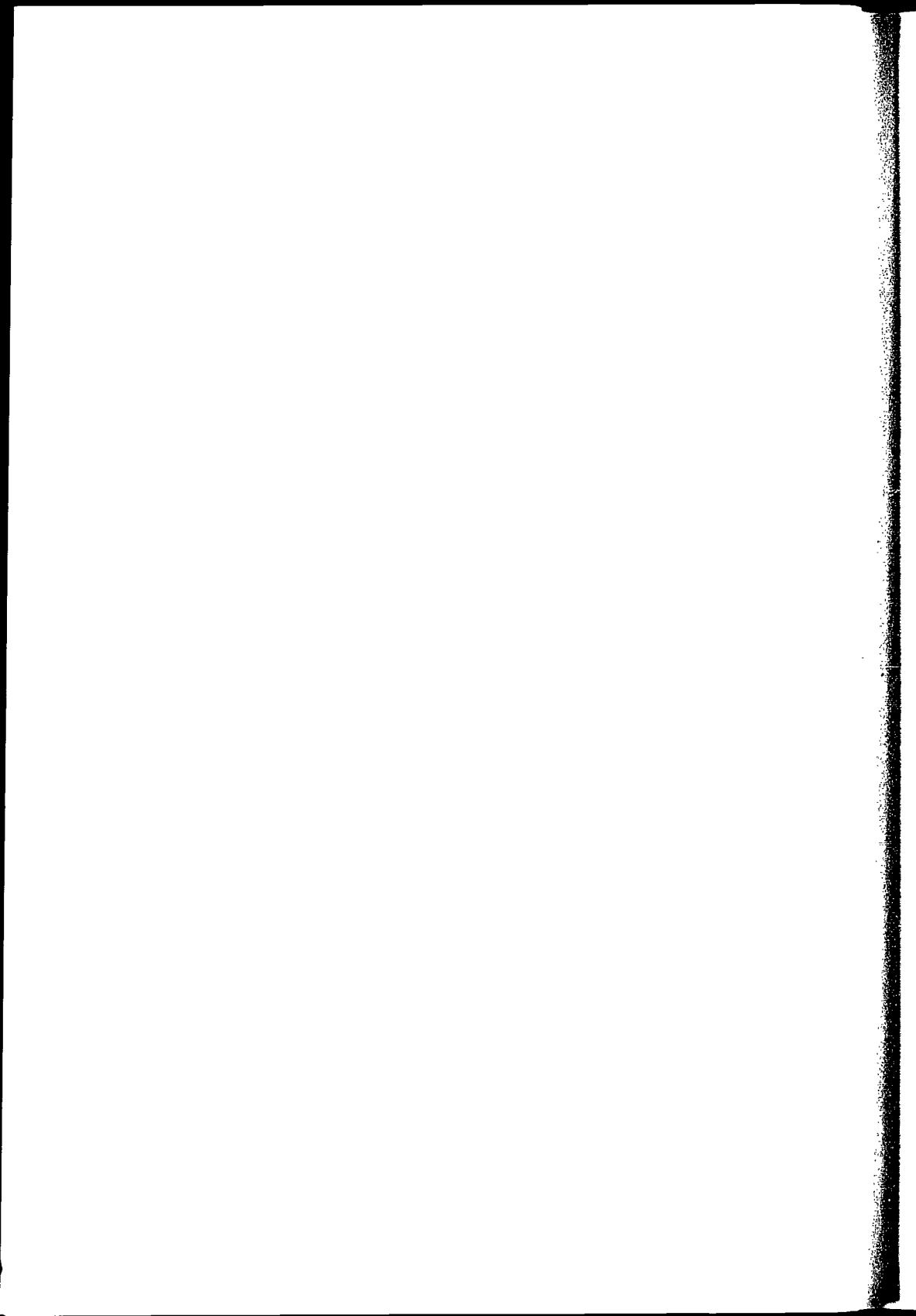
*ONE HUNDRED AND THIRTY-FOUR
GENERAL ASSEMBLY
FIRST SESSION COMMENCED AND HELD AT DOVER*

**On Tuesday, January 13, A.D.
1987**

SECOND SESSION COMMENCED AND HELD AT DOVER

**On Tuesday, January 12, A.D.
1988**

VOLUME LXVI



CHAPTER 1

FORMERLY

SENATE BILL NO. 8
AS AMENDED BY SENATE AMENDMENT NO. 1

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of the members of each house thereof concurring therein):

Section 1. Amend Chapter 21, Title 24 of the Delaware Code, by striking said Chapter in its entirety and by substituting in lieu thereof the following:

"CHAPTER 21. OPTOMETRY

§21D1. Definition of Practice of Optometry

(a) The practice of optometry for the purpose of this chapter is defined to be:

(1) The diagnosis and/or the examination of the human eye and its appendages; and/or

(2) The employment of any objective or subjective means or methods for the purpose of determining the refractive powers of the human eye and/or any visual, muscular or anatomical anomalies of the human eyes and their appendages, or any ocular deficiency; and/or

(3) The prescribing and/or application of lenses, prisms, contact lenses, orthoptics (visual training), or any physical, mechanical or psycho-visual therapy for the correction, remedy or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages.

(b) Any person shall also be deemed to be practicing the profession of optometry who:

(1) Holds himself out as being able to do so; or

(2) Opens for practice or operates, conducts or manages an office in this State, either directly or indirectly, where optometric practice is carried on with the intent of receiving therefrom, either directly or indirectly, any money, gift or any form of compensation which might result from any part of the practice of optometry as defined in this section; or

(3) Uses the title of Doctor of Optometry (O.D.), or any other letters or title in connection with his name, which in any way may convey the impression that he is engaged in the practice of optometry.

(c) For purposes of disability insurance, workmen's compensation, standard health and accident, sickness and other insurance policies, programs and plans, if the optometrist is authorized by law to perform the particular services, he shall be entitled to compensation for his services under the said programs. Individuals entitled to such services shall have freedom to choose between any optometrist and any physician skilled in diseases of the eye.

§21D2. Board of Examiners in Optometry; Members; Appointment; Terms of Office; Vacancies; Oaths

(a) The Delaware State Board of Examiners in Optometry, heretofore established and hereafter in this chapter referred to as the "Board", shall carry out and enforce this chapter.

(b) The Board shall be appointed by the Governor, and shall consist of three residents of this State engaged in the actual practice of optometry and two public members, who shall also be residents of this State. Said public members shall not be nor ever have been licensed as an optometrist, ophthalmologist or optician; nor be a member of the immediate family of an optometrist, ophthalmologist or optician; shall not have been employed by an optometrist, ophthalmologist or optician; shall not have had a material financial interest in the providing of goods and services to those licensed in this chapter; nor have been engaged in any activity directly related to

optometry; shall not have been licensed in any health-related field nor be licensed to practice law.

Said public members shall be accessible to inquiries, comments and suggestions from the general public. The public members of the Board shall have full voting privileges, except that they shall not be empowered to pass upon the clinical competency of persons who have applied to be licensed as optometrists.

Each member of the Board shall hold office for a term of three years, beginning on the seventh day of November in the year of appointment. Each member shall hold office until his or her successor is appointed, and appointments to fill vacancies caused by death, resignation or removal shall be made for the remainder of such terms by the Governor.

(c) The members of the Board, before entering upon their duties, shall respectively take and subscribe to an oath to exercise the duties of their office with fidelity. Such oath shall be filed with the clerk of the peace of the county in which the member resides.

(d) The Board shall have a common seal.

§2103. Election of officers; Annual and Special Meetings; Quorum; Oath. Record of Proceedings

(a) The Board shall choose annually 1 of its members as President and 1 as Secretary, thereof, who severally shall have the power during their terms of office to administer oaths and take affidavits, certifying thereto under their hand and seal of the Board. The Board shall meet at least once in each year, and, in addition thereto, whenever and wherever the President and Secretary thereof shall call a meeting.

(b) A majority of the Board shall at all times constitute a quorum.

(c) The Secretary of the Board shall keep a full record of the proceedings of the Board, which record shall at all reasonable times be open to public inspection.

§2104. Rules and Regulations

The Board may make any rules and regulations not inconsistent with the laws of the State which it deems necessary or expedient for the effective enforcement of this chapter or for the full and efficient performance of its duties hereunder.

§2105. Compensation and Expenses; Receipts and Disbursements; Annual Report

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

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

(c) The Board shall make an annual report of its proceedings to the Governor on the first Monday of January of each year, which report shall contain an account of all moneys received by the Board for the preceding year pursuant to this chapter.

§2106. Certificate Required

No person shall practice optometry in this State unless he shall first have obtained a certificate of registration and filed the same, or a certified copy thereof, with the Department of Finance.

§2107. Application Requirements; Fee

Every person before beginning to practice optometry in this State shall be of good moral character, shall have had a preliminary education of at least 4 years of high school or the equivalent from a state department of public education or from a first-class university entrance examination, and have completed at least 2 years preoptometry in a recognized college or university (provided, however, that this preoptometry requirement is not to affect any person who was attending a school of optometry on May 20, 1949), and have graduated from a school or college approved by the Board which maintains a course of optometry of at least 4 years of not less than 32

months of residence work in optometry, and shall pass an examination before such Board to determine his qualifications.

Any person desiring to be examined by the Board shall file his application accompanied by an examination fee of \$75, and shall appear before the Board at such time and place as the Board may designate.

§2108. Examinations

Examinations shall be given at least once each year to new applicants and to those who have previously failed such examinations.

The examinations shall consist of tests in practical optics, theoretical optics, physiological optics, theoretical optometry, practical optometry, orthoptics, ocular anatomy, physiology and pathology, general anatomy, general physiology, pathology and hygiene, and such other knowledge as the Board deems essential to the practice of optometry.

§2109. Reexamination: Fee

If any applicant be rejected, he shall be entitled to be admitted to another examination without further payment, but for all subsequent examinations he shall pay an examination fee of \$75.

§2110. Internship Requirements

Every applicant, after complying with all the requirements of this chapter and after satisfactorily passing the written examinations in optometry, shall, before receiving any prescribed practical examinations and certificate to practice optometry, be required to spend an internship in optometry for a period of six months, which shall be approved by the Board. The Board shall waive the internship requirement for an ethically practicing optometrist from any state, territory of the United States or the District of Columbia when said venue has standards for licensure equal to, or greater than, those of this State.

The Board may grant temporary licenses to any candidate successfully passing the written and oral portions of the examinations. The temporary license shall be issued only for the duration of the internship.

§2111. Certificate and Registration for Successful Applicants

All persons successfully passing the examinations shall be registered in the Board Register, which shall be kept by the Secretary of the Board, as licensed to practice optometry, and shall also receive a certificate of such registration, to be signed by the President and Secretary of the Board, which shall be filed as provided in this chapter. The applicant shall pay to the Board a fee of \$10 for such registration and certificate before the same shall be issued.

§2112. Renewal of Certificate

Every registered optometrist who desires to continue the practice of optometry in this State shall on a biennial basis, on such date as the Board may determine, pay to the Secretary a registration fee of \$40. If all other requirements of license renewal, as spelled out in this section, are satisfied, the licensee shall receive a renewal of the registration. In case of default in such payment by any person, his certificate may be revoked by the Board upon twenty days' notice to the person of the time and place of considering such revocation, but certificate shall not be revoked for such nonpayment if the person so notified shall pay said fee before or at such time of consideration and such penalty as may be imposed by the Board. The Board may impose a penalty of \$25 and no more on any person so notified, as a condition of allowing his certificate to stand. The Board may collect any such fees by suit.

In addition to the other provisions of this section, each Delaware registered optometrist shall be required to attend in each two-year period a total of twelve hours of optometric or such other scientific educational lectures, symposiums or courses approved by the Board. The full twelve hours may be taken in one year or may be spread over the entire two-year period. Each Delaware registered optometrist shall be required to furnish the Secretary of the Board satisfactory evidence that he has completed such continuing education requirements each second year. The Board shall publish in its rules and regulations the guidelines governing acceptable continuing education requirements.

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(c) The members of the Board, before entering upon their duties, shall respectively take and subscribe to an oath to exercise the duties of their office with fidelity. Such oath shall be filed with the clerk of the peace of the county in which the member resides.

(d) The Board shall have a common seal.

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months of residence work in optometry, and shall pass an examination before such Board to determine his qualifications.

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The Board may grant temporary licenses to any candidate successfully passing the written and oral portions of the examinations. The temporary license shall be issued only for the duration of the internship.

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All persons successfully passing the examinations shall be registered in the Board Register, which shall be kept by the Secretary of the Board, as licensed to practice optometry, and shall also receive a certificate of such registration, to be signed by the President and Secretary of the Board, which shall be filed as provided in this chapter. The applicant shall pay to the Board a fee of \$10 for such registration and certificate before the same shall be issued.

§2112. Renewal of Certificate

Every registered optometrist who desires to continue the practice of optometry in this State shall on a biennial basis, on such date as the Board may determine, pay to the Secretary a registration fee of \$40. If all other requirements of license renewal, as spelled out in this section, are satisfied, the licensee shall receive a renewal of the registration. In case of default in such payment by any person, his certificate may be revoked by the Board upon twenty days' notice to the person of the time and place of considering such revocation, but certificate shall not be revoked for such nonpayment if the person so notified shall pay said fee before or at such time of consideration and such penalty as may be imposed by the Board. The Board may impose a penalty of \$25 and no more on any person so notified, as a condition of allowing his certificate to stand. The Board may collect any such fees by suit.

In addition to the other provisions of this section, each Delaware registered optometrist shall be required to attend in each two-year period a total of twelve hours of optometric or such other scientific educational lectures, symposiums or courses approved by the Board. The full twelve hours may be taken in one year or may be spread over the entire two-year period. Each Delaware registered optometrist shall be required to furnish the Secretary of the Board satisfactory evidence that he has completed such continuing education requirements each second year. The Board shall publish in its rules and regulations the guidelines governing acceptable continuing education requirements.

The Secretary of the Board shall notify in writing each Delaware registered optometrist, at least thirty days prior to the date the renewal is due, of this educational requirement.

In the event that any registered optometrist shall fail to meet such additional requirement, his registration shall be revoked except when proven hardship makes compliance impossible; provided further that the Board shall reinstate such registration upon presentation of satisfactory evidence of successful completion of continuing education requirements and upon payment of all fees due; further provided that this educational requirement shall not apply to those Delaware registered optometrists who are not in active practice in this State.

§2113. Revocation; Causes; Notice and Hearings; Reissuance

(a) The Board may revoke or suspend any certificate of registration granted by it under this chapter:

- (1) For the conviction of a crime; or
- (2) For habitual drunkenness for six months immediately before the charge is made; or
- (3) For gross incompetency; or
- (4) For contagious disease; or
- (5) Where any person presents to the Board any diploma, license or certificate that has been secured or issued unlawfully or under fraudulent representations; or
- (6) Where any person is found guilty of unprofessional conduct as defined by the Board; or
- (7) Where any person is found guilty by the Board of:
 - (a) Practicing in a merchandising store; or
 - (b) Practicing in an office not exclusively devoted to the practice of optometry or other health care profession, where material or merchandise is displayed pertaining to a business or commercial undertaking not bearing any relation to the practice of optometry or other health care profession; or practicing in a store or office which does not conform to that used by the majority of professional optometrists in the area; or
 - (c) Violating a Board rule or regulation duly promulgated by the Board hereunder or any provision of this chapter; or
 - (d) The continuance of an optometrist in the employ of or acting as an assistant to any person, firm, corporation, either directly or indirectly, after he has knowledge that such person, firm or corporation is violating the laws of Delaware concerning the practice of optometry; or
 - (e) Any conduct which is of a character likely to deceive or defraud the public; or
 - (f) Soliciting in person or through an agent or agents for the purpose of selling ophthalmic materials or optometric services or employing what are known as "chasers", "steerers" or "solicitors" to obtain business, unless in conjunction with a vision service plan approved by the Board; or
 - (g) Causing or permitting the use of his name, profession or professional title by or in conjunction with any association, company, corporation or nonlicensed person, in any advertising of any manner, unless in conjunction with a vision service plan approved by the Board; or
 - (h) Practicing for, or in conjunction with, either directly or indirectly, a corporation or company, except that allowed under Chapter 6 of Title B; provided that the foregoing shall not prevent a person licensed pursuant to this chapter from rendering optometric services at a nonprofit clinic which is operated by a corporation or company that is affiliated with a hospital licensed by the State Board of Health and accredited by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association.

(b) (1) Any practitioner or member of the public who has a question or complaint concerning any aspect of the practice of optometry may, during the regular business hours of a business day, contact the Board or the Division of Professional Regulation; or voice such question or complaint at a business meeting of the Board.

(2) The Board shall investigate any complaint, including oral complaints; and shall follow through on those complaints which, upon investigation, appear to be valid and well founded. In cases where the complainant is known to the Board it shall, within six weeks after the receipt of the complaint, notify the complainant whether or not it will take any action in the matter. If the Board decides to take no action it shall, by letter, state its reasons therefor. A record shall be kept of each complaint, formal and informal, for a period of five years.

(3) Upon receipt of a complaint against a practitioner, the Board shall determine what action, if any, it shall take. Where the Board has determined to take further action, the matter shall be heard by the Board within three months from the date on which the complaint was received, unless circumstances surrounding the complaint warrant a lengthier investigation. The Board shall fix the time and date for the hearing, with notice to be personally delivered or served upon the practitioner at least thirty days before the date fixed for the hearing. In cases where the practitioner cannot be located or where personal service cannot be effected, substitute service will be effected in the same manner as with civil litigation.

(4) All hearings shall be informal without the rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this Chapter as it deems necessary. The Board's decision shall be in writing and shall include its reasons for such a decision. A copy of the decision shall be mailed immediately to the complainant and to the practitioner. The Board's decision shall become effective on the thirtieth day after the date it is mailed or served on the practitioner, unless there is an appeal to the Superior Court within that time.

(5) Where either the complainant or the practitioner is in disagreement with the action of the Board, either person may appeal the Board's decision to the Superior Court within thirty days of service, or of the postmarked date of the Board's decision. Upon such appeal, the court shall hear the evidence de novo, and the filing of an appeal shall act as a stay of the Board's decision, pending final determination of the appeal.

(c) Any person whose certificate has been revoked or suspended may, after the expiration of 90 days, apply to have the same regranted to him upon satisfactory showing that the disqualification has ceased.

§2114. State License

Upon presentation to it of a proper certificate from the Board and the payment to it of the sum required by §2301 of Title 30 of the Delaware Code for the use of the State, the Department of Finance shall issue a license certifying that such person is authorized to conduct business. The license shall be effective for one year from the date thereof, after which a new license may be issued upon the same terms and conditions provided for in this section.

§2115. Display of Certificate

Every person to whom a certificate of examination or registration is granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted. The word "optometrist" shall appear on his sign together with his name.

All optometrists shall inform the Board within thirty days after establishing or moving a main or branch office of the current address of the office. All main branch office addresses maintained by an optometrist in this State shall be on file with the Secretary of the Board.

§2116. Use of Drugs or Surgery

Nothing in this chapter shall be construed as conferring on the holder of any certificate of registration for license, issued by the Board, the right to make use of drugs or surgery in the treatment of eye diseases. He may employ topical ophthalmic drugs for diagnostic purposes only; the drugs that he may use for such diagnosis will be limited to the following four classes of drugs: Topical anesthetics, mydriatics, cycloplegics and myotics; provided, however, that the Delaware State Board of Examiners in Optometry will include an examination on the subject of pharmacology as it relates

to optometry and the use of topically applied diagnostic drugs for all new applicants for licensure; further provided, that no presently licensed optometrist shall be permitted to make use of topically applied diagnostic drugs until he shall have completed a refresher course in pharmacology as it relates to optometry and the use of topically applied diagnostic drugs given by an institution accredited by a regional or professional accrediting organization which is recognized by the National Commission on Accreditation, and is approved by the Delaware State Board of Examiners in Optometry.

§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.

§2118. Discrimination by State Boards between Ocular Practitioners Forbidden

No state board or commission, created or existing by law, including public schools and other state agencies, in the performance of their duties, shall in any way show any discrimination between ocular practitioners.

All boards or commissions shall honor ocular reports or other professional services by legally qualified and licensed optometrists in this State.

§2119. Penalties; Enforcement

Whoever violates this chapter shall be fined not less than \$100 nor more than \$500.

The Attorney General or his deputies may prosecute every case to final judgment in the county wherein the offense was committed whenever his attention shall be called to a violation of this chapter.

The Court of Chancery shall have jurisdiction to issue temporary restraining orders, preliminary injunctions and permanent injunctions to enjoin any violation of this chapter in actions brought by the State Board of Examiners in Optometry, the Delaware Optometric Association, Inc. or the Attorney General of the State."

Section 2. The three persons constituting the State Board of Examiners in Optometry on the effective date of this Act shall continue in office as members of the Board until the expiration of the terms for which they were appointed.

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 December 15, 1986.

CHAPTER 2

FORMERLY

HOUSE BILL NO. 1B

AN ACT TO AMEND CHAPTER 17, TITLE 24 OF THE DELAWARE CODE RELATING TO THE TEMPORARY SUSPENSION OF CERTIFICATES TO PRACTICE MEDICINE.

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

Section 1. Amend Subchapter V, Chapter 17, Title 24 of the Delaware Code by adding a new Section 1738 to read as follows:

"§1738. Temporary Suspension Pending Hearing

(a) In the event the Board receives a formal or informal written complaint concerning a physician's activities which the Board determines alleges matters presenting a clear and immediate danger to the public health, the Board may issue an order temporarily suspending the physician's certificate to practice medicine, pending a hearing. No order temporarily suspending a certificate to practice medicine shall be issued by the Board, with less than 24 hours prior written or oral notice to the physician or his attorney so that the physician or his attorney may be heard in opposition to the proposed suspension and unless at least eight members of the Board vote in favor of such a temporary suspension. An order of temporary suspension pending a hearing shall remain in effect for a period of time no longer than 60 days from the date of the issuance of said order, unless the suspended physician requests a continuance of the date for the convening of the hearing panel. In such an event, the order of temporary suspension pending a hearing shall remain in effect until the hearing panel has convened and a decision rendered.

(b) The physician whose certificate to practice medicine has been temporarily suspended pending a hearing shall be notified forthwith in writing. Notification shall consist of a copy of the complaint and the order of temporary suspension pending a hearing and shall be personally served upon the physician or sent by certified mail, return receipt requested, to the physician's last known address.

(c) A physician whose certificate to practice medicine has, pursuant to this Section, been temporarily suspended pending a hearing, may request an expedited hearing. The Board shall schedule the hearing on an expedited basis provided that the Board receives said request within five calendar days from the date on which the physician received notification of the decision of the Board to temporarily suspend his certificate to practice medicine.

(d) As soon as possible after the issuance of the order temporarily suspending the physician's certificate to practice medicine pending a hearing, the Board shall appoint a 3-member hearing panel pursuant to its power under §1730 (16) of this Title. The hearing panel, after notice to the physician, shall convene within 60 days of the date of the issuance of the order of temporary suspension in order to consider the evidence regarding the matters alleged in the complaint. In the event that a physician, in a timely manner, requests an expedited hearing, the hearing panel shall convene within 15 days of the receipt by the Board of such a request. The 3-member panel shall proceed to a hearing in accordance with the procedures set forth at §1734 of this Title and shall render a decision within 30 days.

(e) In addition to pertinent findings of fact to be made by the hearing panel, the panel shall also determine whether the facts found by it constitute a clear and immediate danger to public health. If the hearing panel determines that the facts found by it constitute a clear and immediate danger to public health, then, the order of temporary suspension shall remain in effect until such time as the full Board shall deliberate and reach conclusions of law based upon the finding of fact made by the hearing panel pursuant to the provisions of §1734 (f) of this Title. In no event shall the order of temporary suspension remain in effect for longer than 60 days from the date of the decision rendered by the hearing panel unless the suspended physician requests an extension of the order of temporary suspension pending a final decision of the Board. Upon a final decision of the Board, the order of temporary suspension shall be vacated in favor of the disciplinary action ordered by the Board."

Section 2. Amend §1730(a)(16), Chapter 17, Title 24 of the Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

to optometry and the use of topically applied diagnostic drugs for all new applicants for licensure; further provided, that no presently licensed optometrist shall be permitted to make use of topically applied diagnostic drugs until he shall have completed a refresher course in pharmacology as it relates to optometry and the use of topically applied diagnostic drugs given by an institution accredited by a regional or professional accrediting organization which is recognized by the National Commission on Accreditation, and is approved by the Delaware State Board of Examiners in Optometry.

§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.

§2118. Discrimination by State Boards between Ocular Practitioners Forbidden

No state board or commission, created or existing by law, including public schools and other state agencies, in the performance of their duties, shall in any way show any discrimination between ocular practitioners.

All boards or commissions shall honor ocular reports or other professional services by legally qualified and licensed optometrists in this State.

§2119. Penalties; Enforcement

Whoever violates this chapter shall be fined not less than \$100 nor more than \$500.

The Attorney General or his deputies may prosecute every case to final judgment in the county wherein the offense was committed whenever his attention shall be called to a violation of this chapter.

The Court of Chancery shall have jurisdiction to issue temporary restraining orders, preliminary injunctions and permanent injunctions to enjoin any violation of this chapter in actions brought by the State Board of Examiners in Optometry, the Delaware Optometric Association, Inc. or the Attorney General of the State."

Section 2. The three persons constituting the State Board of Examiners in Optometry on the effective date of this Act shall continue in office as members of the Board until the expiration of the terms for which they were appointed.

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 December 15, 1986.

CHAPTER 2

FORMERLY

HOUSE BILL NO. 18

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

Section 1. Amend Subchapter V, Chapter 17, Title 24 of the Delaware Code by adding a new Section 173B to read as follows:

"§173B. Temporary Suspension Pending Hearing

(a) In the event the Board receives a formal or informal written complaint concerning a physician's activities which the Board determines alleges matters presenting a clear and immediate danger to the public health, the Board may issue an order temporarily suspending the physician's certificate to practice medicine, pending a hearing. No order temporarily suspending a certificate to practice medicine shall be issued by the Board, with less than 24 hours prior written or oral notice to the physician or his attorney so that the physician or his attorney may be heard in opposition to the proposed suspension and unless at least eight members of the Board vote in favor of such a temporary suspension. An order of temporary suspension pending a hearing shall remain in effect for a period of time no longer than 60 days from the date of the issuance of said order, unless the suspended physician requests a continuance of the date for the convening of the hearing panel. In such an event, the order of temporary suspension pending a hearing shall remain in effect until the hearing panel has convened and a decision rendered.

(b) The physician whose certificate to practice medicine has been temporarily suspended pending a hearing shall be notified forthwith in writing. Notification shall consist of a copy of the complaint and the order of temporary suspension pending a hearing and shall be personally served upon the physician or sent by certified mail, return receipt requested, to the physician's last known address.

(c) A physician whose certificate to practice medicine has, pursuant to this Section, been temporarily suspended pending a hearing, may request an expedited hearing. The Board shall schedule the hearing on an expedited basis provided that the Board receives said request within five calendar days from the date on which the physician received notification of the decision of the Board to temporarily suspend his certificate to practice medicine.

(d) As soon as possible after the issuance of the order temporarily suspending the physician's certificate to practice medicine pending a hearing, the Board shall appoint a 3-member hearing panel pursuant to its power under §1730 (16) of this Title. The hearing panel, after notice to the physician, shall convene within 60 days of the date of the issuance of the order of temporary suspension in order to consider the evidence regarding the matters alleged in the complaint. In the event that a physician, in a timely manner, requests an expedited hearing, the hearing panel shall convene within 15 days of the receipt by the Board of such a request. The 3-member panel shall proceed to a hearing in accordance with the procedures set forth at §1734 of this Title and shall render a decision within 30 days.

(e) In addition to pertinent findings of fact to be made by the hearing panel, the panel shall also determine whether the facts found by it constitute a clear and immediate danger to public health. If the hearing panel determines that the facts found by it constitute a clear and immediate danger to public health, then, the order of temporary suspension shall remain in effect until such time as the full Board shall deliberate and reach conclusions of law based upon the finding of fact made by the hearing panel pursuant to the provisions of §1734 (f) of this Title. In no event shall the order of temporary suspension remain in effect for longer than 60 days from the date of the decision rendered by the hearing panel unless the suspended physician requests an extension of the order of temporary suspension pending a final decision of the Board. Upon a final decision of the Board, the order of temporary suspension shall be vacated in favor of the disciplinary action ordered by the Board."

Section 2. Amend §1730(a)(16), Chapter 17, Title 24 of the Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"(16) To designate three members of the Board to act as a hearing panel for the purposes of hearing charges of unprofessional conduct as set forth in §1731(b) of this Title or inability to practice medicine as set forth in §1731(c) of this Title or making determinations of fact in connection with the temporary suspension of a certificate to practice medicine pursuant to §1738 of this Title."

Section 3. This Act shall become effective immediately upon its enactment into law.

Approved February 17, 1987.

CHAPTER 3

FORMERLY

HOUSE BILL NO. 23
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 53, TITLE 30 OF THE DELAWARE CODE, RELATING TO THE TAX ON THE SALE OR USE OF TOBACCO PRODUCTS OTHER THAN CIGARETTES.

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

Section 1. Amend Section 5305, Title 30 of the Delaware Code, by striking Subsection (b) of said Section in its entirety and by substituting in lieu thereof a new Subsection (b) to read as follows:

"(b) A tax is imposed and assessed upon the sale or use of all tobacco products other than cigarettes, and including but not limited to, smokeless tobacco products and cigars within this State at the rate of 15% of the wholesale price on such products."

Section 2. Amend Section 5305, Title 30 of the Delaware Code, by adding thereto a new Subsection (e) to read as follows:

"(e) For purposes of this Chapter: (1) The Term 'wholesale price' shall mean the price for which a manufacturer sells a tobacco product to a distributor exclusive of any discount, rebate or other reduction; and (2) The term 'cigar' means any roll for smoking which is not a cigarette and which is made wholly or in part of tobacco or any substitute therefore when the cover of the roll is made chiefly of tobacco."

Approved February 17, 1987.

CHAPTER 4

FORMERLY

SENATE BILL NO. 16

AN ACT TO AMEND CHAPTER 17, TITLE 18, DELAWARE CODE, RELATING TO LIMITED REPRESENTATIVES.

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

Section 1. Amend Chapter 17, Title 18, Delaware Code, by adding thereto a new §1706 to read as follows:

"§1706. Definition and Responsibilities of Limited Representative

(a) A limited representative is any individual, partnership or corporation holding a limited representative's certificate of authority and appointed by an insurer to solicit or negotiate contracts for those lines of authority, and only those lines of authority, specified in subsection (g) of §1715 of this Title which the Commissioner may deem, by regulation, essential for the transaction of insurance business in this State and which do not require that level of qualifications required for an agent's or broker's certificate of authority.

(b) A limited representative is subject to all the duties, responsibilities, liabilities, prohibitions and penalties to which agents are subject as pertains to the particular line or lines of insurance for which the limited representative holds a certificate of authority."

Section 2. Amend §1715, Chapter 17, Title 18, Delaware Code, by adding thereto a new subparagraph to be designated as subparagraph (g) and (h) to read as follows:

"(g) A limited representative may be qualified and licensed and a qualified insurance agent may hold 1 or more of the following limited lines of authority:

- (1) Vehicle liability and vehicle damage (automobile insurance) - Code No. 9.
- (2) Credit life, credit health insurance - Code No. 10.

(h) Continuing education requirements prescribed by regulation of the Insurance Commissioner for limited representatives shall include only those lines for which the limited representative is certified."

Section 3. Amend §1725, Chapter 17, Title 18, Delaware Code, by adding thereto a new sentence to read as follows:

"No regulation may require additional or continuing education for limited representatives qualified and licensed under §1715(g) of this Chapter in any lines other than those for which certification has been granted."

Approved February 17, 1987.

CHAPTER 5

FORMERLY

SENATE BILL NO. 46
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 45, TITLE 10, DELAWARE CODE, RELATING TO JURIES, TRIAL BY JURY, JURY SELECTION AND SERVICE.

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

Section 1. Amend Chapter 45, Title 10, Delaware Code by striking said Chapter in its entirety and substituting in lieu thereof the following new Chapter:

"CHAPTER 45. JURY SELECTION AND SERVICE

§4501. Declaration of Policy

It is the policy of this State that jurors serving in each county shall be selected at random from a fair cross section of the population of that county and that all qualified persons shall have an opportunity to be considered for jury service and an obligation to serve as jurors when summoned for that purpose.

§4502. Prohibition of Discrimination

No person shall be excluded from jury service in this State on account of race, color, religion, sex, national origin, or economic status.

§4503. Definitions

As used in this chapter:

(1) "court" means the Superior Court of the State of Delaware, and includes any judge of the court;

(2) "clerk" means the Prothonotary of each county, and includes any deputy or clerk in the office of the Prothonotary;

(3) "jury selection plan" means a written plan designed to carry out the policy and the provisions of this chapter;

(4) "voter registration list" means the current official record of persons registered to vote in a general election;

(5) "source list" means a list or an electronic system for the storage of the names on the voter registration list which may be supplemented with names from other sources to foster the policy of this chapter;

(6) "master list" means a list or an electronic system for the storage of the names of prospective jurors selected randomly from the source list;

(7) "juror qualification form" means a form approved by the court which shall elicit information relevant to the selection of jurors in accordance with this chapter;

(8) "qualified jury wheel" means a device or an electronic system for the storage of the names of prospective jurors on a master list who are not disqualified from jury service.

§4504. Jury Commissioners

The court shall appoint two suitable persons in each county, both of whom shall reside in the county in which they serve and shall not at any time be of the same political party, to serve as jury commissioners. Jury commissioners shall take an oath to perform faithfully the duties of a jury commissioner and shall serve at the pleasure of the court. The court may appoint a jury commissioner pro tempore to replace a jury commissioner who is temporarily unable to serve.

§4505. Grand Jury

Grand juries in New Castle County shall consist of 15 members, and the affirmative vote of nine members shall be necessary to find a true bill of indictment. Grand juries in Kent County and in Sussex County shall consist of 10 members, and the affirmative

vote of seven members shall be necessary to find a true bill of indictment. Grand jurors shall take an oath to perform faithfully the duties of a grand juror.

§4506. Special Jury

The court may order a special jury upon the application of any party in a complex civil case. The party applying for a special jury shall pay the expense incurred by having a special jury, which may be allowed as part of the costs of the case.

§4507. Jury Selection Plan

(a) The court shall adopt a jury selection plan to carry out the policy and the provisions of this chapter. The court may adopt separate plans and varying regulations for each county and for grand, petit, and special juries, and may amend a plan at any time. The plan shall provide standards and methods for the selection and service of jurors, including but not necessarily limited to the following:

(1) the duties of jury commissioners, clerks, and the court administrator or other employees of the court;

(2) the composition of source lists, including whether voter registration lists shall be supplemented with names from other sources;

(3) the selection of names for master lists;

(4) the content of the juror qualification form;

(5) the groups of persons or occupational classes whose members shall be excused from jury service upon request;

(6) the disqualification, excuse, and exclusion of prospective jurors;

(7) the maintenance of qualified jury wheels, including the maximum time that the names of prospective jurors shall remain in a qualified jury wheel and the minimum number of names to be contained therein;

(8) assignment of persons to the grand, petit, and special jury panels, or to courts other than Superior Court;

(9) the length of jury service;

(10) the compilation, disclosure, and preservation of records used in the selection process.

(b) Persons having custody, possession, or control of any list, record, or other information required for use in the jury selection process shall supply it or make it available to the court for inspection, reproduction, and copying at all reasonable times, and persons having responsibility for devising or operating data processing systems or computer programs for the State shall certify that any such system or program complies with the jury selection plan when required by the court. The court may compel compliance with this subsection by appropriate process.

§4508. Completion of Juror Qualification Form

(a) Prospective jurors shall be selected randomly from the source list for placement on a master list from time to time as needed;

(b) The clerk shall mail a juror qualification form to persons whose names are on a master list with instructions to provide the information sought. The juror qualification form shall contain a declaration that the responses are true to the best of the prospective juror's knowledge, and acknowledgement that a false statement therein may be punished by a fine or imprisonment, or both. If the prospective juror is unable to fill out the form, another person may do it and shall indicate that fact and the reason therefor. If it appears that there is an omission, ambiguity, or error in the information provided, the clerk shall instruct the prospective juror to make the necessary addition, clarification, or correction.

(c) Any person who fails to provide information sought as instructed shall be directed to appear forthwith before the clerk to fill out the juror qualification form. Any person who fails to appear as directed may be ordered by the court to appear and show cause for failure to do so.

(d) At the time of appearance for jury service, or at the time of any interview before the court or clerk, any prospective juror may be required to fill out another juror qualification form in the presence of the court or clerk, at which time the prospective juror may be questioned, but only with regard to responses to questions contained on the form and grounds for disqualification, excuse, or exclusion. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

§4509. Disqualification from Jury Service

(a) The court shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror is disqualified for jury service.

(b) All persons are qualified for jury service except those who are:

- (1) not citizens of the United States;
- (2) less than 18 years of age;
- (3) not residents of the county of prospective jury service;
- (4) unable to read, speak, and understand the English language;
- (5) incapable, by reason of physical or mental disability, of rendering satisfactory jury service; or
- (6) convicted felons who have not had their civil rights restored.

(c) A prospective juror may be required to submit proof as to possible disqualification, including a physician's or Christian Science Practitioner's certificate, and the physician or practitioner is subject to inquiry by the court at its discretion.

§4510. Selection and Summoning of Jury Panels

(a) Prospective jurors shall be selected randomly from the qualified jury wheel for assignment to grand, petit, and special jury panels from time to time as needed.

(b) The clerk shall cause each person selected for jury service to be served with a summons, either personally, or by mail addressed to the person's usual residence, business, or post office address, requiring the person to report for jury service at a specified time and place. Any person who fails to appear as directed may be ordered by the court to appear and show cause for failure to do so.

(c) If there is an unanticipated shortage of available jurors, the court may require the sheriff to summon a sufficient number of jurors selected in a manner prescribed by the court.

§4511. Excuse or Exclusion from Jury Service

(a) The court shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror should be excused or excluded from jury service.

(b) A person who is not disqualified may be excused from jury service by the court only upon a showing of undue hardship, extreme inconvenience, or public necessity, for a period the court deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the court's direction. The court may determine that membership in specified groups of persons or occupational classes constitutes a showing of undue hardship, extreme inconvenience, or public necessity.

(c) A person who is not disqualified may be excluded from jury service by the court only upon a finding that such person would be unable to render impartial jury service or would be likely to disrupt or otherwise adversely affect the proceedings.

§4512. Challenging Compliance with Selection Procedures

(a) Within 7 days after the moving party discovers, or by the exercise of diligence could have discovered, the grounds therefor, and in any event before the jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case to dismiss the indictment, or for other appropriate relief, on the ground of

substantial failure to comply with this chapter in selecting the grand, petit, or special jury.

(b) Upon motion filed under subsection (a) containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of the jury commissioners or the clerk, any relevant records and papers not public or otherwise available used by the jury commissioners or the clerk, and any other relevant evidence. If the court determines that in selecting a grand, petit, or special jury there has been a substantial failure to comply with this chapter, the court may stay the proceedings pending the selection of the jury in conformity with this chapter, dismiss an indictment, or grant other appropriate relief.

(c) The procedures prescribed by this section are the exclusive means by which a jury may be challenged on the ground that the jury was not selected in conformity with this chapter.

§4513. Disclosure and Preservation of Records

(a) The names of persons summoned for jury service shall be disclosed to the public and the contents of jury qualification forms completed by them shall be made available to the parties unless the court determines that any or all of this information should be kept confidential or its use limited in whole or in part in any case or cases.

(b) Records used in the selection process shall not be disclosed, except in accordance with the jury selection plan or as necessary in the preparation or presentation of a motion challenging compliance with this chapter.

(c) Records used in the selection process shall be preserved for at least 4 years.

§4514. Compensation and Reimbursement

(a) Jury commissioners shall receive compensation to be fixed by the court but not to exceed \$1000 per annum and shall be reimbursed for necessary travel expense at the rate of \$.15 per mile.

(b) Jurors shall be compensated at a per diem rate of \$15 and shall be reimbursed for necessary travel expense at the rate of \$.15 per mile. The State shall pay for food and lodging during sequestration of a jury.

(c) The court shall keep a record of attendance and travel or other expense and shall certify the amount due for payment by the State Treasurer.

§4515. Protection of Jurors' Employment

(a) An employer shall not deprive an employee of employment, or threaten or otherwise coerce the employee with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

(b) Any employer who violates subsection (a) is guilty of criminal contempt and upon conviction may be fined not more than \$500 or imprisoned not more than 6 months, or both.

(c) If an employer discharges an employee in violation of subsection (a), the employee may file a civil action in Superior Court within 90 days for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. An employee who prevails shall be allowed a reasonable attorney's fee fixed by the court.

§4516. Failure to Perform Jury Service

A person who fails to appear and show cause as ordered by the court for failure to comply with the clerk's direction to appear for the purpose of completing a juror qualification form or for failure to comply with a summons to appear for jury service or to complete jury service is guilty of criminal contempt and upon conviction may be fined not more than \$100 or imprisoned not more than 3 days, or both.

§4517. Jurisdiction

The Superior Court shall have original and exclusive jurisdiction over any violation of this Chapter."

Section 2. This Act shall become effective upon its enactment into law. Any person who was selected as a prospective juror before the effective date of this Act may serve after it becomes effective.

Approved February 17, 1987.

CHAPTER 6

FORMERLY

SENATE BILL NO. 73

AN ACT TO PERMIT CHRISTOPHER SMITH, A RESIDENT OF NEWARK, DELAWARE TO MARRY HALA TURJUMAN, A RESIDENT OF DELAWARE.

WHEREAS, Christopher Smith of 16 Henderson Hill Road, Newark, Delaware, wishes to marry Hala Turjuman, a resident of Delaware; and

WHEREAS, Christopher Smith's marriage ceremony is scheduled for Saturday, May 2, 1987; and

WHEREAS, Christopher Smith starts Air Traffic Controller School in Oklahoma City, Oklahoma on Tuesday, March 31, 1987; and

WHEREAS, once he starts the training course he will not be permitted time off to fly back to Delaware to purchase a marriage license from the Clerk of the Peace of New Castle County in compliance with the provisions of §107(a), Chapter 1, Title 13, Delaware Code which requires the parties to obtain a marriage license at least 24 hours prior to the ceremony; and

WHEREAS, Christopher Smith plans to fly back to Delaware for the marriage ceremony late Friday evening for the marriage ceremony on Saturday, May 2, 1987.

NOW, THEREFORE:

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

Section 1. Christopher Smith, 16 Henderson Hill Road, Newark, Delaware and Hala Turjuman, also of New Castle County are hereby exempted from the application of §107(a), Chapter 1, Title 13, Delaware Code, and are specifically permitted to marry on Saturday, May 2, 1987 notwithstanding the provisions of the Delaware Code to the contrary. The Clerk of the Peace for New Castle County is hereby authorized to issue to Christopher Smith and Hala Turjuman an official marriage license pursuant to this Act.

Approved April 7, 1987.

CHAPTER 7
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 61

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO CHILD SUPPORT ENFORCEMENT.

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

Section 1. Amend §513(b)(10), Chapter 5, Title 13, Delaware Code, by inserting after the first sentence, the following:

"Any employer who refuses to hire an obligor as a result of an attachment under this Section shall be liable for a civil penalty of not more than \$200 for the first offense and each subsequent offense."

Section 2. Amend Section 513, Chapter 5, Title 13, Delaware Code, by adding new subsections (c), (d), (e), and (f) of said Section as follows:

(c)(1) Where an order for child support, including orders issued prior to the effective date of this Act has been entered under this Chapter, Chapter 6 or Chapter 15 of this Title, the right of each and every child support installment or payment becomes absolute and vested upon coming due with the full force, effect and attributes of a judgment of the Family Court of the State of Delaware.

(2) Remedies available under this subsection are cumulative with any and all other remedies available to enforce a child support obligation.

(3) After receipt by the Division of Child Support Enforcement of a copy of an order of child support as set forth in paragraph (1) of this subsection made payable through the Division, the Division shall promptly record all payments received and apply said payments to installment or payment amounts due and owing by the obligor in accordance with regulations promulgated by the Secretary of the Department of Health and Social Services. Said regulations shall specifically include administrative procedures to make technical corrections in the Division's accounting records. With regard to any order of child support made payable through the Division, the Division's records shall be presumptive of the payment or nonpayment of each installment payment.

(d)(1) The Court shall have continuing jurisdiction to modify prospectively an order of child support entered by the Court including orders issued prior to the effective date of this Act so long as the obligated parent has a duty of support under this Chapter, Chapter 6 or Chapter 15 of this Title and at least one of the parents or the child whose support is at issue resides in the State.

(2) An order of child support entered by this Court or a court of competent jurisdiction in this or any other state, including orders entered prior to the effective date of this Act, shall not be retroactively modified except with respect to any period during which there is a pending petition for prospective modification but only from the date that notice of such petition has been given to the respondent directly or through the respondent's agent.

(e) The Court shall have continuing jurisdiction to enforce an order of child support entered by the Court, including orders issued prior to the effective date of this Act, so long as the obligated parent has a duty to support the child or children under this Chapter, Chapter 6 or Chapter 15 of this Title or there are arrearages or past due amounts due and owing on such an order. Nothing in this subsection shall be construed as limiting the Court's authority under Chapter 4 of this Title.

(f) "Notice" for purposes of enforcing or modifying an order of child support shall mean mailed notice mailed by certified mail return receipt requested to the last known address provided to the Court by the parties; provided, however, that where the respondent is a IV-D client as defined by regulation of the Secretary of the Department of Health and Social Services, the Division of Child Support Enforcement shall be the appropriate agent for the receipt of any such notice."

Section 3. Amend Chapter 5, Title 13, Delaware Code by adding a new Section 517 as follows:

"§517. Termination of child support.

(a) An order of current child support entered by this Court or a court of competent jurisdiction in this State shall terminate by operation of law when all minor children subject to said order have reached 18 years; provided, however, that if a child over 18 is still enrolled in high school current support shall terminate by operation of law when the child receives a high school diploma or attains the age of 19, whichever event first occurs.

(b) An order of current child support entered by this Court or a court of competent jurisdiction in this State shall terminate if custody of all children who are the subject of said order is transferred to the obligated parent pursuant to an order of a court of competent jurisdiction or the written voluntary agreement of the parents.

(c) Notwithstanding the above, the obligation for payment of arrears or past due support shall terminate by operation of law when all arrears or past due support have been paid."

Section 4. This Act shall become effective on March 31, 1987.

Approved April 10, 1987.

CHAPTER 8

FORMERLY

SENATE BILL NO. 17

AN ACT TO AMEND CHAPTER 348, VOLUME 65, LAWS OF DELAWARE, "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1987; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN STATUTORY PROVISIONS," RELATING TO PERSONAL NEEDS ALLOWANCES OF PATIENTS.

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

Section 1. Amend Section 172, Chapter 348, Volume 65, Laws of Delaware by adding thereto the following:

"The funds provided for personal needs allowances shall be expended solely for the personal needs of the recipient and shall not be co-mingled with other appropriations. Persons authorized to receive and maintain personal needs allowance funds shall maintain an accurate accounting of said funds and make available to a recipient or his or her guardian, upon request, pertinent information about said patient's personal needs account."

Approved April 20, 1987.

CHAPTER 9

FORMERLY

SENATE BILL NO. 22

AN ACT TO AMEND SUBCHAPTER IV, CHAPTER 1, TITLE 23, DELAWARE CODE, RELATING TO PILOTAGE RATES.

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

Section 1. Amend §131(a) of Subchapter IV, Chapter 1, Title 23, Delaware Code, by striking the date "January 1, 1984" as the same appears in the first sentence of said subsection and substituting in lieu thereof the date "January 1, 1987".

Section 2. Amend §131(a)(2) of Subchapter IV, Chapter 1, Title 23, Delaware Code, by striking subparagraphs (a), (b), and (c) in their entirety as the same appear in said subparagraphs and inserting in lieu thereof the following new subparagraphs to read as follows:

"(a) \$3.69 from January 1, 1987, retroactively through December 31, 1987,

(b) \$3.87 from January 1, 1988 through December 31, 1988,

(c) \$4.06 thereafter."

Section 3. Amend §131(b), Subchapter IV, Chapter 1, Title 23, Delaware Code, by striking the date "January 1, 1984" as the same appears in the said paragraph (b) and inserting in lieu thereof the date "January 1, 1987".

Section 4. Amend §131(b)(2) of Subchapter IV, Chapter 1, Title 23, Delaware Code, by striking subparagraphs (a), (b), and (c) in their entirety and substituting in lieu thereof the following new subparagraphs to read as follows:

"(a) \$3.69 from January 1, 1987, retroactively, through December 31, 1987,

(b) \$3.87 from January 1, 1988 through December 31, 1988,

(c) \$4.06 thereafter."

Approved April 16, 1987.

CHAPTER 10

FORMERLY

HOUSE BILL NO. 30

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO THE RIGHT TO KEEP AND BEAR ARMS FOR THE DEFENSE OF SELF, FAMILY, HOME AND STATE, AND FOR HUNTING AND RECREATIONAL USE.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 133rd General Assembly, being Chapter 332, Vol. 65, Laws of Delaware, as follows:

"AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO THE RIGHT TO KEEP AND BEAR ARMS FOR THE DEFENSE OF SELF, FAMILY, HOME AND STATE, AND FOR HUNTING AND RECREATIONAL USE.

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 I of the Delaware Constitution, by adding thereto a 'Section 20' to read as follows:

'Section 20. A person has the right to keep and bear arms for the defense of self, family, home and state, and for hunting and recreational use.'"

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 133rd General Assembly.

NOW, THEREFORE:

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

Section 1. The said proposed amendment is hereby concurred in and adopted, and shall forthwith become a part of the Constitution of the State of Delaware.

Approved April 16, 1987.

CHAPTER 11

FORMERLY

SENATE BILL NO. 62

AN ACT TO AMEND CHAPTER 183, VOLUME 22, LAWS OF DELAWARE, BEING AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF GREENWOOD", AS AMENDED, BY INCREASING THE AMOUNT TO BE RAISED BY TAXATION.

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 183, Volume 22, Laws of Delaware, as amended by Section 2, Chapter 81, Volume 48, Laws of Delaware, by striking said Section 2, Chapter 81, Volume 48, Laws of Delaware in its entirety and substituting in lieu thereof the following:

"The Town Council shall have the power and authority 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 fifty thousand dollars (\$50,000.00); 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."

Approved April 29, 1987.

CHAPTER 12

FORMERLY

SENATE BILL NO. 80

AN ACT TO AMEND CHAPTER 348, VOLUME 65, LAWS OF DELAWARE, BEING SENATE BILL NO. 560 OF THE 133RD GENERAL ASSEMBLY, AND BEING AN ACT ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1987; SPECIFYING CERTAIN PROCEDURES, CONDITIONS, AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BY MAKING CERTAIN ADDITIONS, DELETIONS, AND ADJUSTMENTS.

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 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by making the following adjustments to General Funds in Section 1:

Page	Line	Organization/Item	From	To	Increase/ (Decrease)
		<u>12-05-03 Debt Management</u>			
14	34	Debt Service - Regular	\$ 8,598.8	\$ 7,598.8	\$ (1,000.0)
		<u>20-01-00 Office of the Secretary</u>			
		<u>20-01-01 Administration</u>			
16	New	Contingency - Bicentennial Committee	-0-	1,000.0	1,000.0

Section 2. Further amend Section 1 of Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by recomputing all subtotals and totals accordingly, as a result of this Act.

Approved April 29, 1987.

CHAPTER 13

FORMERLY

SENATE BILL NO. 56
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND SECTIONS 937(b)(14), 937(g) AND 933(1), TITLE 10 OF THE DELAWARE CODE WITH REFERENCE TO THE MIXING OF CHILDREN CHARGED WITH OR ADJUDICATED DELINQUENT WITH DEPENDENT OR NEGLECTED CHILDREN.

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

Section 1. Amend Title 10, Chapter 9 of the Delaware Code, by striking §937(g) and substituting in lieu thereof a new subsection which shall read as follows:

"(g) Mixing of Children Charged with or Adjudicated Delinquent with Dependent or Neglected Children

(1) For the purpose of this subsection, the following definitions shall apply:

(a) "Level 1 Juvenile Offense" means any delinquent act constituting a felony under the laws of this State, any other State and the United States.

(b) "Level 2 Juvenile Offense" means any delinquent act constituting a Class A or a Class B misdemeanor, under the laws of this State, any other State and the United States.

(c) "Level 3 Juvenile Offense" means any delinquent act constituting a Class C or an unclassified misdemeanor under the laws of this State, any other State and the United States.

(d) "Mixing" means placement of any child charged with a Level 1 Juvenile Offense or found to have committed any delinquent act, in the same facility with dependent or neglected children.

(e) "Facility" means any shelter, group home, foster home, treatment center, institution, or any other place designated as a temporary or permanent placement for children, excluding accredited hospitals.

(f) "Repeat Offender" means any child adjudicated delinquent for 3 or more separate delinquent acts, not including Class C or unclassified misdemeanors, occurring within any period of twelve months.

(2) No dependent or neglected child shall be placed in a secure detention facility or a secure correctional facility unless charged with or found to have committed a delinquent act. No child shall be placed in an adult correctional or adult detention facility.

(3) There shall be no mixing unless the following requirements are met:

(a) When a child is charged with or found to have committed a Level 1 Juvenile Offense or is a Repeat Offender, the Department must obtain a Court order authorizing such placement, after the Secretary or a Division Director of the Department of Services for Children, Youth and Their Families shall recommend such placement in writing. Before authorizing mixing, the Family Court must specifically find that the proposed placement of the child offender does not represent a physical risk to others, and that the placement is not contrary to the best interests of the other children in the facility.

(b) When a child who is not a repeat offender is found to have committed a Level 2 Juvenile Offense, no mixing shall occur unless the Secretary or a Division Director of the Department of Services for Children, Youth and Their Families, after review of the case, certifies in writing that the proposed placement of the child offender does not represent a physical risk to others, and that the placement is not contrary to the best interests of the other children in the facility.

(c) When a child who is not a repeat offender is found to have committed a Level 3 Juvenile Offense, the Department of Services for Children, Youth and Their Families, may mix that child subject to its regulations, provided that

such placement is not contrary to the best interests of the other children in the facility.

(4) All placements which result in mixing of Level 1 or Level 2 child offenders shall be reviewed within 72 hours by the Department. Subsequently, such placement shall be reviewed after two months, and regularly thereafter. The two month review shall be made by the Foster Care Review Board. The purpose of the review shall be to determine whether, under the placement, the child offender continues not to represent a physical risk to others, and that such placement is not contrary to the best interests of the other children in the facility.

(5) The Department shall promulgate regulations in accordance with this Chapter within 60 days of the effective date of this Act."

Section 2. Amend Title 10, Chapter 9 of the Delaware Code, by striking §933(1) and enacting a new §933(1) which shall read as follows:

"(1) When the child is not charged with a delinquent act, immediately contact the Division of Child Protective Services of the Department of Services for Children, Youth and Their Families, 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 be placed in a manner consistent with 10 Del. C. Sec. 937(g). After making every reasonable effort to locate the custodian, the Division of Child Protective Services of the Department of Services for Children, Youth and Their Families may release the child to the child's custodian or forthwith file with the Court a petition for custody alleging dependency or neglect."

Section 3. Amend Title 10, Chapter 9 of the Delaware Code, by striking §937(b)(14) and enacting a new §937(b)(14) which shall read as follows:

"(14) May commit a mentally ill, retarded or disturbed child for observation or treatment to any appropriate institution within the State, or to any institution without the State which will consent to receive the child, any other provision of this Chapter notwithstanding."

Section 4. If any provision of this Act or application thereof to any person or circumstance is held unconstitutional and therefore invalid, such invalidity shall not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, provided the basic purposes of this Act can still be served and to that end the provisions of this Act are declared to be severable.

Approved May 5, 1987.

CHAPTER 14

FORMERLY

HOUSE BILL NO. 24

AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND CHAPTER 44, TITLE 21, DELAWARE CODE RELATING TO ABANDONED VEHICLES.

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 §4415, Chapter 44, Title 21, Delaware Code by striking Subsection "(c)" in its entirety and substituting in lieu thereof a new Subsection to read as follows:

"(c) The wrecker owner in possession of a Motor Vehicle and requesting a Delaware Certificate of Title shall contact the Delaware Division of Motor Vehicle to determine the owner(s) of any vehicle with undetermined ownership within five calendar days of towing the vehicle."

Section 2. Amend §4415, Chapter 44, Title 21, Delaware Code by adding new Subsections "(j)", "(k)", and "(l)" to read as follows:

"(j) Or, any wrecker owner may transfer a vehicle described in Subsection (a) directly to a licensed automotive recycler when said vehicle has been in his possession for 30 days, without owner notification, only after the vehicle has been inspected by the State Police Auto Theft Unit and upon receipt of a Certificate Of Authority To Dispose Of A Towed Vehicle Form issued by the Department. A wrecker owner shall be issued a Certificate Of Authority To Dispose A Towed Vehicle Form when he submits to the Department the approved application form, (1) along with the State Police Vehicle Inspection Report and a copy of the corresponding Police Tow Form, or, (2) when towed from private property other documentary evidence of his right to the possession, containing description of vehicle, date towed, location towed from, and person authorizing the towing.

(k) Any wrecker owner who violates this Section shall, for the first offense, be fined not less than \$25 nor more than \$50 for each vehicle violation. For each subsequent like offense within one year he or she shall, be fined not less than \$50 nor more than \$100 for each vehicle violation.

(l) Presumption of ownership - The last known registered owner of an abandoned vehicle is considered to be the prima facie owner of the vehicle at the time it was abandoned and the person who abandoned it."

Section 3. Amend §4414(a), Chapter 44, Title 21, Delaware Code by striking the phrase ", or be imprisoned not less than 2 nor more than 10 days or both" as it appears at the end of said Subsection.

Approved May 11, 1987.

CHAPTER 15

FORMERLY

HOUSE BILL NO. 22
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT BEING CHAPTER 504, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF HENLOPEN ACRES" TO PROVIDE FOR BORROWING AGAINST ANTICIPATED REVENUES.

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

Section 1. Amend Subsection (a) Section 26, Chapter 504, Volume 57, Laws of Delaware, as amended, by adding at the end of said Subsection (a) a new paragraph to be designated "Paragraph 2B" to read as follows:

"2B. To borrow money in anticipation of revenues on the full faith and credit of the Town of Henlopen Acres such sum or sums not exceeding Two Hundred Thousand Dollars (\$200,000.00) in any one (1) year when, in the opinion of a majority of the Commissioners of the Town of Henlopen Acres, the needs of the Town require it. Any sum so borrowed shall be secured by a promissory note or notes of the Town of Henlopen Acres, duly authorized by Resolution adopted by the Commissioners of the Town of Henlopen Acres, and signed by the Mayor of the Town of Henlopen Acres and attested by the Secretary of the Commissioners of the Town of Henlopen Acres with the corporate seal affixed, and no officer nor member of the Commissioners shall be liable for the payment or payments of such notes because it is signed by them as officers of the Town and is authorized by the Resolution of the Commissioners; provided however, that the total sum outstanding at any one time shall not exceed Two Hundred Thousand Dollars (\$200,000.00); 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 such sum or sums were borrowed, with interest thereon; and provided further, that such *ad valorem* taxes shall be levied as is necessary to pay the principal of and interest on said indebtedness as is required without regard to any other limitation concerning the maximum rate of taxation and such note or 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."

Approved May 11, 1987.

CHAPTER 16

FORMERLY

HOUSE BILL NO. 36
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 17, TITLE 18 OF THE DELAWARE CODE TO REQUIRE AGENTS AND BROKERS TO REPORT ANY VIOLATIONS OF DELAWARE INSURANCE LAWS BY INSURANCE COMPANIES.

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

Section 1. Amend Chapter 17, Title 18 of the Delaware Code by adding a new Section to read as follows:

"§1739. Report of Violation to Commissioner: Confidentiality of Report

(a) Every insurer, agent, solicitor, broker, administrator or other person except for attorneys functioning within the scope of the attorney-client privilege who has knowledge of a violation of any provision of this Title shall promptly report the facts and circumstances pertaining to the violation to the Commissioner.

(b) If a person who submits information pursuant to subsection (a) of this section requests, the Commissioner shall keep the person's name and the information confidential."

Approved May 11, 1986.

CHAPTER 17

FORMERLY

HOUSE BILL NO. 47

AN ACT TO AMEND CHAPTER 7, TITLE 18 OF THE DELAWARE CODE TO REQUIRE INSURERS TO PAY PREMIUM TAXES SEMI-ANNUALLY INSTEAD OF ANNUALLY AND TO APPROPRIATE FUNDS TO EMPLOY PERSONNEL TO COLLECT THIS TAX.

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

Section 1. Amend §702(a), Title 18 of the Delaware Code by deleting the words "each year" following the words "on or before March 1" and by adding the following in lieu thereof:

"(for the period July 1 through December 31 immediately preceding) and on or before September 1 (for the period January 1 through June 30 immediately preceding)".

Section 2. Amend §702, Title 18 of the Delaware Code by designating the present subsection '(d)' as subsection '(e)'.

Section 3. Amend §702, Title 18 of the Delaware Code by adding a new subsection '(d)', as follows:

'(d)' in Lieu of the semi-annual report of taxable gross direct premium income to be filed on or before September 1 (for the period January 1 through June 30 immediately preceding) as required by subsection (a) above and the tax paid thereon as required by subsection (c) above, each insurer may, at its option, file with the Commissioner, on or before August 1 each year, a report showing the amount of taxes paid on March 1 for the next preceding calendar year and pay to the Commissioner, for the use of the State, tax in the amount of one-half the taxes shown thereon as estimated taxes due for the current calendar year. Thereafter, the report due on March 1 of the next succeeding calendar year shall be for the period January 1 through December 31, and the estimated tax payment made on or before the immediately preceding, shall be deducted from the tax due on such net premiums."

Approved May 11, 1987.

CHAPTER 18

FORMERLY

HOUSE BILL NO. 73
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24, CHAPTER 37, DELAWARE CODE RELATING TO THE BOARD OF EXAMINERS OF SPEECH/LANGUAGE PATHOLOGISTS, AUDIOLOGISTS AND HEARING AID DISPENSERS.

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

Section 1. Amend §3707, Chapter 37, Title 24 of the Delaware Code, by adding thereto a new subsection (d) to read as follows:

"(d) Upon payment of a non-refundable application fee, the Board shall waive the examination and education and experience requirements and grant licenses to applicants initially hired by agencies of the State between January 30, 1986 and September 30, 1986 for positions regulated by this Chapter; provided, however, that said applicants must submit proof of successful completion of the qualifications for licensure as enumerated in §3706 of this Chapter to the Board on or before June 30, 1989 in order to be eligible for renewal of said license."

Approved May 11, 1987.

CHAPTER 19

FORMERLY

SENATE BILL NO. 27

AN ACT TO AMEND CHAPTER 42, VOLUME 53, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT AMENDING, REVISING AND CONSOLIDATING THE CHARTER OF THE CITY OF SEAFORD".

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 2(H), Chapter 42, Volume 53, Laws of Delaware, as amended by Chapter 90, Volume 56, Laws of Delaware, by deleting the last sentence in its entirety and substituting in lieu thereof the following:

"The polling places shall be opened from 2:00 p.m., prevailing time, until 6:00 p.m., prevailing time, on the date set for the special election."

Approved May 11, 1987.

CHAPTER 20

FORMERLY

SENATE BILL NO. 77

AN ACT TO AMEND CHAPTER 13, TITLE 18, DELAWARE CODE, TO PERMIT INSURERS TO INVEST IN BOND OBLIGATIONS OF THE AFRICAN DEVELOPMENT BANK.

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

Section 1. Amend §1307, Chapter 13, Title 18, Delaware Code, by redesignating the present subsection (11) as subsection (12) and inserting a new subsection (11) to read as follows:

"(11) African Development Bank."

Approved May 11, 1987.

CHAPTER 21

FORMERLY

HOUSE BILL NO. 39
AS AMENDED BY HOUSE AMENDMENT NO. 2, HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2 AND
HOUSE AMENDMENTS NOS. 3, 4 AND 5

AN ACT TO AMEND SECTION 1921, TITLE 24 OF THE DELAWARE CODE RELATING TO EXCEPTIONS FROM THE
NURSING ACT.

WHEREAS, the present Nursing Act precludes the administration of medication in child day care homes or child day care centers, permitting assistance only after completion of a state-approved medication training program; and

WHEREAS, public policy calls for a further exception to the Act providing for administration of medication with written parental permission.

NOW THEREFORE:

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

Section 1. Amend Subsection (a) (10), Section 1921, Title 24 of the Delaware Code by striking therefrom the words "Child care homes or child day care centers or".

Section 2. Amend Section 1921 (a), Title 24 of the Delaware Code by redesignating Subsections (11) and (12) as Subsections (12) and (13) and creating a new Subsection (11) which shall read as follows:

"(11) Administration of prescription or non-prescription medications, other than by injection, by child care providers, who have successfully completed a State approved medication training program, to children in child day care homes or child day care centers regulated by the State under Sections 341-344 Chapter 3, Title 31 of this Code provided the medication and written permission for the administration of the particular medication has been obtained from the child's parent or legal guardian and further provided the medication is in its original container, properly labeled. Properly labeled medication shall include instructions for administration of the medication;"

Approved May 14, 1987.

CHAPTER 22

FORMERLY

HOUSE BILL NO. 116
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO THE LENDING AND MORTGAGE BANKING BUSINESS.

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

Section 1. Amend Chapters 21, 3D and 3I of Title 5 of the Delaware Code by deleting said Chapters and establishing a new Chapter 22 to read as follows:

"CHAPTER 22 LICENSED LENDERS

SUBCHAPTER I. LICENSING

§2201. Definitions.

In this chapter, unless the context otherwise requires:

(1) 'Licensed Lender' is an individual, corporation, partnership or any other group of individuals however organized, but does not include any banking institution, savings bank, savings and loan association, federal credit union, insurance company, or any other financial institutions which is subject to any other law of this State or the United States, in the business of making closed end and open end loans pursuant to this chapter. No licensed lender shall be a participating merchant as used in this Chapter.

(2) 'Person' means an individual, corporation, partnership or any other group of individuals however organized, but does not include 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 of the United States, regulating the power of such institution to engage in the business of lending money as provided for in this chapter.

(3) 'Licensee' means any person duly licensed by the Commissioner pursuant to this chapter.

(4) 'Commissioner' means the State Bank Commissioner.

(5) 'Payment Period' means the period of time scheduled by the terms of a loan to elapse between the days upon which installment payments are required to be made on such loan.

§2202. License required.

Every person or combination of persons (other than any national, or state bank, any state or federal savings and loan association or savings bank or any trust company organized under this Code or any other laws of this State), desiring to transact the business of lending money as provided in this chapter shall apply to the State Bank Commissioner for a license.

A person that makes or negotiates not more than 5 loans within any 12 month period shall be deemed not to be transacting business as provided herein. Loans made by an unlicensed lender shall fall under the provision of §23D1 of Title 6, Delaware Code.

The Commissioner shall exempt from the licensing requirements of this chapter subsidiaries of savings and loan associations insured by the Federal Savings and Loan Insurance Corporation. 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 purpose of this chapter.

§2203. Requirements and fee for license.

(1) Every application for a license shall be in writing 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 \$250.00 which shall not be refundable.

(2) Upon approval, the applicant shall pay an annual license fee of \$250.00 which shall be payable annually thereafter. No abatement in the amount of said license fee shall be made if the license is issued for less than 1 year, nor if the license is surrendered, canceled or revoked prior to the expiration of the period for which such license was issued. Every license shall expire on December 31 of each year.

§2204. Issuance 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 transact business in accordance with 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 the right to request a hearing. If the applicant requests a hearing the Commissioner shall hold such hearing under Chapter 101 of Title 29. The Commissioner shall approve or deny every application for license hereunder within 90 days from the filing thereof.

§2205. 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.

§2206. License requirements.

Each license issued under this chapter shall state the address 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. In case such location be changed, the Commissioner shall endorse the change of location on the license without charge. In case there is a change of name but no change in corporate structure, the Commissioner shall endorse such name change on the license without charge. Such license shall not be otherwise transferable or assignable. No licensee shall maintain an office at any other location than that designated in the license. The Commissioner may issue more than one license to the same applicant upon payment of the required fees and compliance with all applicable provisions of law.

§2207. Renewal of license.

Every holder of a license or a renewal thereof, as provided for in this section, desiring to continue the transaction of the business as provided for in this chapter, shall at least 30 days prior to the expiration of such license or renewal thereof make application to the Commissioner on forms to be provided by the Commissioner for a license renewal. The Commissioner may mandate that applications for renewal shall be treated as new applications if said renewal applications are not on file with the Office of the State Bank Commissioner by January 1 of each year. Licensees who have not complied with supervisory letters or who have not paid the supervisory assessment or examination fees may be refused license renewal.

§2208. License bond.

Every licensee shall file with the Commissioner a corporate surety bond in the principal sum of \$50,000 in a form satisfactory to the Commissioner with surety provided by a corporation authorized to transact business in this State. The bond shall run to the State and shall be conditioned that the licensee will comply with this chapter. The aggregate liability of the surety on the bond shall in no event exceed the amount of such bond.

§2209. Suspension or revocation of license; surrender 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.

(3) The licensee has engaged in business activities or practices in connection with extensions of credit to consumers, which could be deemed unfair or deceptive by nature or intent. Such activities and practices include, but are not limited to, the use of tactics which mislead the consumer, misrepresent the consumer transaction or any part thereof or otherwise create false expectations on the part of the consumer.

(b) The Commissioner may, on good cause shown, suspend any license for a period not exceeding 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 preexisting 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 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 101 of Title 29. Such application for review as authorized by this section must be made within 30 days from the date of such order of suspension or revocation.

§2210. Supervision and examination of business by Commissioner.

(a) Every person or combination of persons licensed to transact business as provided in this chapter in the State shall be subject to the supervision and examination of the State Bank Commissioner and shall be examined by the Commissioner or his authorized representative annually or at such intervals as the Commissioner deems necessary.

(b) On the occasion of every examination, the Commissioner or his authorized representative shall be given access to every part of the office or place of business visited and to the assets, securities, books and papers of the business.

(c) The examination made by the Commissioner or his authorized representative shall be a thorough examination into the affairs of the business visited, the resources and liabilities, the investment of the funds, the mode of conducting the business and the compliance or noncompliance with this Code and any other statutes of the State; and in connection with such examination the Commissioner or his authorized representative may examine, under oath or affirmation, any and all persons connected with or associated with the licensee.

(d) The Commissioner may prescribe regulations to carry out the purposes of this chapter.

§2211. Maintenance of books and records by licensee.

Every licensee shall maintain such books, accounts and records relating to all transactions within this chapter as will enable the Commissioner to enforce full compliance with the provisions of this chapter.

§2212. Period of retention of records by licensee.

All books, accounts and records of the licensee shall be preserved and kept available as provided in this chapter for such period of time as the Commissioner may by regulation require.

§2213. Prescription of information to be shown in licensee books.

The Commissioner may prescribe the minimum information to be shown in such books, accounts and records of the licensee so that such records will enable the Commissioner to determine compliance with the provisions of this chapter.

SUBCHAPTER II. REVOLVING CREDIT

§2214. Definitions.

As used in this subchapter:

(a) "Revolving credit plan" or "plan" means a plan contemplating the extension of credit under an account governed by an agreement between a licensee and a borrower pursuant to which:

(1) The licensee permits the borrower and, if the agreement governing the plan so provides, persons acting on behalf of or with authorization from the borrower, from time to time to make purchases from participating merchants and/or to obtain loans by use of a credit device;

(2) The amounts of such purchases from participating merchants and loans are charged to the borrower's account under the revolving credit plan;

(3) The borrower is required to pay the licensee the amounts of all purchases and loans charged to such borrower's account under the plan but has the privilege of paying such amounts outstanding from time to time in full or in installments; and

(4) Interest may be charged and collected by the licensee from time to time on the outstanding unpaid indebtedness under such plan.

(b) "Purchases" mean payments for property of whatever nature, real or personal, tangible or intangible, and payments for services, licenses, taxes, official fees, fines, private or governmental obligations, or any other thing of value.

(c) "Loan" means cash advances or loans to be paid to or for the account of the borrower.

(d) "Credit device" means any card, check, identification code or other means of identification contemplated by the agreement governing the plan.

(e) "Outstanding unpaid indebtedness" means on any day an amount not in excess of the total amount of purchases from participating merchants and loans charged to the borrower's account under the plan which is outstanding and unpaid at the end of the day, after adding the aggregate amount of any new purchases from participating merchants and loans charged to the account as of that day and deducting the aggregate amount of any payments and credits applied to that indebtedness as of any day and, if the agreement providing the plan so provides, may include the amount of any interest and additional charges, including late or delinquency charges, which have accrued to the account and which are unpaid at the end of the day.

§2215. Extension of credit.

Any licensee may offer and extend credit under a revolving credit plan to a borrower and in connection therewith may charge and collect the interest and other charges permitted by this subchapter and may take such security as collateral in connection therewith as may be acceptable to the licensee. Without limitation of the foregoing, credit may be extended under a revolving credit plan by a licensee's acquisition of obligations arising out of the honoring by a merchant, a bank or other financial institution (whether chartered or organized under the laws of this or any other state, the District of Columbia, the United States or any district, territory or possession of the United States, or any foreign country), or a government or governmental subdivision or agency of a credit device made available to a borrower under a plan, whether directly or indirectly by means of telephone, point of sale terminal, or other electronic or similar device or through the mail.

§2216. Interest.

A licensee may charge and collect interest under a revolving credit plan on outstanding unpaid indebtedness in the borrower's account under the plan at such daily, weekly, monthly, annual or other periodic percentage rate or rates as the agreement governing the plan provides or as established in the manner provided in the agreement governing the plan. If the applicable periodic percentage rate under the agreement governing the plan is other than daily, interest may be calculated on an amount not in excess of the average of outstanding unpaid indebtedness for the applicable billing period, determined by dividing the total of the amounts of outstanding unpaid indebtedness for each day in the applicable billing period by the number of days in the billing period. If the applicable periodic percentage rate under the agreement governing the plan is monthly, a billing period shall be deemed to be a month or monthly if the last day of each billing period is on the same day of each month or does not vary by more than 4 days therefrom.

§2216. Variable rates.

If the agreement governing the revolving credit plan so provides, the periodic percentage rate or rates of interest under such plan may vary in accordance with a schedule or formula. Such periodic percentage rate or rates may vary from time to time as the rate determined in accordance with such schedule or formula varies and such periodic percentage rate or rates, as so varied, may be made applicable to all outstanding unpaid indebtedness under the plan on or after the effective date of such variation including any such indebtedness arising out of purchases made from a participating merchant or loans obtained prior to such variation in the periodic percentage rate or rates.

§2218. Additional charges.

In addition to or in lieu of interest at a periodic percentage rate or rates as provided in §2216 and §2217 of this title, a licensee may, if the agreement governing the revolving credit plan so provides, charge and collect one or more of the following:

(a) A daily, weekly, monthly, annual or other periodic charge in such amount or amounts as the agreement may provide for the privileges made available to the borrower under the plan;

(b) A transaction charge or charges in such amount or amounts as the agreement may provide for each separate purchase or loan under the plan;

(c) A minimum charge for each daily, weekly, monthly, annual or other scheduled billing period under the plan during any portion of which there is an outstanding unpaid indebtedness under the plan;

(d) Reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the licensee or its agents in connection with such loan, including without limitation, commitment fees, official fees and taxes, premiums or other charges for any guarantee or insurance protecting the licensee against the borrower's default or other credit loss, or costs incurred by reason of examination of title, inspection, recording and other formal acts necessary or appropriate to the security of the loan, filing fees, attorney's fees and travel expenses; and

(e) Such other charges as the Commissioner shall include in an itemized schedule of the maximum amounts which may be charged to an applicant for an extension of credit for costs, fees, services, points, premiums, and all other reasonable expenses which may be incurred by such applicant in connection with the extension of credit. The maximum amounts permitted by said schedule may vary with the amount of the extension of credit and shall bear a reasonable relationship to such extensions of credit, the services required and the complexity of the transaction. No licensee or any other person shall demand, collect or receive from any borrower, directly or indirectly, any other charges, or any greater amounts for any authorized charges, than those permitted by said schedule or otherwise under this chapter.

§2219. Terms for indebtedness.

A licensee may, if the agreement governing a revolving credit plan so provides, impose different terms (including, without limitation, the terms governing the periodic percentage rate or rates used to calculate interest, the method of computing the outstanding unpaid indebtedness to which such rate or rates are applied, the amounts of other charges and the applicable installment repayment schedule) in respect to indebtedness arising out of purchases and indebtedness arising out of loans made under the plan.

§2220. Omitted installments.

A licensee may at any time and from time to time unilaterally extend to a borrower under a revolving credit plan the option of omitting monthly installments.

§2221. Insurance.

(a) A licensee may request but not require an individual borrower to be insured in respect of a revolving credit plan under a life, health, accident, health and accident or other credit or other permissible insurance policy, whether group or individual, and in the event that an individual borrower's outstanding unpaid indebtedness under the plan is secured by an interest in real or personal property, a licensee may require the borrower to obtain insurance, from an insurer acceptable to the licensee, against loss of or damage to such property, or against the liability arising out of the ownership or use of the property and may finance the premiums for such insurance.

(b) The offer and placement of insurance under this section shall be subject in all respects to the applicable provisions of Title 18.

§2222. Delinquent installments.

If the agreement governing a revolving credit plan so provides, a licensee may impose a late or delinquency charge upon such installment payments or portions thereof; provided, however, that no more than one such late or delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default; and provided further, however, that for the purpose only of the preceding provision all payments by the borrower shall be deemed to be applied to satisfaction of installment payments in the order in which they become due.

§2223. Attorney's fees; costs.

In the event a borrower defaults under the terms of a plan and the licensee refers the borrower's account to an attorney (not a regularly salaried employee of the licensee) for collection, the licensee may, if the agreement governing the revolving credit plan so provides, charge and collect from the borrower a reasonable attorney's fee and, in addition, if the agreement governing the revolving credit plan so provides, the licensee may recover from the borrower all court or other collection costs actually incurred by the licensee in connection with a collection proceeding.

§2224. Amendment of agreement.

(a) A licensee may, if the agreement governing a revolving credit plan so provides, at any time or from time to time amend the terms of such agreement (including, without limitation, the terms governing the periodic percentage rate or rates used to calculate interest, the method of computing the outstanding unpaid indebtedness to which such rate or rates are applied, the amounts of other charges and the applicable installment repayment schedule) in accordance with the further provisions of this section.

(b) The licensee shall notify each affected borrower of the amendment in the manner set forth in the agreement governing the plan and in compliance with the requirements of the Truth-In-Lending Act (15 U.S.C. §1601 et seq.), and regulations promulgated thereunder, as in effect from time to time, if applicable; provided, however, that if such amendment has the effect of increasing the interest or other charges to be paid by the borrower, the licensee shall mail or deliver to the borrower, at least 15 days before the effective date of the amendment, a clear and conspicuous written notice which shall describe the amendment and the existing term or terms of the agreement affected by the amendment and the pertinent information contemplated by the following provisions of this section. If the amendment has the effect of increasing the interest or other charges to be paid by the borrower, such amendment shall become effective only if the borrower uses the plan after a date specified in the notice which is at least 15 days after the giving of notice (but which need not be the date the amendment becomes effective) by making a purchase or obtaining a loan, or if the borrower indicates to the licensee in writing such borrower's express agreement to the amendment. Any such amendment may become effective as to a particular borrower as of the first day of the billing period during which such borrower so used such borrower's account or so indicated agreement to the amendment. Any borrower who fails to use such borrower's account or so to indicate agreement to an amendment shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment.

(c) If the terms of the agreement governing the plan, as originally drawn or as amended pursuant to this section, so provide, any amendment may, on and after the date

upon which it becomes effective as to a particular borrower, apply to all then outstanding unpaid indebtedness in the borrower's account under the plan, including any such indebtedness which shall have arisen out of purchases made or loans obtained prior to the effective date of the amendment.

(d) For the purposes of this section, a decrease in the required amount of periodic installment payments shall not be deemed an amendment which has the effect of increasing the interest to be paid by the borrower.

§2225. Application of other state laws.

Any other law of this State limiting the rate or amount of interest, discount, points, finance charges, service charges or other charges which may be charged, taken, collected, received or reserved shall not apply to extensions of credit under a revolving credit plan operated in accordance with this subchapter.

§2226. Nonexclusivity; captions.

(a) The provisions of this subchapter are not exclusive and a licensee may at its option elect to extend credit either pursuant to this subchapter or as otherwise permitted by applicable law.

(b) Section headings and captions contained in this subchapter are inserted only as a matter of convenience and for reference and do not, and shall not be construed to define, limit, extend or describe the scope of this subchapter or the meaning or intent of any section hereof.

SUBCHAPTER III. CLOSED END CREDIT

§2227. Definitions.

As used in this subchapter:

(a) "Closed end credit" means the extension of credit by a licensee to a borrower pursuant to an arrangement or agreement which is not a revolving credit plan as defined in subchapter II of this chapter.

(b) "Loan" means any single extension of closed end credit.

§2228. Extension of credit.

(a) Any licensee may, subject to any limitations on lending authority contained in its charter or otherwise imposed by law and subject to the other provisions of this subchapter, offer and extend closed end credit to a borrower and in connection therewith, may charge and collect the interest and other charges permitted by this subchapter and may take such security as collateral in connection therewith as may be acceptable to the licensee. Loans to any one borrower may not exceed 20% of the paid capital stock and surplus of such lender.

(b) All licensees will maintain records or other comparable evidence of their activity taken to reach a decision on a loan. If a commitment between a licensee and an applicant is not met (regardless of whether a similar loan at a higher rate is closed or not) and the delay is the licensee's fault, or the licensee cannot demonstrate through its records or other comparable evidence that it took reasonably diligent steps to meet its deadline, such action or inaction taken by the licensee may be deemed to be an unsafe and unsound operating practice. In such a case, the Commissioner shall take appropriate action which may include, but is not limited to, an order to refund certain fees paid by the applicant to the licensee.

§2229. Interest.

A licensee may charge and collect interest in respect of a loan at such daily, weekly, monthly, annual or other periodic percentage rate or rates as the agreement governing the loan provides or as established in the manner provided in such agreement and may calculate such interest by way of simple interest or such other method as the agreement governing the loan provides. If the interest is precomputed it may be calculated on the assumption that

all scheduled payments will be made when due. For purposes hereof, a year may but need not be a calendar year and may be such period of from 360 to 366 days, including or disregarding leap year, as the licensee may determine.

§2230. Variable rates.

If the agreement governing the loan so provides, the periodic percentage rate or rates of interest charged and collected in respect of the loan may, if the interest is not precomputed and taken in advance, vary in accordance with a schedule or formula. Such periodic percentage rate or rates may vary from time to time as the rate determined in accordance with such schedule or formula varies and such periodic percentage rate or rates, as so varied, may be made applicable to any or all outstanding and unpaid amounts of such loan on and after the effective date of such variation. This section shall not be construed to limit the authority of a licensee to charge and collect interest in respect of a loan in the manner and at the rate or rates authorized in any other section of this subchapter.

§2231. Additional charges.

In addition to or in lieu of interest at a periodic percentage rate or rates permitted by (§2229 and §2230 of this title), the licensee may charge and collect, in respect of a loan:

(a) Reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the licensee or its agents in connection with such loan, including without limitation, commitment fees, official fees and taxes, premiums or other charges for any guarantee or insurance protecting the licensee against the borrower's default or other credit loss, or costs incurred by reason of examination of title, inspection, recording and other formal acts necessary or appropriate to the security of the loan, filing fees, attorney's fees and travel expenses;

(b) A delinquency charge upon any installment which is completely or partially in default for a period of not less than 10 days; provided, however, that no more than one such delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default; and provided further, that no such delinquency charge may exceed 5% of the amount of any such installment of portion thereof in default;

(c) Such other charges as the Commissioner shall include in an itemized schedule of the maximum amounts which may be charged to an applicant for a loan for costs, fees, services, points, premiums, and all other reasonable expenses which may be incurred by such applicant in connection with a loan. The maximum amounts permitted by said schedule may vary with the amount of the loan and shall bear a reasonable relationship to such loan, the services required and the complexity of the transaction. No licensee or any other person shall demand, collect or receive from any applicant for a loan, directly or indirectly, any other charges, or any greater amounts for any authorized charges, than those permitted by said schedule or this subchapter. Every licensee shall furnish to every applicant for a loan a copy of said schedule at the time when such application is made.

§2232. Deferred installments.

A licensee may at any time or from time to time permit a borrower to defer installment payments of a loan and may, in connection with such deferral, charge and collect deferral charges and may also require payment by such borrower of the additional cost to the licensee of premiums for continuing in force, until the end of such period of deferral, any insurance coverage provided in connection with the loan pursuant to §2231 of this title.

§2233. Insurance.

(a) A licensee may request but not require borrower to be insured in respect of a loan under a life, health, accident, health and accident or other permissible insurance policy, whether group or individual, and in the event that a loan to a borrower is secured by an interest in real or personal property, the licensee may require the borrower to obtain insurance, from an insurer acceptable to the licensee, against loss of or damage to such property, or against the liability arising out of the ownership or use of the property and may finance the premiums for such insurance.

(b) The offer and placement of insurance under this section shall be subject in all respects to the applicable provisions of Title 18.

§2234. Prepayment.

(a) A borrower may prepay a loan in full at any time.

(b) If interest charged pursuant to §2229 of this title in respect to a loan has been precomputed and taken in advance, then, in the event of prepayment of the entire

indebtedness, the licensee shall refund to such borrower the unearned portion of the precomputed interest charge. This refund shall be in an amount not less than the amount which would be refunded if the unearned precomputed interest charge were calculated in accordance with the actuarial method, except that the borrower shall not be entitled to a refund which is less than \$5. The unearned portion of the precomputed interest charge is, at the option of the licensee, either:

(1) That portion of the precomputed interest charge which is allocable to all originally scheduled or, if deferred, all deferred payment periods, or portions thereof, ending subsequent to the date of prepayment. The unearned precomputed interest charge is the total of that which would have been earned for each such period, or portion thereof, had the loan not been precomputed, by applying to unpaid balances of principal, according to the actuarial method, an annual percentage rate based on the precomputed interest charges, assuming that all payments were made as scheduled, or a deferred, if deferred. The licensee, at its option, may round this annual percentage rate to the nearest one-quarter of 1 percent; or

(2) The total precomputed interest charge less the earned precomputed interest charge. The earned precomputed interest charge shall be determined by applying an annual percentage rate based on the total precomputed interest charge, under the actuarial method, to the unpaid balances for the actual time those balances were unpaid up to the date of prepayment.

(c) As used in subsection (b) of this section:

(1) "Actuarial method" means the method of allocating payments made on a loan between the outstanding balance of the loan and interest pursuant to which a payment is applied first to the accumulated interest and any remainder is subtracted from the outstanding balance of the loan.

(2) "Precomputed interest charge" means interest as computed by the add-on, discount or other similar method.

(3) "Payment period" means the time period within which periodic installment payments of a loan are due as provided in the agreement governing the loan.

(d) If a charge was made for premiums for insuring such borrower under an insurance policy pursuant to §2233 of this title, then, in the event of prepayment, the licensee shall refund to such borrower the excess of the charge to such borrower therefor over the premiums paid or payable to the licensee, if such premiums were paid or payable to the licensee periodically, or the refund for such insurance premium received or receivable by the licensee, if such premium was paid or payable in a lump sum by the licensee, provided that no such refund shall be required if it amounts to less than \$5.

(e) In connection with any prepayment of any loan by an individual borrower, the licensee may not impose any prepayment charge, except that in the case of a residential mortgage loan, the lender may charge and collect any prepayment penalty or charge specified in the agreement governing, or, the bond, note or other evidence of, the loan.

§2235. Refinancing.

(a) A borrower may, with the consent of the licensee, refinance the entire outstanding and unpaid amount of a loan, and the licensee may charge and collect a refinancing charge in connection with any such refinancing.

(b) For the purposes of this section, the entire outstanding and unpaid amount of a loan shall be deemed to be:

(1) If the interest and charges in respect of the loan were not taken in advance, the total of the unpaid balance and the accrued and unpaid interest and charges on the date of refinancing; or

(2) If the interest and charges on the loan were precomputed and taken in advance, the amount which the borrower would have been required to pay upon prepayment on the date of refinancing pursuant to §2232 of this title governing refund upon prepayment.

§2236. Attorneys fees; costs.

In the event a borrower defaults under the terms of a loan and the licensee refers such borrower's account to an attorney (not a regularly salaried employee of the licensee) for

collection, the licensee may, if the agreement governing the loan so provides, charge and collect from the borrower a reasonable attorney's fee and, in addition, if the agreement governing the loan so provides the licensee may recover from the borrower all court and other collection costs actually incurred by the licensee in connection with a collection proceeding.

§2237. Application of other state laws.

Any other law of this State limiting the rate or amount of interest, discount, points, finance charges, service charges or other charges which may be charged, taken, collected, received or reserved shall not apply to extensions of credit made in accordance with this subchapter.

§2238. Nonexclusivity; Captions.

(a) The provisions of this subchapter are not exclusive and a licensee may at its option elect to extend credit either pursuant to this subchapter or as otherwise permitted by applicable law.

(b) Section headings and captions contained in this subchapter are inserted only as a matter of convenience and for reference and do not, and shall not be construed to define, limit, extend or describe the scope of this subchapter or the meaning or intent of any section hereof.

SUBCHAPTER IV. PROHIBITIONS AND PENALTIES

§2239. Penalty for failure to give copy of obligation to borrower.

Every lender shall give to the borrower, on request, a correct copy of the obligation evidencing the loan, and on failure or refusal, on such request, to furnish the borrower with such copy, shall be fined, for each offense, not less than \$20 nor more than \$100, or imprisoned for not more than one month, or both.

§2240. Prohibition against making loans without license; exception; penalty.

(a) Loans as authorized by this chapter shall not be made unless a license of registration has first been obtained from the State Bank Commissioner. Whoever violates this subsection shall be fined not less than \$50 nor more than \$200 for each offense, or imprisoned not more than three months, or both.

(b) Subsection (a) of this section shall not apply to state or federal savings and loan associations or savings bank, national banks, or state banks or trust companies organized under the laws of this State. Such institutions may make loans in accordance with and at the rates and upon the terms, and under the limitations with respect to corporations, provided for in this chapter, without first obtaining a license from the State Bank Commissioner.

§2241. Responsibility of agents.

For every violation of this chapter by any association, firm, partnership, trustee system or combination of persons not incorporated, or by any corporation, any member of the association, firm, partnership, trustee system or combination of persons not incorporated, and the president, secretary or treasurer, or any person acting as agent of the association, firm, partnership, trustee system or combination of persons not incorporated, or corporation, may be proceeded against as a principal, and if found guilty of violating this chapter, shall be punished as provided in this chapter.

§2242. Salary orders, warrants or assignments as security for loans, confessions of judgment, acceleration; penalties for violations.

(a) No order, warrant or claim of any kind, from any employee upon his employer, for any salary or part thereof due or to become due to such employee from such employer, shall be taken, accepted, or agreed to be taken or accepted, as security for money loaned or to be loaned.

(b) No loan shall be declared due and payable unless the borrower shall be in default of an expressed term or condition of the instrument.

(c) Whoever violates this section shall be fined not less than \$100 nor more than \$500, or imprisoned not more than six months, or both.

§2243. False or misleading advertising prohibited.

It shall be unlawful for any person to cause to be placed before the public in this State, directly or indirectly, any false or misleading advertising matter pertaining to loans under this chapter or the availability thereof; provided, however, that this section shall not apply to the owner, publisher, operator or employees of any publication or radio or television station which disseminates such advertising matter without knowledge of the false or misleading character thereof."

§2244. Jurisdiction.

The Superior Court shall have jurisdiction of violations of Sections 2339, 2240 and 2242 of this Chapter.

Section 2. Amend §121 of Title 5 of the Delaware Code by deleting the term "Chapter 21" as it appears in paragraph (a) (2) of said section and inserting in lieu thereof "Chapter 22".

Section 3. Further amend §121 of Title 5 of the Delaware Code by deleting paragraph (e) of said section.

Section 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid it shall not effect without the invalid provision or application, and to that end the provisions of this Act are declared severable.

Section 5. This Act shall be effective July 1, 1987. Licenses currently in effect under former Chapters 21, 30 and 31 in effect upon the effective date of this Act shall continue in effect until December 31, 1987.

Approved May 18, 1987.

CHAPTER 23

FORMERLY

HOUSE BILL NO. 117

AN ACT TO AMEND CHAPTER 11, TITLE 5 OF THE DELAWARE CODE BY PROVIDING FOR THE FILING OF ESTIMATED BANK FRANCHISE TAX AND PAYMENT IN QUARTERLY INSTALLMENTS.

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

Section 1. Amend §1101, Title 5, Delaware Code, by deleting subsections (a) and (e) in their entirety and redesignating subsections (b), (c), (d), (f), and (g) as subsections (a), (b), (c), (d), and (e) respectively.

Section 2. Amend the new subsection (a) by striking the portion of the first sentence starting with the words "In lieu of" and ending with "December 31, 1982.". Further amend the first sentence of said subsection by inserting the word "hereby" between the words "is" and "imposed".

Section 3. Amend subsection (b) of §1103 of Title 5, Delaware Code, by striking the period after "national bank." and adding the following language, "less any payments having been received in accordance with §1104 of this Chapter."

Section 4. Amend §1104, Title 5, Delaware Code, by designating the existing language as subsection (a). Further amend said section by striking all subsequent language following the phrase "by the State Bank Commissioner", replacing the comma after said phrase with a period and adding the following:

"Except that with respect to a bank, trust company and national bank whose franchise tax liability for the current year is estimated to exceed \$10,000 a tentative return covering estimated bank franchise tax liability for the current income year, to be in such form and containing such information as the State Bank Commissioner shall prescribe, shall be filed with the State Bank Commissioner on or before the first day of August of the current income year."

Section 5. Further amend §1104, Title 5, Delaware Code by adding subsections (b) and (c) to read as follows:

"(b) The estimated tax liability as calculated per §1104 (a) shall be due and payable in installments of 25% of the estimated tax liability on September 1 and December 1 of the current taxable year with 25% to be paid on March 1 and the balance on June 1 of the succeeding year.

(c) Underpayment of estimated tax. - (1) Addition to Tax. - In the case of any underpayment of estimated tax or installment of estimated tax required by this Chapter, there shall be added to the tax for the taxable year an amount determined at the rate of 1% per month, or fraction thereof, upon the amount of underpayment for the period of the underpayment.

(2) Amount of Underpayment - For purposes of paragraph (1) of this subsection, the amount of the underpayment shall be the excess of:

a. The amount of the estimated tax or installment payment which would be required to be made if the estimated tax were equal to 80 percent of the tax shown on the final return for the taxable year, or if no return was filed, 80 percent of the tax for such year, over

b. The amount, if any, of the estimated tax or the installment paid on or before the last date prescribed for payment.

(3) Period of Underpayment - The period of the underpayment shall run from the date the estimated tax or installment was required to be paid to the date of the final payment of tax for the year.

(4) Exception - Notwithstanding the foregoing provisions of this subsection, the addition to the tax with respect to any underpayment of estimated tax or any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment thereof equals or exceeds the amount which would have been required to be paid on or before such date

if the estimated tax were the tax shown on the final return of the bank, trust company and national bank for the preceding taxable year."

Section 6. If any provision of the act or the application thereof to any person or circumstance is held invalid it shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared severable.

Section 7. This Act shall be effective July 1, 1987.

Approved May 18, 1987.

CHAPTER 24

FORMERLY

SENATE BILL NO. 109
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 1, TITLE 5, DELAWARE CODE, TO PROVIDE FOR THE PRIOR APPROVAL BY THE DELAWARE BANK COMMISSIONER OF THE CHANGE IN CONTROL OF DELAWARE CHARTERED BANKS AND TRUST COMPANIES.

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

Section 1. Amend Chapter 1, Title 5, Delaware Code by adding a new Subchapter III entitled "Change in Bank Control", which said Subchapter III shall read as follows:

"Subchapter III. Change in Bank Control

§160. Prior Permission Required

(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any Delaware Chartered Bank or Trust Company through a purchase, assignment, transfer, pledge, or other disposition of voting stock of such Bank or Trust Company unless the State Bank Commissioner has been given at least 60 days prior written notice of such proposed acquisition and within that time period the Commissioner has not issued a notice disapproving the proposed acquisition or extending for up to another 30 days, the period during which such approval may issue. The period for disapproval may be further extended only if the Commissioner determines that any acquiring party has not furnished all the information required or that in his judgment any material information submitted is substantially inadequate. An acquisition may be made prior to the expiration of the disapproval period if the Commissioner issues written notice of his intent not to disapprove the action.

(2) Notwithstanding any other provision of Title 5, a person acting directly or indirectly or through or in concert with one or more other persons, may acquire control or acquire all or substantially all of the assets of a banking organization that is not a bank as defined in the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841 et seq.), subject to the provisions contained herein; provided, however, that the Commissioner's approval or disapproval of such acquisition is not required if the Commissioner has prior to the enactment date of this Subchapter, recommended to the appropriate Federal banking agency having jurisdiction over the person seeking to acquire such banking organization not to disapprove such acquisition.

(3) Notwithstanding any other provision of Title 5, and subject to the provisions contained herein, an out-of-state bank holding company may acquire and retain an existing bank satisfying the conditions of Subchapter 1 of Chapter 8 of Title 5 and except for the requirement that such bank be a newly established bank, all other provisions of Subchapter 1 of Chapter 8 of Title 5 will be applicable to such out-of-state bank holding company and the bank so acquired.

§161. Publication Required

Any person filing a notice shall publish in a local newspaper of general circulation an announcement of the Commissioner's acceptance of the sufficiency of the Notice.

§162. Content of Notice

Except as otherwise provided by regulation of the Commissioner, a change of control notice filed under this Subchapter shall contain at least the following information:

(1) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past 5 years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal Court.

(2) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the 5 years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the 5

fiscal years must be included, all prepared in accordance with general accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person together with related statements of income, source and application of funds, as of a date not more than 90 days prior to the date of filing of the notice.

(3) The terms and conditions of the proposed acquisition as well as the manner in which the acquisition is to be made.

(4) The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the proposed acquisition, the notice must include a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

(5) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the Bank, to sell its assets or to merge it with any company or to make any other major change in its business or corporate structure or management.

(6) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

(7) Copies of all invitations or tenders, or advertisements making a tender offer, to stockholders for the purpose of purchasing their stock that will be used in connection with the proposed acquisition.

(8) Any additional relevant information in such form as the Commissioner may require by Regulation or by specific request in connection with any particular Notice.

§163. Disapproval of an Application

The Commissioner may disapprove any proposed acquisition if -

(1) The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or attempt to monopolize the business of banking in the State of Delaware;

(2) The effect of the proposed acquisition of control in Delaware may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any manner be in restraint of trade and the anti-competitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable affect of the transaction in meeting the convenience and needs of the community to be served;

(3) The financial condition of any acquiring person is such as might jeopardize the financial stability of the Bank or prejudice the interest of the depositors of the Bank;

(4) The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the Bank or in the interest of the public to permit such person to control the Bank; or

(5) Any acquiring person neglects, fails, or refuses to furnish the Bank Commissioner all the information required by his office.

§164. Notice and Hearing

Having decided to disapprove any proposed acquisition the Commissioner shall promptly notify the acquiring party in writing of the disapproval. Such notice shall provide a statement for the basis of the disapproval. Within 10 days after the receipt of such Notice of Disapproval, the acquiring party may request a hearing before the Bank Commissioner on the proposed acquisition. The hearing shall be conducted in accordance with the provisions of Chapter 101 of Title 29 of the Delaware Code.

§165. Civil Actions and Penalties

Any person who willfully violates any provision of this Subchapter, or any Regulation or Order issued by the Commissioner pursuant thereto, shall forfeit and pay the civil penalty of not more than \$10,000.00 per day for each day during which such violation continues. The Commissioner shall have authority to assess such a civil penalty, after giving notice, and an opportunity to the person to submit data, news, and arguments, and after giving due consideration to the appropriateness, the penalty with respect to the size of the financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The Bank Commissioner may collect such civil penalty by agreement with the person or by bringing an action in the Court of Chancery, except that in any such action, the person against whom the penalty has been assessed shall have a right of trial de novo.

§166. Injunction

The State Bank Commissioner is empowered to seek an injunction for violation of this Act and any such action shall be brought in the Court of Chancery.

§167. Definition

For purposes of this Subchapter, the following words and phrases shall have the meanings ascribed to them herein:

(1) 'control' means the power, directly or indirectly, to direct the management or policies of a Delaware Chartered Bank or Trust Company or to vote 25% or more of any class of voting securities of such Bank or Trust Company. For purposes of this Subchapter, the acquisition of 10 percent or more of the voting stock of a Delaware chartered bank or trust company or a Delaware bank holding company shall be deemed to constitute control if such institution has any class of voting securities registered under §12 of the Securities Exchange Act of 1934 or if immediately after the transaction no other person will own an aggregate proportion of the class of voting securities.

(2) 'Delaware Chartered Bank or Trust Company' includes any Delaware Bank Holding Company.

(3) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated association, or any other form of entity not specifically listed herein.

§16B. Exceptions

Provisions of this Subchapter shall not apply to the formation of new Banks and Trust Companies, the merger of existing Banks or Trust Companies nor to the formation of Bank Holding Companies or the acquisition by Bank Holding Companies of Delaware Banks and Trust Companies which otherwise require application to and approval by the Commissioner."

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act if this Act can be given effect without the invalid provision or application, under that end the provisions of this Act are declared severable.

Approved May 18, 1987.

CHAPTER 25

FORMERLY

SENATE BILL NO. 110
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 8, TITLE 5, DELAWARE CODE, TO PROVIDE FOR THE REGULATION OF DELAWARE BANK HOLDING COMPANIES.

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

Section 1. Amend Chapter 8, Title 5, Delaware Code by adding a new Subchapter V entitled "Regulation of Delaware Bank Holding Companies", to read as follows:

"Subchapter V. Regulation of Delaware Bank Holding Companies

§851. Definitions

As used in this Subchapter:

(1) 'Bank holding company' means a company, as defined by the Federal Bank Holding Company Act of 1956 (12 U.S.C.A. Section 1841 et. seq.), which is or becomes a bank holding company within the provisions of the Federal Act including, without limitation its provisions for determining what constitutes control.

(2) 'Institution' means a national bank whose principal place of business is located in Delaware or a Delaware chartered bank or bank and trust company.

(3) 'Delaware bank holding company' means a bank holding company with bank subsidiaries whose operations are principally conducted in Delaware. For the purposes of this subchapter, the operations of a bank holding company's subsidiaries are principally located in this State if the total deposits of all such subsidiaries in this State are greater than in any other state.

§852. Becoming a Bank Holding Company

(1) Except as provided in §1842 of Title 12 of the United States Code, Subchapters I, II and III of this Chapter, and Chapters 7 and 10 of this Title, no bank holding company other than a Delaware bank holding company may control a Delaware institution.

(2) Any corporation intending to become a Delaware bank holding company shall file an application with the Commissioner for approval to acquire an institution. The application shall contain such information as the Commissioner may by regulation require, and shall, if not a Delaware corporation, designate a resident of the State as the applicant's agent for the service of any paper, notice of legal process on the applicant in connection with matters arising out of this Subchapter, and shall be accompanied by a filing fee in the amount of \$5,000 for the use of the State, and a non-refundable processing fee in such amount as the Commissioner shall from time to time fix by regulation, payable to and for the use of the Office of the Bank Commissioner.

(3) In determining whether or not to approve such acquisition by a Delaware bank holding company, the Commissioner shall consider:

(a) the financial and the managerial resources of the Delaware bank holding company;

(b) the future prospects of the bank holding company and the bank whose assets or share it will acquire;

(c) the financial history of the bank holding company;

(d) whether such acquisition or holding may result in undue concentration of resources or substantial lessening of competition within this State; and

(e) the convenience and needs of the public of this State.

§853. Registration

Every company that is a Delaware bank holding company on the effective date of this Act shall register with the Commissioner in accordance with procedures established by him not later than 180 days after the effective date of this Act.

§854. Reports

A Delaware bank holding company shall file with the Commissioner copies of all regular and periodic reports which a bank holding company is required to file under the Federal Bank Holding Company Act of 1956 or under Section 13 or Section 15 (d) of the Securities and Exchange Act of 1934 as amended, but excluding any portions not available to the public.

§855. Supervision and Examination

The Commissioner shall have supervision over all Delaware bank holding companies and shall have the right to examine all such companies, including their non-bank subsidiaries. The costs of the examination shall be assessed against and paid by the company in an amount to be set by regulation of the Commissioner. The examination authorized by this Section shall be conducted jointly, concurrently or in lieu of examinations made by a Federal bank regulatory agency. The Commissioner shall use, to the extent deemed feasible, filings and reports made by the company to Federal or other State bank regulatory authority pursuant to a written agreement providing for the exchange of reports of examination between the Commissioner and the Federal or other state bank regulatory.

§856. Nonexclusivity

Nothing in this Act or any law of this State shall be deemed to prohibit or limit a Delaware bank holding company from acquiring a bank or bank holding company located in any jurisdiction which acquisition is otherwise permitted by applicable law of the United States and any state.

§857. Bank Commissioner Cooperative Agreements

Prior to approving the acquisition by any Delaware bank holding company of any bank located in another state or bank holding company, the Commissioner may enter into cooperative agreements with the appropriate regulatory authorities for the periodic examinations of any out-of-state bank holding company or bank acquired by a Delaware bank holding company and may accept reports of examination and other records from such authorities in lieu of conducting his own examination. The Commissioner may enter into joint actions with other regulatory authorities having concurrent jurisdiction over any out-of-state bank holding company or bank acquired by a Delaware bank holding company or may take such actions independent to carry out his responsibilities under this Subchapter to assure the safety and soundness of any Delaware bank and to assure compliance with the provisions of applicable Delaware banking law."

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act if this Act can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared severable.

Approved May 18, 1987.

CHAPTER 26

FORMERLY

SENATE BILL NO. 118

AN ACT TO AMEND CHAPTER 7 OF TITLE 5 OF THE DELAWARE CODE RELATING TO THE AMENDMENT OF BANK CHARTER.

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

Section 1. Amend §749(b) of Title 5, Delaware Code, by deleting the word "by" as it appears between the words "incorporation" and "addition" in the first sentence of said subsection and inserting the phrase "relating to the regulation and governance of corporations established under Title 8 of this Code, where the same are not inconsistent with the express provisions of this Chapter, included but not limited to".

Approved May 18, 1987.

CHAPTER 27

FORMERLY

HOUSE BILL NO. 110

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE BY PROVIDING FOR THE EXERCISE OF SECURITIES POWERS BY DELAWARE BANKS AND TRUST COMPANIES; BY PROVIDING FOR THE OWNERSHIP OF SUBSIDIARIES BY DELAWARE BANKS AND TRUST COMPANIES; BY PROVIDING FOR THE SUPERVISION AND EXAMINATION OF BANK AND TRUST COMPANY SUBSIDIARIES BY THE BANK COMMISSIONER; AND BY PROVIDING FOR THE TAXATION OF DELAWARE BANKS AND TRUST COMPANIES WHICH OWN SUBSIDIARIES ENGAGED IN THE SECURITIES BUSINESS.

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. This Act may be referred to as "The Bank Securities Powers Act of 1987."

Section 2. Amend Section 101, Title 5, Delaware Code by adding thereto a new subsection (15) as follows:

"(15) 'Subsidiary' means any association, corporation, business trust or other similar organization, having offices and exercising its powers within or without the State of Delaware, that is controlled by a bank or trust company through:

a. Direct or indirect ownership or control of more than 50 percent of the voting rights;

b. Control of the election of a majority of the management; or

c. Directors of the bank or trust company constituting a majority of the management of the organization."

Section 3. Amend Section 121, Title 5, Delaware Code, by deleting subsection (a) (1) thereof in its entirety and substituting in lieu thereof the following:

"(1) All state banks, savings banks, trust companies, safe deposit companies, building and loan associations, and other corporations engaged in like business, incorporated under the laws of or doing business in this State, and the subsidiaries of the foregoing, and the Commissioner shall secure the execution of all laws relative to such corporations;"

Section 4. Amend Section 122, Title 5, Delaware Code, by deleting the first sentence of subsection (a) thereof in its entirety and substituting in lieu thereof the following:

"The Commissioner shall visit and examine each financial institution as frequently as the Commissioner deems it necessary or expedient."

Section 5. Amend Section 127, Title 5, Delaware Code, by deleting subsection (b) thereof in its entirety and substituting in lieu thereof the following:

"(b) The Commissioner shall assess annually each institution subject to examination by him or by his direction a supervisory assessment based on the total assets of said institutions as of December 31 each year; provided, however, that there shall be allowed as a credit against this assessment the amount of the supervisory assessment otherwise due from a subsidiary of such institution. The supervisory assessments are 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 of an institution's total assets. In no event shall the assessment to any institution be less than \$300. The Commissioner shall compute the rate per \$1,000 of assets required for the ensuing fiscal year and submit such data to the Council on Banking by May 1, 1978, and June 1st each year thereafter. The rates as approved by the Council shall be invoiced to the institutions on June 15, 1978, and June 15th each year thereafter, and are due and payable on July 1, 1978, and July 1st each year thereafter. The Commissioner shall annually assess each out-of-state bank holding company which has acquired a bank located in this State pursuant to Chapter B of this title, on or before December 31st of the preceding year, a supervisory assessment in the amount of \$6,000 which shall be invoiced and payable as in the case of other supervisory assessments. Provided, however, there shall be allowed as a credit against this assessment the amount of the supervisory assessment otherwise due from a subsidiary bank of such out-of-state bank holding company or its subsidiaries."

Section 6. Amend Section 761, Title 5, Delaware Code by deleting the word "and" at the end of subsection (a) (11), adding new subsections (a) (12) and (a) (13) as set forth below, restating subsection (a) (12) as (a) (14) and deleting subsection (b) and substituting in lieu thereof the following:

"(12) Engage in the sale, distribution and underwriting of, and deal in, stocks, bonds, debentures, notes or other securities;

(13) Exercise the powers and engage in the activities permissible for such corporations through one or more subsidiaries; and

(14) Generally, use, exercise and enjoy all of the powers, rights, privileges and franchises incident to a banking corporation and, if established as a trust company, incident to a trust company, and which are necessary or proper for the transaction of the business of the corporation.

(b) All powers conferred by this section are subject to and are to be construed as qualified by the limitations, restrictions and regulations prescribed by the Commissioner, or in other sections of this chapter or by this Code or any other statute of this State providing regulations for banks and trust companies."

Section 7. Amend Section 767, Title 5, Delaware Code by deleting subsection (1) in its entirety and by renumbering subsections (3) and (4) as (2) and (3), respectively.

Section 8. Amend Section 904, Title 5, Delaware Code, by deleting subsection (c) thereof in its entirety and substituting in lieu thereof the following:

"(c) The Commissioner shall have power to call for special reports whenever in his judgement the same are necessary. The Commissioner may require a separate report as to each department or subsidiary of any bank or trust company."

Section 9. Amend Section 910, Title 5, Delaware Code to delete the section in its entirety and to substitute in lieu thereof the following:

"No bank or trust company shall invest more than 25 percent of its total capital, surplus and undivided profits in the stock, bonds or other obligations of any one corporation or political entity or political division except bonds or other obligations of or guaranteed by the United States or any agency or instrumentality thereof including, without limitation, obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and public housing authorities, or obligations of the State or its municipalities, subdivisions, agencies or instrumentalities; provided, however, that the limitation on investment in this section shall not apply to the investment by a bank or trust company in one or more subsidiaries, and provided further that the underwriting of or dealing in stocks, bonds, debentures, notes or other securities, or certificates of deposit or bankers' acceptances, shall not constitute an investment within the meaning of this section."

Section 10. Amend Section 1101, Title 5, Delaware Code, by deleting subsection (b) (1) b. in its entirety and substituting in lieu thereof the following:

"b. That portion of net operating income before taxes from any subsidiary which is (i) otherwise subject to income taxation under Delaware law, or (ii) derived from business activities carried on outside the State and subject to income taxation under the laws of another state, and that portion of net operating income before taxes from any subsidiary other than a Delaware chartered banking organization or a national bank located in this State (as defined in §801 (5) of this title) which subsidiary is a banking organization and which is subject to income taxation under the laws of another state; provided, however, that in the case of any subsidiary engaged in the sale, distribution or underwriting of, or dealing in, securities, the amount of income excluded pursuant to this subparagraph b.(ii) shall in no event exceed fifty percent of such subsidiary's net operating income before taxes;"

Section 11. Amend Section 1101, Title 5, Delaware Code, by deleting subsection (f) thereof in its entirety and inserting in lieu thereof the following:

"(f) Any subsidiary corporation of a banking organization which subsidiary is not itself a banking organization may elect, in such manner as the State Bank Commissioner shall prescribe, to be taxed in accordance with Chapter 19 of Title 30. If such election is made, such electing subsidiary corporation shall not be considered a "subsidiary corporation" for purposes of subsection (b) hereof. Such election shall not be available to any corporation which is described in §1902(b)(8) of Title 30 or any

corporation engaged in the sale, distribution or underwriting of, or dealing in, securities."

Section 12. If any provision of this Act or the application thereof to any person or circumstance is invalid such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared severable.

Section 13. This Act shall take effect immediately upon its adoption.

Approved May 20, 1987.

CHAPTER 28

FORMERLY

SENATE BILL NO. 59 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 19 OF THE DELAWARE CODE RELATING TO THE MINIMUM WAGE.

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

Section 1. Amend §902, Chapter 9, Title 19 of the Delaware Code by striking subsection (a) in its entirety, and substituting in lieu thereof the following:

"(a) Every employer shall pay wages at a rate not less than \$3.35 per hour to every employee in any occupation, except as otherwise provided under this Chapter."

Section 2. This Act shall become effective upon its enactment into law.

Approved May 20, 1987.

CHAPTER 29

FORMERLY

HOUSE BILL NO. 35
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, PART II, TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMES AND CRIMINAL PROCEDURE; AND PROVIDING FOR A HOUSE ARREST PROGRAM FOR NON-VIOLENT OFFENDERS.

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

Section 1. Amend §4332, Subchapter III, Chapter 43, Title 11 of the Delaware Code by adding thereto a new paragraph, which new paragraph shall read as follows:

"The Department may adopt standards governing any program of house arrest for non-violent offenders. The pre-sentence report may recommend conditions to be imposed by the Court. In addition to any conditions imposed by the Department or by the Court, each program involving house arrest for non-violent offenders, regardless of the official or unofficial name of the program, shall include a reasonable monthly payment by each offender participating in the program; clear and consistent sanctions, when a participant in the program violates any of the conditions; and the ownership or leasing of all equipment by the Department of Correction."

Section 2. Amend §4347, Subchapter IV, Chapter 43, Title 11 of the Delaware Code by adding thereto a new subsection, designated as Subsection (j), which new subsection shall read as follows:

"(j) Each person who is eligible for parole or conditional release under the provisions of this subchapter is eligible to be a candidate for appointment to the house arrest program for non-violent offenders. A person shall be eligible for consideration to participate in the house arrest program if such person meets all of the requirements of subsection (c) of this section, and in addition:

- (1) makes regular payments, per month, toward the costs incurred by the State in maintaining the program;
- (2) performs such stipulated number of hours of public service work as are directed by the Court, or by the Department;
- (3) makes restitution to any victim or victims in such amounts as the Court shall determine. Full or partial restitution, in such manner as the Court determines, is a requirement for participation, or continued participation, in the program."

Section 3. Amend Chapter 43, Part II, Title 11 of the Delaware Code by adding thereto a new subchapter, designated as Subchapter IX, which new subchapter shall read as follows:

"SUBCHAPTER IX. HOUSE ARREST

§4391. 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 clearly indicates a different meaning:

(a) 'Crime of violence' shall mean any crime which involves the use or threat of physical force or violence against any individual. For purposes of this subchapter, no motor vehicle offense is a crime of violence where it is not a part of an additional crime.

(b) 'Good standing' shall mean that an offender participating in the house arrest program has, at the time such person entered the program and continuously thereafter, met the following qualifications:

- (1) No pending warrants or charges;
- (2) No major violations during the immediately preceding forty-five days;
- (3) Adherence to all conditions of probation, work-release, and case plans.

(c) 'House arrest' or 'house arrest program' shall mean a form of intensive supervised custody in the community, including surveillance on weekends, administered by intensive supervision officers. The house arrest program shall be limited to non-violent offenders; and shall be an individualized program in which the freedom of the offender is restricted within the stable approved place of residence of the non-violent offender; or within the stable approved place of residence of a parent, sibling or child of the non-violent offender, and specific sanctions are imposed and enforced.

(d) 'Non-violent offender' shall mean a person who is an applicant for the house arrest program, and who has been convicted of an offense which is not a crime of violence.

(e) 'Public service' shall mean that work which is required of an offender participating in the house arrest program; and shall include work which such offender is ordered to perform, without payment, for the benefit of the community, separate and apart from any paid employment which such offender may be permitted to obtain. All public service work shall be performed for designated tax-supported or tax-exempt entities which have entered into an informal agreement with the Department to administer the work performed by such offender. The words 'public service' shall include, but are not limited to, any of the following:

(1) work on any property or building owned or leased by the State, by any county or by a municipality, or by any non-profit organization or agency, or work for any program under the control or sponsorship of a charitable enterprise;

(2) work on a state, county, or municipally-owned road or highway;

(3) landscaping, maintenance or service work in any state, county or municipal park or recreation area;

(4) work in a state, county, or municipal hospital; or for any non-profit health or medical center or facility.

§4392. House Arrest: Identification and Selection of Participants

(a) Probation and Parole Officers shall identify any convicted person who has received a short-term sentence for a non-violent crime. Where the probation and parole officer, the Court or the Department has determined, immediately after sentencing, that such convicted person is eligible to be a candidate for the house arrest program, such person may be accepted into the program, with the Court's consent, prior to the transportation of such person to the corrections center.

(b) Any person committed to the corrections center to serve a short-term sentence for a non-violent crime shall be identified by the Classification Officer before or upon arrival at the corrections center, if such person has not already been identified prior to transportation to the corrections center.

(c) The sentencing judge, in sentencing an offender, may impose a house arrest sentence as an alternative to imprisonment.

§4393. Requirements for Participation in House Arrest

No person shall be eligible for the house arrest program unless such person meets the following requirements:

(a) Participation shall be voluntary;

(b) Participation shall be limited to the following types of offenders:

(1) individuals found guilty of non-violent crimes and who, due to the characteristics of the crime and/or the offender's background, would not be placed on regular probation;

(2) probation violators charged with technical or misdemeanor violations;

(3) parole violators charged with technical or misdemeanor violations.

§4394. Requirements for Continued Participation

(a) No person shall remain in the house arrest program if such person fails to meet any of the following conditions:

(1) Each participant shall perform whatever community service work is assigned by the Court or by the Department;

(2) Each participant shall remain confined to the residence approved by the program, except for approved employment, public service work, or other special activities approved by the program.

(3) Each participant shall make such regular restitution payments to each victim or victims of the crime as are determined by the Court.

(4) Each participant shall have an approved stable residence.

(5) Each participant shall have stable employment, as defined by Department rules and regulations;

(6) Each participant shall remain in good standing as a condition of continued participation in the program;

(7) Each person in a house arrest program shall participate in all counselling activities and requirements, including such group programs and meetings as are directed by the Court or by the Department;

(8) Each participant shall report to a designated counsellor as directed by the Court or by the Department."

Approved May 18, 1987.

CHAPTER 30

FORMERLY

HOUSE BILL NO. 40

AN ACT TO AMEND CHAPTER 5, TITLE 18 OF THE DELAWARE CODE TO PROVIDE IMMUNITY FOR PERSONS WHO REPORT FRAUDULENT INSURANCE PRACTICES.

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

Section 1. Amend Chapter 5, Title 18 of the Delaware Code by adding the following new Section:

"§533. Immunity from Liability for Reporting Fraudulent Practices

(a) As used in this Section 'fraudulent insurance act' means any act committed by any person who knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker, or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which he knows to contain materially false information concerning any fact material thereto; or conceal for the purpose of misleading, information concerning any fact material thereto.

(b) In the absence of fraud or bad faith, no person shall be subject to civil liability (for libel, slander or any other relevant tort cause of action by virtue of filing reports, without malice, or furnishing other information, without malice, required by this article or required by the Commissioner under the authority granted in this Title), and no civil cause of action of any nature shall arise against such person:

(1) for any information relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials, their agents and employees; or

(2) for any information relating to the suspected fraudulent insurance acts furnished to or received from other PERSONS subject to the provisions of this Title; or

(3) for any such information furnished in reports to the Insurance Department, National Association of Insurance Commissioners or any organization established to detect and prevent fraudulent insurance acts, their agents, employees, or designees, nor shall the Commissioner or any employee of the Insurance Department, (acting without malice) in the absence of fraud or bad faith, be subject to civil liability (for libel, slander or any other relevant tort) and no civil cause of action of any nature shall arise against such person by virtue of the publication of any report or bulletin related to the official activities of the Insurance Department. Nothing herein is intended to abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person."

Approved May 15, 1987.

CHAPTER 31

FORMERLY

SENATE BILL NO. 4
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 23, TITLE 19 OF THE DELAWARE CODE RELATING TO WORKMEN'S COMPENSATION COVERAGE FOR VOLUNTEER AMBULANCE COMPANIES.

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

Section 1. Amend §2312, Title 19, Delaware Code by adding thereto a new subsection designated as subsection (d) to read as follows:

"(d) For the purpose of this Section volunteer fire company and volunteer firemen shall include volunteer ambulance companies of this State, volunteer ambulance company members, and members of the University of Delaware Emergency Care Unit."

Approved May 25, 1987.

CHAPTER 32

FORMERLY

SENATE BILL NO. 108
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 8, TITLE 5, DELAWARE CODE TO PROVIDE FOR THE ACQUISITION OF EXISTING DELAWARE BANKS AND BANK HOLDING COMPANIES BY OUT-OF-STATE BANK HOLDING COMPANIES.

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

Section 1. Amend Chapter 8, Title 5, Delaware Code by adding thereto a new Subchapter IV entitled "Acquisition of Stock in Existing Delaware Banks and Bank Holding Companies in Delaware", which said Subchapter IV shall read as follows:

"Subchapter IV. Acquisition of Stock in Existing Delaware Banks and Bank Holding Companies in Delaware.

§841. Title The provisions of this subchapter may be cited as 'The Delaware Interstate Banking Act of 1987'.

§842. Definitions For purposes of this Subchapter, the following words and phrases shall have the meanings ascribed to them herein:

(a) 'Bank' shall mean:

(1) a bank organized and existing under the laws of this State; or

(2) a national bank organized and existing as a national banking association pursuant to the National Bank Act, 12 U.S.C. §21, et seq., and maintaining its principal office in Delaware; or

(3) where the context clearly provides, a state-chartered bank organized and located in, or a national bank principally located in, either any state or group of states other than Delaware; or any state or states including Delaware.

(b) 'Out-of-state bank holding company', 'Commissioner', 'divest', and 'subsidiary' shall have the meanings ascribed to them in §801 of this title;

(c) 'Existing bank' means a bank whose initial Delaware charter (whether or not subsequently amended or converted to a national charter) or authorization to conduct a banking business in Delaware pursuant to the National Bank Act bears an effective date not less than five years prior to the effective date of the acquisition of such bank;

(d) 'Location' or 'located' when referring to the state of domicile of a bank holding company means the state in which the amount of aggregate deposits in the United States offices of all of its directly or indirectly owned or controlled bank or non-bank subsidiaries (as well as all of the bank or non-bank subsidiaries of any bank holding company which owns or controls that bank holding company) is greatest;

(e) 'Reciprocal legislation' means statutory law of an eligible state which authorizes a bank holding company located in Delaware to acquire banks or bank holding companies in such eligible state on substantially the same terms and conditions as a bank holding company located in such eligible state may acquire banks or bank holding companies within that state. A statute of an eligible state shall be deemed to 'authorize' the acquisition of banks or bank holding companies in that state by a bank holding company located in Delaware if such statute either expressly so provides, or if such statute either expressly so provides, or if such statute otherwise provides that such acquisition is authorized if a bank holding company of that state is authorized to acquire a bank or bank holding company located in Delaware.

(f) 'Acquisition' means

(1) the merger or consolidation of one bank holding company with another bank holding company; or

(2) the assumption by a bank holding company of direct or indirect ownership or control of the voting shares of another bank holding company or a bank if, after the effective date thereof, the bank holding company making the acquisition will

directly or indirectly own or control more than five percent of any class of voting shares of the other bank holding company or bank; or

(3) the assumption of ownership or control of all or substantially all of the assets of a bank holding company or bank.

(g) 'Control' shall have the same meaning as set forth in §2(a)(2) of the federal Bank Holding Company Act of 1956 as amended, 12 U.S.C. §1841(a)(2).

(h) 'Eligible state' means, prior to June 30, 1990, the states of Maryland, New Jersey, Ohio, Pennsylvania, the District of Columbia, and Virginia provided that each such state shall maintain in effect reciprocal legislation. (For purposes of this subchapter, each of the named jurisdictions other than the District of Columbia and Virginia shall be deemed as having in effect as of January 1, 1987 reciprocal legislation). On and after June 30, 1990, 'eligible state' shall mean any state of the United States and the District of Columbia which maintains in effect reciprocal legislation.

(i) 'Deposit' shall be as defined in §204.2(a) of Regulation D of the Federal Reserve Board (12 CFR §204.2(a)).

§843. Acquisition Authority

(a) Except as provided in Section 1842 of Title 12 of the United States Code, Subchapters I and II of this Chapter, and Chapters 7 and 10 of this Title, no out-of-state bank holding company or subsidiary thereof may acquire or retain ownership or control of a bank or a bank holding company located in Delaware.

Notwithstanding the foregoing, an out-of-state bank holding company located in an eligible state may acquire and retain either an existing bank, or a bank holding company located in Delaware or in an eligible state which owns or control an existing bank, provided that:

(1) as of the date of the application, and at all times thereafter, the out-of-state bank holding company is located in an eligible state; and

(2) as of the date of the application, and at all times thereafter, until June 30, 1990, the aggregate deposits of the out-of-state bank holding company which are located in all eligible states exceed the aggregate deposits of such out-of-state bank holding company which are located in states which are not eligible states; and

(3) the out-of-state bank holding company makes application under, and at all times complies with all regulations, decrees, cooperative agreements and orders duly promulgated by the Commissioner with respect to both the implementation of this subchapter generally, and the operations of such bank holding company and the existing bank which it acquires specifically;

(b) Nothing in the subchapter or in any other law of this State shall be deemed to prohibit or limit an out-of-state bank holding company or a bank holding company located in an eligible state or in this State from acquiring a bank or bank holding company located in any jurisdiction other than an eligible state, which acquisition is otherwise permitted by applicable law of the United States and any state; provided that, if an out-of-state bank holding company by virtue of such an acquisition becomes a bank holding company not located in an eligible state it must comply with the divestiture provisions of this subchapter.

(c) Nothing in this subchapter or in any other law of this State shall be deemed to permit branching or merging of banks across state lines.

§844. Application Process

(a) An out-of-state bank holding company shall make application to acquire an existing bank or bank holding company located in this State which owns or controls an existing bank upon such forms and in accordance with such regulations and rulings as are promulgated from time to time by the Commissioner. Such application shall designate a resident of this State as applicant's agent for the service of any paper, notice or legal process upon applicant in connection with matters arising out of this subchapter and shall be accompanied by a non-refundable filing fee in the amount of Five Thousand Dollars (\$5,000.00) for the use of the State, and a non-refundable processing fee in such amount as the Commissioner shall from time to time fix by regulation, payable to and for the use of the Office of the Bank Commissioner.

(b) Following publication, notice and hearing in the manner prescribed by the Commissioner, the Commissioner shall approve or disapprove an application by an out-of-state bank holding company to own or control an existing bank or a bank holding company located in this State upon a determination of whether such an acquisition will serve the public convenience and advantage. As part of such determination, but not by way of limitation, the Commissioner shall consider the following criteria:

(1) whether the acquisition will, based upon the managerial and financial resources, financial history and business plan of the applicant, adversely affect the safe and sound operation of the existing bank or any other bank located in this State which is owned or controlled by the bank holding company;

(2) whether the acquisition will adversely affect the quantity or quality of banking services available to one or more communities served by the existing bank prior to the acquisition;

(3) whether, as a result of a prior or simultaneous acquisition of another existing bank, the acquisition of the existing bank will result in an undue concentration of resources or a substantial lessening of competition in this State; and

(4) whether the acquisition will foster economic development and the financing of business enterprises to the end that employment opportunities will either be increased or, where there is a prospect for a reduction, retained.

(c) In conjunction with the approval of any application filed under this Section, the Commissioner may require as a condition of such approval that the out-of-state bank holding company enter into a cooperative agreement binding it to such special terms and conditions regarding its operations and its maintenance and preservation of the capital and assets in Delaware of the existing bank as the Commissioner shall deem to be necessary to assure that the acquisition serves the public convenience and advantage.

§845. Duties and Powers of the Commissioner

In order to effectuate the provisions of this subchapter, the Commissioner shall, in addition to exercising the authority provided in Sections 844 and 846 of this subchapter:

(a) adopt and issue such regulations, decrees, orders, rulings, and forms, and enter into such cooperative agreements with out-of-state bank holding companies, as he deems to be necessary and proper;

(b) require by negotiation, administrative order, or cooperative agreement the maintenance and production of such documents and reports, the periodic conduct of such examinations, and otherwise supervise and govern the activities of the out-of-state bank holding companies as he deems necessary and proper;

(c) determine by findings and order as required whether a state or the District of Columbia has reciprocal legislation in effect;

(d) have the authority to examine any out-of-state bank holding company owning a bank. The Commissioner may require reports of each out-of-state bank holding company subject to this subchapter. Such report shall be filed under oath with such frequency and in such scope and detail as may be appropriate for the purpose of assuring continuing compliance with the provisions of this subchapter and the safety and soundness of the bank;

(e) prior to approving the acquisition of the bank or bank holding company located in Delaware by an out-of-state bank holding company, the Commissioner may enter into cooperative agreements with the appropriate regulatory authorities for the periodic examination of any out-of-state bank holding company that has a bank subsidiary or bank holding company located in Delaware or any subsidiary of such holding company, and may accept reports of examination and other records from such authorities in lieu of conducting his own examination. The Commissioner may enter into joint actions with other regulatory authorities having concurrent jurisdiction over any out-of-state bank holding company that owns or controls a bank or bank holding company subsidiary or may take such actions independently to carry out his responsibilities under this subchapter to assure the safety and soundness of any bank and to assure compliance with the provisions of this subchapter and applicable Delaware banking laws.

§846. Divestiture

Upon his determination that an out-of-state bank holding company is:

- (a) not located in a state which is an eligible state;
- (b) in violation of the requirements of this subchapter, or any order, regulation, ruling, cooperative agreement or decree issued or entered into by the Commissioner, or any order of a court of competent jurisdiction thereunder; or
- (c) otherwise operating an existing bank in an unsafe and unsound manner, the Commissioner shall have the authority to order such out-of-state bank holding company or subsidiary thereof to remedy such violation by a date certain, or to cease and desist from operating in an unsafe and unsound manner, in default of which the Commissioner shall have the authority to order such out-of-state bank holding company or subsidiary thereof to divest itself of any shares or assets of an existing bank which it has acquired under this subchapter. The procedure governing such divestiture, and the authority of the Commissioner to enforce an order directing the same shall be the same as provided in Subsection (c) and (d) of Section 807 of this Chapter 8.

§847. Powers of an Acquired Existing Bank

(a) Except as to Section 843(c) and Subchapter I of this Chapter 8, nothing contained in this Chapter 8 shall be construed as abridging the rights, powers and authorities granted to any existing bank acquired under any subchapter of this Chapter by its charter, the provisions of this Title, or any other current, former or future law of the State of Delaware governing the formation, conversion, merger, corporate powers, branching, operation or dissolution of a bank.

(b) The stockholders of any existing bank owning a majority of the voting stock of such bank may, prior to or following the effective date of the reciprocal banking provisions of this subchapter, elect to be exempt from the provisions of §843 of this subchapter. Once such existing bank shall have submitted adequate proof to the Commissioner of its election to be exempt from the provisions of this subchapter, the Commissioner shall give public notice in a manner he deems to be appropriate that such institution is no longer an existing bank for purposes of this subchapter. An existing bank may at any time withdraw its election to be exempt in the same manner."

Section 2. If any 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 if this Act can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared severable; provided, that if a Delaware or Federal court of competent jurisdiction should declare by final order or decree that this subchapter:

(a) permits the acquisition of banks or bank holding companies located in Delaware by bank holding companies not located in eligible states; or

(b) permits the acquisition of banks or bank holding companies located in Delaware prior to June 30, 1990 by bank holding companies located within a state which is not an eligible state prior to June 30, 1990 under the provisions of §842(h) of this subchapter, then, in either event, such declaration or interpretation shall cause this entire subchapter to be invalid.

Section 3. With the exception of §847 of this subchapter, which Section shall be effective upon adoption, the provisions of this Act shall be effective on January 1, 1988.

Approved May 14, 1987.

CHAPTER 33

FORMERLY

SENATE BILL NO. 115
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 8, TITLE 5, DELAWARE CODE TO PROVIDE FOR THE ACQUISITION OF EXISTING DELAWARE SAVINGS BANKS BY OUT-OF-STATE SAVINGS INSTITUTIONS, SAVINGS AND LOAN HOLDING COMPANIES, AND BANK HOLDING COMPANIES.

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

Section 1. This Act may be referred to as "The Savings Bank Acquisition Act."

Section 2. Amend Chapter 8, Title 5, Delaware Code, by amending the title of said chapter to read, "Chapter 8. Acquisition of Stock and Assets of, and Interests in, Banks and Savings Banks Located in the State."

Section 3. Amend Chapter 8, Title 5, Delaware Code by adding thereto a new Subchapter III entitled "Acquisition of Existing Delaware Savings Banks", which said Subchapter III shall read as follows:

"Subchapter III. Acquisition of Existing Delaware Savings Banks.

§831. Definitions

For purposes of this subchapter, the following words and phrases shall have the meanings ascribed to them herein:

(1) 'Acquire' or 'acquisition' means:

a. The merger or consolidation of a savings and loan holding company with another savings and loan holding company or with a bank holding company;

b. The assumption by a savings institution, savings and loan holding company or bank holding company of direct or indirect ownership or control of the voting shares of a savings institution or savings and loan holding company if, after the effective date thereof, the savings institution, savings and loan holding company or bank holding company making the acquisition will directly or indirectly own or control more than five percent of any class of voting shares of the other savings institution or savings and loan holding company; or

c. The assumption of ownership or control of all or substantially all of the assets of a savings institution or savings and loan holding company.

(2) 'Bank holding company' means a bank holding company as defined in the Bank Holding Company Act of 1956, as amended (12 U.S.C. §1841, et seq.).

(3) 'Commissioner' and 'divest' shall have the meanings ascribed to them in §801 of this title;

(4) 'Control' shall have the same meaning as set forth in the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. §173Da).

(5) 'Delaware savings and loan holding company' means a savings and loan holding company located in Delaware which owns or controls an existing Delaware savings bank.

(6) 'Delaware savings bank' means:

a. A savings bank organized and existing under the laws of this State; or

b. A federal savings bank or federal savings and loan association organized and existing under the Home Owners' Loan Act of 1933 (12 U.S.C. §1461, et seq.), which is located in Delaware.

(7) 'Deposit' or 'deposits' means:

a. When referring to a savings institution or a savings institution subsidiary of a savings and loan holding company or bank holding company, the

amounts held in any savings account, tax and loan account, checking account, United States Treasury General Account, or United States Treasury Time - Deposit Open Account all as defined in the regulations of the Federal Home Loan Bank Board at 12 C.F.R. §561; and

b. When referring to a bank subsidiary of a bank holding company, a 'Deposit' as defined in §204.2(a) of Regulation D of the Federal Reserve Board (12 C.F.R. §204.2(a)).

(8) 'Eligible state' means, prior to June 30, 1990, the State of Maryland, New Jersey, Ohio, Pennsylvania or Virginia and the District of Columbia provided that each such state or the District of Columbia shall maintain in effect reciprocal legislation. On and after June 30, 1990, 'eligible state' shall mean any state of the United States and the District of Columbia which maintains in effect reciprocal legislation.

(9) 'Existing Delaware savings bank' means a Delaware savings bank (as defined in subparagraph (6) of this Section) whose initial Delaware charter (whether or not subsequently amended or converted to a federal charter), or authorization to conduct a savings and loan or savings bank business in Delaware pursuant to the Home Owners' Loan Act of 1933, bears an effective date not less than five years prior to the effective date of the acquisition of such Delaware savings bank;

(10) 'Location' or 'located' means:

a. When referring to a savings and loan holding company, the state in which the amount of aggregate deposits in the United States offices of all of its directly or indirectly owned or controlled savings institution or non-savings institution subsidiaries (as well as all of the savings institution or non-savings institution subsidiaries of any savings and loan holding company which owns or controls that savings and loan holding company) is greatest;

b. When referring to a savings institution, the state in which the amount of aggregate deposits of all its offices in that state is greatest; and

c. When referring to a bank holding company, the state in which the amount of aggregate deposits in the United States offices of all of its directly or indirectly owned or controlled banking or savings institution or non-banking or non-savings institution subsidiaries (as well as all of the banking or savings institution or non-banking or non-savings institution subsidiaries of any bank holding company which owns or controls that bank holding company) is greatest.

(11) 'Out-of-state bank holding company' means a bank holding company located in a state other than Delaware.

(12) 'Out-of-state savings and loan holding company' means a savings and loan holding company located in a state other than Delaware.

(13) 'Out-of-state savings institution' means a savings institution located in a state other than Delaware.

(14) 'Reciprocal legislation' means statutory law of an eligible state which authorizes a Delaware savings bank or Delaware savings and loan holding company to acquire savings institutions or savings and loan holding companies located in that state on substantially the same terms and conditions as a savings institution or savings and loan holding company located in that state may acquire savings institutions or savings and loan holding companies within that state. A statute of an eligible state shall be deemed to authorize the acquisition of savings institutions or savings and loan holding companies in that state by a Delaware savings bank or Delaware savings and loan holding company if such statute either expressly so provides, or if such statute otherwise provides that such acquisition is authorized if a savings institution or savings and loan holding company located in that state is authorized to acquire a savings institution or savings and loan holding company located in Delaware. For purposes of this subchapter, the statutory law as in effect on February 16, 1987 in the Commonwealth of Pennsylvania shall be deemed to be reciprocal legislation.

(15) 'Savings and loan holding company' means a savings and loan holding company as defined in the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. §1730a).

(16) 'Savings institution' means a savings bank or savings and loan association chartered under the laws of any state, or a federal savings bank or federal savings and loan association, the deposits of which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

(17) 'Subsidiary' means, with respect to a savings institution, savings and loan holding company or bank holding company:

- a. Any company 25% or more of whose voting shares is directly or indirectly owned or controlled by such savings institution, savings and loan holding company or bank holding company, or is held by it with power to vote; or
- b. Any company the election of a majority of whose directors is controlled in any manner by such savings institution, savings and loan holding company or bank holding company.

§832. Acquisition Authority

(a) Except as provided in this subchapter, no out-of-state savings institution, out-of-state savings and loan holding company, out-of-state bank holding company or any subsidiary of the foregoing, may acquire or retain ownership or control of a Delaware savings bank or a Delaware savings and loan holding company. Notwithstanding the foregoing, an out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company located in an eligible state, or any subsidiary of the foregoing, may acquire and retain an existing Delaware savings bank, a Delaware savings and loan holding company or a savings and loan holding company located in an eligible state which owns or controls an existing Delaware savings bank, provided that:

(1) As of the date of the application, and at all times thereafter, the out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company is located in an eligible state; and

(2) As of the date of the application, and at all times thereafter, until June 30, 1990, the aggregate deposits of the out-of-state savings institution, the out-of-state savings and loan holding company or the out-of-state bank holding company which are located in all eligible states exceed the aggregate deposits of the out-of-state savings institution, the out-of-state savings and loan holding company or the out-of-state bank holding company which are located in states which are not eligible states; and

(3) The out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, makes application under, and at all times complies with all regulations, decrees, cooperative agreements and orders duly promulgated by the Commissioner with respect to both the implementation of this subchapter generally, and the operations of such out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company and the existing Delaware savings bank which it acquires specifically.

(b) Nothing in this subchapter or in any other law of this State shall be deemed to prohibit or limit an out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company from acquiring a savings institution or savings and loan holding company located in any jurisdiction other than an eligible state, which acquisition is otherwise permitted by applicable law of the United States and any state; provided that, if an out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, by virtue of such an acquisition, would no longer be located in an eligible state it must comply with the divestiture provisions of this subchapter.

(c) Nothing in this subchapter shall be deemed to permit branching or merging of savings banks across state lines.

§833. Application Process

(a) An out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, shall make application to acquire an existing Delaware savings bank or a Delaware savings and loan holding company upon such forms and in accordance with such regulations and rulings as are promulgated from time to time by the Commissioner. Such application shall designate a resident of this State as the applicant's agent for the service of any

paper, notice or legal process upon applicant in connection with matters arising out of this subchapter and shall be accompanied by a non-refundable filing fee in the amount of Five Thousand Dollars (\$5,000) for the use of the State, and a non-refundable processing fee in such amount as the Commissioner shall from time to time fix by regulation, payable to and for the use of the Office of the Bank Commissioner.

(b) Following publication, notice and hearing in the manner prescribed by the Commissioner, the Commissioner shall approve or disapprove an application by an out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, to acquire or control an existing Delaware savings bank or a Delaware savings and loan holding company upon a determination of whether such acquisition will serve the public convenience and advantage. As part of such determination, but not by way of limitation, the Commissioner shall consider the following criteria:

(1) Whether the acquisition will, based upon the managerial and financial resources, financial history and business plan of the applicant, adversely affect the safe and sound operation of the existing Delaware savings bank or other savings institutions located in this State which are owned or controlled by the applicant;

(2) Whether the acquisition will adversely affect the quantity or quality of financial services available to one or more communities served by the existing Delaware savings bank prior to the acquisition;

(3) Whether, as a result of a prior or simultaneous acquisition of another existing Delaware savings bank, the acquisition of the existing Delaware savings bank will result in undue concentration of resources or a substantial lessening of competition in this State; and

(4) Whether the acquisition will foster economic development and the financing of business enterprises to the end that employment opportunities will either be increased or, where there is a prospect for a reduction, retained.

(c) In conjunction with the approval of any application filed under this section, the Commissioner may require as a condition of such approval that the out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company enter into a cooperative agreement binding it to such special terms and conditions regarding its operations and its maintenance and preservation of the capital and assets in Delaware of the existing Delaware savings bank as the Commissioner shall deem to be necessary to assure that the acquisition serves the public convenience and advantage.

§834. Duties and Powers of the Commissioner

In order to effectuate the provisions of this subchapter, the Commissioner shall, in addition to exercising the authority provided in §833 and §835 of this subchapter:

(1) Adopt and issue such regulations, decrees, orders, rulings, and forms, and enter into such cooperative agreements with out-of-state savings institutions, out-of-state savings and loan holding companies and out-of-state bank holding companies, or any subsidiaries of the foregoing, as he deems to be necessary and proper;

(2) Require by negotiation, administrative order, or cooperative agreement the maintenance and production of such documents and reports, the periodic conduct of such examinations, and otherwise supervise and govern the activities of the out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company as he deems necessary and proper;

(3) Determine by findings and order as required whether a state or the District of Columbia has reciprocal legislation in effect;

(4) Have the authority to examine any out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company which acquires an existing Delaware savings bank or a Delaware savings and loan holding company. The Commissioner may require reports of each out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company which acquires an existing Delaware savings bank or Delaware savings and loan holding company in accordance with this subchapter. Such reports shall be filed under oath with such frequency and in such scope and detail as may be appropriate for the purpose of assuring continuing compliance with the

provisions of this subchapter and the safety and soundness of any Delaware savings bank;

(5) Prior to approving the acquisition of any existing Delaware savings bank or Delaware savings and loan holding company by an out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, the Commissioner may enter into cooperative agreements with the appropriate regulatory authorities for the periodic examination of any out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company which acquires an existing Delaware savings bank or Delaware savings and loan holding company, and may accept reports of examination and other records from such authorities in lieu of conducting his own examination. The Commissioner may enter into joint actions with other regulatory authorities having concurrent jurisdiction over any out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company that acquires an existing Delaware savings bank or Delaware savings and loan holding company or may take such actions independently to carry out his responsibilities under this subchapter to assure the safety and soundness of any existing Delaware savings bank or Delaware savings and loan holding company and to assure compliance with the provision of this subchapter and applicable Delaware banking laws.

§835. Divestiture

Upon his determination that an out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company is (i) not located in a state which is an eligible state, (ii) in violation of the requirements of this subchapter, or any order, regulation, ruling, cooperative agreement or decree issued or entered into by the Commissioner, or any order of any court of competent jurisdiction, or (iii) otherwise operating an existing Delaware savings bank in an unsafe and unsound manner, then the Commissioner shall have the authority to order such out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, to remedy such violation by a date certain, or to cease and desist from operating in an unsafe and unsound manner, in default of which the Commissioner shall have the authority to order such out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, to divest itself of any shares or assets of any existing Delaware savings bank which it has acquired under this subchapter. The procedure governing such divestiture, and the authority of the Commissioner to enforce an order directing the same against an out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company shall be the same as provided in relation to an out-of-state bank holding company in subsections (c) and (d) of §807 of this Chapter 8.

§836. Powers of an Acquired Existing Savings Bank

(a) Nothing contained in this Chapter 8 shall be construed as abridging the rights, powers and authorities granted to any existing Delaware savings bank acquired under its charter, the provisions of this title, or any other current, former or future law of the State of Delaware or the United States governing the formation, conversion, merger, corporate powers, branching, operation or dissolution of a Delaware savings bank.

(b) The stockholders of any existing Delaware savings bank owning a majority of the voting stock of such Delaware savings bank, or a majority of the board of directors of any existing Delaware savings bank which has not issued voting stock, may, prior to or following the effective date of this section, elect to be exempt from the provisions of §832 this subchapter. Once such existing Delaware savings bank shall have submitted adequate proof to the Commissioner of its election to be exempt from the provisions of this subchapter, the Commissioner shall give public notice in a manner he deems to be appropriate that such institution is no longer an existing Delaware savings bank for purposes of this subchapter. An existing Delaware savings bank may at any time withdraw its election to be exempt in the same manner.

§837. Scope: construction

This subchapter deals with the conditions under which out-of-state savings institutions, out-of-state savings and loan holding companies and out-of-state bank holding companies may acquire a Delaware savings bank or a Delaware savings and loan holding company; it shall not be construed to have any applicability to Part III of the Delaware Banking Code relating to building and loan associations nor to constitute any authority for the acquisition of Delaware building and loan associations."

Section 4. If any 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 if this Act can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared severable provided, that if this subchapter is for any reason found by a final order subject to no further judicial review, entered by a court of competent jurisdiction of this State or of the United States, to permit the acquisition of an existing Delaware savings bank or Delaware savings and loan holding company by an out-of-state savings institution, out-of-state and loan holding company or out-of-state bank holding company not located in a eligible state then no out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company or any subsidiary thereof, may thereafter acquire existing Delaware savings banks or Delaware savings and loan holding companies pursuant to this Act.

Section 5. With the exception of §836 of Subchapter III of Chapter 8, Title 5, Delaware Code, which Section shall be effective upon adoption, the provisions of this Act shall be effective on January 1, 1988.

Approved May 21, 1987.

CHAPTER 34

FORMERLY

HOUSE BILL NO. 77

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 66, TITLE 16, DELAWARE CODE, RELATING TO LIABILITY IN THE PERFORMANCE OF INSTRUCTIONAL SERVICE FOR THE DELAWARE STATE FIRE SCHOOL.

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

Section 1. Amend Chapter 66, Title 16, of the Delaware Code, by adding thereto a new §6616A to read as follows:

"§6616A. Liability in the Performance of Instructional Service

(a) No full-time or part-time instructor certified, assigned, approved or contracted by the Delaware State Fire School who in good faith provides instructional services shall be liable for any civil damages as a result of issuing such instructions, unless guilty of gross or willful negligence.

(b) No university, college or medical facility, nor any other entity nor any of its faculty members, participating in good faith as part of an approved Delaware State Fire School training or educational program, shall be liable for any civil damages as a result of any primary or continuing training or educational practice by any enrolled students unless guilty of gross or willful negligence.

Approved June 2, 1987.

CHAPTER 35

FORMERLY

SENATE BILL NO. 95

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND PART VII, TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH AND SAFETY AND CHAPTER 69, TITLE 29 OF THE DELAWARE CODE AS IT RELATES TO PUBLIC WORKS CONTRACTS; AND PROVIDING FOR THE REGULATION OF ASBESTOS AND PERSONS WHO ABATE OR OTHERWISE WORK WITH ASBESTOS.

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

Section 1. Amend Part VII, Title 16 of the Delaware Code by adding a new Chapter, designated as Chapter 78, which new Chapter shall read as follows:

"CHAPTER 78. ASBESTOS

§7801. Statement of Purpose

The Delaware General Assembly hereby declares that it is in the interest of the public to control, reduce, and prevent the exposure of the public to asbestos. It is the intent of the General Assembly to ensure the health, safety and welfare of the public by regulating the practice of asbestos abatement, particularly in locations where the general public can reasonably be expected to have access for the purpose of ensuring that such abatement is performed in such a manner as to minimize exposure to asbestos fibers and contamination.

§7802. 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 clearly indicates a different meaning:

(a) 'Asbestos' includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that has been chemically treated and/or altered.

(b) 'Asbestos abatement' shall mean any of the following activities except those which may be considered incidental during normal day to day operations and maintenance:

(1) Demolition or salvage of structures where asbestos is present;

(2) Removal or encapsulation of materials containing asbestos;

(3) Construction, alteration, repair, maintenance, demolition or renovation of structures, substrates, or any portions thereof, that contain asbestos;

(4) Installation of products containing asbestos;

(5) Asbestos spill/emergency cleanup; and

(6) Transportation, disposal, storage, or containment of asbestos, or products containing asbestos, on the site or location at which construction, alteration, repair, maintenance, demolition or renovation activities are performed.

(c) 'Contractor' shall mean any corporation, company, association, firm, partnership, society, joint-stock company, sole proprietorship or individual that contracts to perform asbestos abatement, including the removal or encapsulation of asbestos.

(d) 'Asbestos worker' shall mean any individual who performs asbestos abatement activities and/or work.

(e) 'Friable asbestos material' or 'friable material' or 'asbestos material' shall mean any material containing more than 1 percent asbestos by weight, that

hand pressure can crumble, pulverize or reduce to powder when dry, or is already dry and pulverized.

§7803. Certification Required; Fees; Reciprocity

(a) No contractor shall hold himself out to the public as being certified to engage in asbestos abatement, nor shall any contractor use or advertise any title or description intending to convey the impression that such contractor is certified to engage in asbestos abatement, unless such contractor has been certified in accordance with this Chapter. No contractor or asbestos worker shall undertake any asbestos abatement work without having first been certified in accordance with this Chapter.

(b) No person or contractor may assign, contract with, nor permit any asbestos worker to perform asbestos abatement unless such asbestos worker is certified under the provisions of this Chapter.

(c) Any contractor or asbestos worker applying for certification under this Chapter shall meet criteria prescribed by the Department of Administrative Services, which may include, but are not limited to the following:

Contractors

- (1) previous experience or training in asbestos abatement work;
- (2) type and size of equipment the contractor utilizes in asbestos abatement;
- (3) ability of the contractor to perform asbestos abatement work;

Asbestos Workers

(1) physical ability to perform asbestos abatement work without endangering the health and safety of themselves or others;

(2) free of any respiratory and/or health disorders which would prevent the person from wearing protective respiratory equipment;

(3) completion of a training program in asbestos abatement procedures approved by the Department of Administrative Services, and periodic completion of approved retraining programs.

(d) Any contractor or asbestos worker may apply to the Department of Administrative Services for certification to perform asbestos abatement by submitting an application in the form specified by the Department of Administrative Services and the payment of such fees as may be established by the Department of Administrative Services.

(e) The fees for certification required pursuant to this Chapter shall be established by the Department of Administrative Services in its rules and regulations. The fees may be adjusted periodically, but shall approximate and reasonably reflect all costs necessary to defray the expenses incurred by the Department in operating the certification program.

(f) Asbestos workers certified by other states may request certification by reciprocity. The Department of Administrative Services will evaluate each request for reciprocity based upon evaluations of the quality of training received and quality of the other state's certification program.

§7804. Suspension; Revocation; Refusal to Renew

If the Department of Administrative Services finds that a contractor or asbestos worker has violated any provision of this Chapter or any rule, regulation or order promulgated or entered pursuant to this Chapter, the Department of Administrative Services may immediately suspend, revoke, and/or refuse to renew the certification of such contractor or asbestos worker. A hearing may be requested by the contractor or asbestos worker within thirty (30) days after written notice has been sent to the contractor or asbestos worker by certified mail.

If, after a hearing under this Section, the Secretary of Administrative Services finds just cause to suspend, revoke or refuse to renew, the contractor or asbestos worker shall be given written notice of the decision of the Secretary of Administrative Services and the reasons therefor. The decision of the Secretary of Administrative Services may be appealed to the Superior Court within thirty (30) days after written notice has been sent by certified mail by the Department of Administrative Services.

§7805. Powers and Duties of the Department of Administrative Services

(a) The Department of Administrative Services shall have the following powers and duties and shall give due consideration to Federal Environmental Protection Agency (EPA) document 560/5-85-024 June 1985 or later revision, 'Guidance for Controlling Asbestos Containing Materials in Buildings' in conducting these duties:

- (1) approve the standards and specifications for all asbestos abatement funded with State monies from any source;
- (2) adopt rules and regulations governing the training requirements and certification of contractors and asbestos workers for all asbestos abatement within the State of Delaware;
- (3) approve the selection of contractors and asbestos workers performing asbestos abatement for State funded projects based upon qualifications, experience and ability to perform asbestos abatement;
- (4) require all State agencies to obtain prior approval for all asbestos abatement funded with State monies from any source;
- (5) function as a central location for the receipt and dissemination of relevant asbestos information and reports;
- (6) act as liaison with any federal and/or state agencies that have other programs which may now or hereafter provide funds or assistance in any manner for the detection and elimination of friable asbestos;
- (7) during State funded asbestos abatement projects, conduct an on-site inspection of all procedures for asbestos abatement;
- (8) have the authority to suspend, revoke, and/or refuse to renew the certification of any contractor or asbestos worker for a violation of this Chapter or any rules, regulations or orders promulgated or entered pursuant to this Chapter;
- (9) promulgate such rules and regulations as are necessary to implement the provisions of this Chapter, including but not limited to:
 - (a) performance standards, practices, and specifications for asbestos abatement;
 - (b) determination of the minimum scope of work of asbestos abatement to which the provisions of this Chapter shall apply;
 - (c) requirements for submission of a Notice of Intent to construct, alter, repair, maintain, demolish or renovate or to perform asbestos abatement in any structure, substrate, or any portion thereof which may contain asbestos;
- (10) establish a Statewide Emergency Abatement Policy to address any asbestos abatement which was not planned but results from a sudden, unexpected event or emergency.

§7806. Powers and Duties of the Department of Natural Resources and Environmental Control

- (a) The Department of Natural Resources and Environmental Control shall have the following powers and duties and shall:
- (1) act as the enforcement arm of the Department of Administrative Services with respect to any violations of the provisions of this Chapter and be responsible for oversight and enforcement of this Chapter for all asbestos abatement within the State of Delaware;
 - (2) maintain records and reports as required by the rules and regulations of the Department of Natural Resources and Environmental Control and any appropriate federal rules and regulations as they may relate to asbestos abatement;
 - (3) have the authority to conduct on-site inspections of asbestos abatement in both the private and public sectors;

(4) promulgate rules and regulations as are necessary to implement the enforcement aspects of this Chapter;

(5) provide the Department of Administrative Services with the appropriate evidence and documentation of violations of this Chapter, or any rules, regulations or orders promulgated or entered pursuant to this Chapter, which would initiate the Department of Administrative Services decertification process.

§7807. Violations, Penalties, Injunctions

(a) For purposes of this Section, the term 'Secretary' shall mean the Secretary of the Department of Natural Resources and Environmental Control. The Secretary shall enforce the provisions of this Chapter.

(b) Any contractor, asbestos worker or person who violates any of the provisions of this Chapter, or any rules, regulations or orders promulgated or entered pursuant to this Chapter shall be punishable in the following manner, and each day of a continued violation shall be considered as a separate violation:

(1) a fine of not less than \$100.00 and not more than \$1,500.00 for each day of such violation, if such contractor, asbestos worker or person is certified for asbestos abatement under this Chapter. If the contractor, asbestos worker or person is not certified for asbestos abatement under this Chapter, the fine shall be not less than \$500.00, and not more than \$1,500.00 for each day of such violation. The Justices of the Peace Court shall have original jurisdiction under this subsection.

(2) in addition, for contractors, a civil penalty of not less than \$5,000.00 for each day of such violation, if such contractor is not certified for asbestos abatement under this statute. The Superior Court shall have jurisdiction over such violations. If the violation is continuing, or is threatening to begin or to reoccur, the Secretary may also seek a temporary restraining order or any other injunctive relief in the Court of Chancery.

(c) Any contractor who intentionally, knowingly, or recklessly violates any provision of this Chapter, or any rule, regulation or order promulgated or entered pursuant to this Chapter shall, upon conviction, be punishable by a fine of not less than \$2,500.00 nor more than \$25,000.00 for each day of such violation and/or imprisonment for not more than six (6) months.

(d) Any contractor who is found to have violated this Chapter, or any rule, regulation or order promulgated or entered pursuant to this Chapter shall be liable for all expenses incurred by the Department of Natural Resources and Environmental Control: (1) in abating the violation, (2) controlling a pollution incident related to the violation, and 3) clean-up and restoration of the environment.

Such expenses shall include, but not be limited to, the costs of investigation, legal assistance, public hearings, materials, equipment, manpower, contractual assistance and appropriate salary and overtime pay for all persons, including state employees, involved in the effort notwithstanding merit system laws, regulations, or rules to the contrary. The Secretary shall submit a detailed billing of expenses to the contractor. In the event the contractor desires to challenge the detailed billing submitted by the Secretary, the contractor shall request an administrative hearing before the Secretary. Testimony at the administrative hearing shall be under oath and shall be restricted to issues relating to the billing of expenses submitted by the Secretary. A verbatim transcript of testimony at the hearing shall be prepared and shall, along with the exhibits and other documents introduced by the Secretary or other party, constitute the record. The Secretary shall make findings of fact based upon the record, and enter an order which shall contain reasons supporting the decision, and shall send all parties a copy of the order by certified mail. Any party may appeal the order of the Secretary to the Superior court within thirty (30) days after the order of the Secretary has been sent to that party by certified mail. In the event a liable person fails or refuses to pay any of the expenses listed in the detailed billing, the Secretary may seek to compel payment through the initiation of a civil action in the Superior Court.

(e) Any expenses or civil penalties collected by the Department under this Section are hereby appropriated to the Department to carry out the purposes of this Chapter."

Section 2. Amend §6903, Chapter 69, Title 29 of the Delaware Code by adding a new paragraph (j) to read as follows:

"(j) The selection of any contractor to perform asbestos abatement for State funded projects shall be approved by the Department of Administrative Services pursuant to the provisions of Chapter 78, Part VII, Title 16 of the Delaware Code."

Section 3. If any provision of this Act, or any rule or regulation thereunder shall be held invalid, the remainder of this Act or the rules and regulations shall not be affected thereby.

Section 4. This Act shall not become effective until 90 days after it is signed into law by the Governor.

Approved June 2, 1987.

CHAPTER 36

FORMERLY

SENATE BILL NO. 91
AS AMENDED BY SENATE AMENDMENT NOS. 1, 7 AND 10

AN ACT TO AMEND TITLE 6, CHAPTER 50 OF THE DELAWARE CODE RELATING TO AUTOMOBILE WARRANTIES AND DISPUTE RESOLUTION PROCEDURES FOR DEFECTIVE AUTOMOBILES.

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

Section 1. Amend §5001(5), Chapter 50, Title 6 of the Delaware Code by inserting between the words "motorcycles, which is" and "registered by" the following:

"leased or bought in Delaware or".

Section 3. Amend §5003, Chapter 50, Title 6 of the Delaware Code by deleting said Section in its entirety and by substituting in lieu thereof the following:

"§5003. Remedies upon Failure to Repair

(a) If the manufacturer, its agent, or its authorized dealer does not conform the automobile to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer shall either replace the automobile with a comparable new automobile acceptable to the consumer, or repurchase the automobile from the consumer and refund to the consumer the full purchase, including all credits and allowances for any trade-in vehicle; provided, however, that the consumer shall have the unqualified right to decline a replacement automobile and to demand instead a repurchase;

(b) In instances in which an automobile is replaced by a manufacturer under the provisions of this Section, said manufacturer shall accept return of the automobile and reimburse the consumer for any incidental costs, including dealer preparation fees, fees for transfer of registration, sales taxes, or other charges or fees incurred by the consumer as a result of such replacement. In instances in which an automobile which was financed by the manufacturer or its subsidiary, or agent is replaced under the provisions of this Section, said manufacturer, subsidiary or agent shall not require the consumer to enter into any refinancing agreement for a replacement automobile which would create any financial obligations upon such consumer beyond those created by the original financing agreement.

(c) In instances in which a refund is tendered under the provisions of this Section, the manufacturer shall accept return of the automobile from the consumer and shall reimburse the consumer for related purchase costs, including sales taxes, registration fees, and dealer preparation fees, less:

(1) a reasonable allowance for the consumer's use of the automobile, not to exceed the full purchase price of the automobile multiplied by a fraction which consists of the number of mile driven before the consumer first reported the nonconformity to the manufacturer, its agent or dealer divided by 100,000 miles, and

(2) a reasonable allowance for damage not attributable to normal wear and tear, but not to include damage resulting from a nonconformity.

(d) Refunds shall be made to the consumer, and lien holder, if any, as their interests may appear.

(e) No authorized dealer shall be held liable by the manufacturer for any refunds or automobile replacements in the absence of evidence indicating that dealership repairs have been carried out in a manner inconsistent with the manufacturer's instructions."

Section 4. Amend §5004, Chapter 50, Title 6, Delaware Code, by inserting the word "Substantially" at the beginning of subsection (a) (1), and by deleting the words "waiting for the dealer to begin or complete" as they appear in subsection (a) (2) thereof, and by deleting the words "business days" as they appear in subsection (a) (2) thereof and inserting in lieu thereof the words "calendar days".

Section 5. Amend §5005, Chapter 50, Title 6 of the Delaware Code by deleting said Section in its entirety and by substituting in lieu thereof the following:

"§5005. Costs and Attorney's Fees in Breach of Warranty Actions

In any court action brought under this Chapter by a consumer against the manufacturer of an automobile, or the manufacturer's agent or authorized dealer, based upon the alleged breach of an express warranty made in connection with the sale of such automobile, the court, in its discretion, may award to the plaintiff his costs and reasonable attorney's fees or, if the court determines that the action is brought in bad faith or is frivolous in nature, may award reasonable attorney's fees to the defendant."

Section 6. Amend §5007, Chapter 50, Title 6 of the Delaware Code by deleting said Section in its entirety and by substituting in lieu thereof the following:

"§5007. Informal Dispute Settlement Procedure

(a) If a manufacturer has established an informal settlement procedure that has a certificate of approval by the Division of Consumer Affairs, the remedies provided by this Chapter shall not be available to any consumer who has not first resorted to such procedure. In the event a manufacturer's informal dispute settlement procedure does not have a certificate of approval from the Division of Consumer Affairs, a consumer may immediately and directly seek the remedies provided by this Chapter.

(b) The Division of Consumer Affairs shall annually evaluate the operation of informal dispute settlement procedures established by manufacturers and shall issue an annual certificate of approval to those manufacturers whose procedures comply with the provisions of Title 16 Code of Federal Regulations, Part 703 and with the provisions of subsections (c), (d), and (e) of this Section. The Division of Consumer Affairs shall suspend the certification of, or decertify any informal dispute settlement which no longer complies with said provisions.

(c) Any manufacturer who has established an informal settlement procedure shall file with the Division of Consumer Affairs a copy of each decision of the informal dispute settlement procedure within thirty (30) days after the decision is rendered.

(d) In order to obtain the certification of the Division of Consumer Affairs, a manufacturer's informal dispute settlement procedure shall not convene any informal dispute settlement hearing or meeting outside the State of Delaware and shall refrain from any practices which:

(1) Delay a decision in any dispute beyond sixty-five (65) days after the date on which the consumer initially resorts to the informal dispute settlement procedure by written notification that a dispute exists; or

(2) delay performance of remedies awarded in a settlement beyond thirty (30) days after receipt of notice of the consumer's acceptance of the decision provided, however, that such time limits shall not include periods of time when the consumer or the consumer's car is unavailable for the remedies specified in the settlement; or

(3) require the consumer to make the automobile available more than once for inspection by a manufacturer's representative or more than once for repair of the same nonconformity; or

(4) fail to consider in decisions any remedies provided by this Act, such remedies to include:

(A) repair, replacement, and refund,

(B) reimbursement for related purchase costs; or

(5) require the consumer to take any action or assume any obligation not specifically authorized under the provisions of title 16 Code of Federal Regulations, Part 703.

(e) A manufacturer desiring annual certification of an informal dispute settlement procedure shall make application to the Division of Consumer Affairs on forms developed by, and shall provide such information as required by, the Division of Consumer Affairs."

Section 7. Amend Title 6, Chapter 50 of the Delaware Code by striking the current §5009 in its entirety and substituting in lieu thereof a new §5009 to read as follows:

"§5009. Enforcement

In addition to any remedies the consumer may have at law or in equity, a violation of this Chapter shall be an unlawful practice as defined in §2513 of this Title. The

Division of Consumer Affairs shall promulgate rules and regulations in order to implement the purposes of this Chapter."

Section 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, in whole or in part, then 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 declared severable.

Approved June 4, 1987.

CHAPTER 37

FORMERLY

HOUSE BILL NO. 247

AN ACT TO PERMIT THE DELAWARE ADJUTANT GENERAL TO PLACE RETIRING MAJOR GENERAL WILLIAM DUNCAN ONTO THE RETIRED LIST OF THE DELAWARE NATIONAL GUARD AT THE GRADE OF LIEUTENANT GENERAL.

WHEREAS, subsection (d) of Section 133, Chapter 1, Title 20, Delaware Code permits all officers and enlisted personnel who shall have served actively 25 years or more in the Delaware National Guard, upon their own request, to be placed upon the retired list at the grade next higher to that held by them at the time of their application, in recognition of long and faithful service; and

WHEREAS, upon his retirement William Duncan will have served actively in the Delaware National Guard for 24 years and 4 months; and

WHEREAS, William Duncan has also actively served in the United States Army for 2 years, 11 months and 26 days, the United States Army Reserve for 3 months and 25 days, and the Pennsylvania National Guard for 7 years, 5 months and 11 days; and

WHEREAS, William Duncan desires to be placed upon the Delaware National Guard retired list at the grade next higher to that held by him at the time of his application in recognition of his long and faithful service.

NOW, THEREFORE:

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

Section 1. That the Delaware Adjutant General is hereby permitted to place William Duncan upon the Delaware National Guard retired list at the grade of Lieutenant General notwithstanding the 25 year minimum requirement found in §133(d), Chapter 1, Title 20, Delaware Code.

Approved June 5, 1987.

CHAPTER 38

FORMERLY

SENATE BILL NO. 12
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 54, TITLE 7, DELAWARE CODE RELATING TO ARCHAEOLOGICAL EXCAVATIONS.

WHEREAS, the Nanticoke tribe has inhabited the Delmarva Peninsula for hundreds upon hundreds of years; and

WHEREAS, the Nanticoke Indian tribe is proud of its heritage and maintains great reverence for the honor and dignity of its ancestors and other Indians who once inhabited the lands now comprising the State of Delaware and the Delmarva Peninsula; and

WHEREAS, the reverence and respect owed these ancestors of the Nanticoke tribe and other Indians who once inhabited the lands now comprising the State of Delaware and the Delmarva Peninsula has been greatly compromised by the excavations and display of the skeletal remains of these ancestors at such places as the Island Field Site near South Bowers; and

WHEREAS, these noble ancestors of the Nanticoke and other former native inhabitants should be allowed to rest in peace and dignity without having their remains exposed and placed on public display; and

WHEREAS, the Nanticoke Indian tribe is the sole remaining Indian tribe in the State of Delaware and thus the sole remaining representative of all of the tribes that once inhabited what is now Delaware.

NOW THEREFORE:

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

Section 1. Amend Chapter 54, Title 7, Delaware Code by designating the existing Sections 5401 and 5402 under a new subchapter entitled 'Subchapter I. General Provisions' and adding thereto a new subchapter to read as follows:

"Subchapter II. Archaeological Excavation

§5403. Archaeological Excavation: Purpose.

The purpose of this Act is:

(1) To help provide adequate protection for unmarked human burials and human skeletal remains found anywhere within the State except on Federal land;

(2) To provide adequate protection for unmarked human burials and human skeletal remains not within the jurisdiction of the Medical Examiner that are encountered during archaeological excavation, construction, or other ground disturbing activities;

(3) To provide for adequate skeletal analysis of remains removed or excavated from unmarked human burials.

(4) To provide for the dignified and respectful reinterment or other disposition of native American skeletal remains.

§5404. Definitions.

As used in this Chapter:

(1) 'Director' shall mean Director of the Division of Historical and Cultural Affairs/Department of State.

(2) 'Human skeletal remains' or 'remains' shall mean any part of the body of a deceased human being in any stage of decomposition.

(3) 'Professional archaeologist' shall mean a person having (i) a graduate degree in archaeology, anthropology, history, or another related field with a specialization in archaeology, (ii) a minimum of one year's experience in conducting basic archaeological field research, including the excavation and

removal of human skeletal remains, and (iii) designed and executed an archaeological study and presented written results and interpretations of such study.

(4) 'Skeletal analyst' shall mean any person having (i) a graduate degree in a field involving the study of the human skeleton such as skeletal biology, forensic osteology or other relevant aspects of physical anthropology or medicine, (ii) a minimum of one year's experience in conducting laboratory reconstruction and analysis of skeletal remains, including the differentiation of the physical characteristics denoting cultural or biological affinity, and (iii) designed and executed as skeletal analysis, and presented the written results and interpretations of such analysis.

(5) 'Unmarked human burial' shall mean any interment of human skeletal remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased.

(6) 'Medical Examiner' shall be as defined in Chapter 47, Title 29.

(7) 'Committee' shall mean a body consisting of the Chief of the Nanticoke Indian Tribe, two members appointed by the Chief, the Director of the Division of Historical and Cultural Affairs of the Department of State and two members appointed by the Director and a seventh member from the private sector appointed by the Governor. The Committee members shall be residents of the State of Delaware and shall serve one-year, renewable terms.

§5405. Discovery of Remains and Notification of Authorities.

(a) Any person knowing or having reasonable grounds to believe that unmarked human burials or human skeletal remains are being encountered shall notify immediately the Medical Examiner or the Director.

(b) Unmarked burials or human skeletal remains which are encountered as a result of construction or agricultural activities, shall cease immediately upon discovery and the Medical Examiner or the Director notified of the discovery.

(c) Human burials or human skeletal remains which are encountered by a professional archaeologist, as a result of survey or excavations must be reported to the Director. Excavation and other activities may resume after approval is provided by the Director. The treatment, analysis and disposition of the remains shall conform to the provisions of this Chapter.

(d) The Director shall notify the Chief Medical Examiner, Department of Health and Social Services, of any reported human skeletal remains discovered by a professional archaeologist.

§5406. Jurisdiction Over Remains.

(a) Subsequent to notification of the discovery of an unmarked human burial or human skeletal remains, the Medical Examiner shall certify in writing to the Director, as soon as possible, whether the remains come under his jurisdiction.

(b) If the Medical Examiner determines that the remains come under his jurisdiction, he will immediately proceed with an investigation pursuant to Chapter 47 of Title 29.

(c) All those remains determined to be not within the jurisdiction of the Medical Examiner, shall be within the jurisdiction of the Director.

§5407. Archaeological Investigation of Human Skeletal Remains.

All excavations not under the jurisdiction of the Medical Examiner, shall be either conducted by, or under the supervision of, a professional archaeologist and shall be subject to permission from the landowner. All permissible excavations shall be conducted in accordance with the regulations promulgated for this Chapter.

§5408. Consultation, Analysis and Disposition.

(a) The Committee shall be notified of all skeletal remains determined to be Native American within 5 days of discovery. Within 60 days of notification, the Director shall provide the Committee with a written plan for the treatment and ultimate disposition of the Native American skeletal remains.

(b) The Director shall publish notice of all excavations of human skeletal remains other than Native American, at least once per week for two successive weeks in a newspaper of general circulation in the county where the burials or skeletal remains were situated, in an effort to determine the identity or next of kin or both of the deceased. Treatment and ultimate disposition of the skeletal remains shall be subject to the written permission of the next of kin who notify the director within 30 days of the last published notice. The Director shall provide next of kin with a written plan for treatment and ultimate disposition of human skeletal remains.

(c) All skeletal analysis conducted pursuant to this Chapter shall be undertaken only by a Skeletal Analyst as defined in Section 5404(4) of this Chapter.

(d) Any previously excavated skeletal remains of Native Americans of the State of Delaware which are on display or remain uncovered as of the effective date of this Section shall be reinterred within one year. Treatment and disposition of all Native American remains discovered after enactment shall be determined by the Committee or if direct descent can be determined, by the next-of-kin. In any event, native American skeletal remains discovered after enactment, shall be reinterred within 90 days unless an extension is granted by the Committee. Ultimate disposition of all non-Native American remains shall be determined by the next-of-kin, if known. If next-of-kin are unknown, disposition shall be determined by the Director. All costs associated with reinterment of human skeletal remains must be borne by the next-of-kin, if known.

§5409. Prohibited Acts.

No person, unless acting pursuant to Chapter 47 of Title 29, shall:

(a) Knowingly acquire any human skeletal remains removed from unmarked burials in Delaware, except in accordance with the provisions of this Act.

(b) Knowingly sell any human skeletal remains acquired from unmarked burials in Delaware.

(c) Knowingly exhibit human skeletal remains.

§5410. Exceptions.

(a) Human skeletal remains acquired from commercial biological supply houses or through medical means are not subject to the provisions of this Act.

(b) Human skeletal remains determined to be within the jurisdiction of the Medical Examiner are not subject to the prohibitions contained in this Act.

(c) Human skeletal remains acquired through archaeological excavations under the supervision of a professional archaeologist are not subject to the prohibitions as provided in Section 5409(a) of this Title.

§5411. Penalties.

Any person who violates Section 5409 of this Chapter shall upon conviction be sentenced to pay a fine not less than \$1,000 nor more than \$10,000 or be imprisoned not more than 2 years or both. The Superior Court shall have jurisdiction of offenses under this Chapter."

Approved June 5, 1987.

CHAPTER 39

FORMERLY

HOUSE BILL NO. 115
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE CITY OF REHOBOTH BEACH TO ISSUE PROMISSORY NOTES OR CERTIFICATES OF INDEBTEDNESS IN AN AMOUNT NOT TO EXCEED \$1,100,000 TO PROVIDE INTERIM FINANCING FOR THE EXPANSION OF THE REHOBOTH BEACH SEWAGE TREATMENT FACILITIES.

WHEREAS, the City of Rehoboth Beach has sold bonds in the principal amount of \$3,000,000 to finance the construction of improvements to its sewer system; and

WHEREAS, additional funds for the project are provided by the City, by other users, the State of Delaware and the Environmental Protection Agency; and

WHEREAS, there is a time lag between the dates when bills due to Engineers and Contractors working on the project are payable and when funds are received by the City from the aforesaid sources; and

WHEREAS, the City expects to have a temporary shortfall of funds in the approximate amount of \$1,100,000 arising out of the aforesaid lag in receipt of funds.

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 City of Rehoboth Beach is hereby authorized to borrow money and to issue promissory notes or other certificates of indebtedness to secure the repayment thereof on the full faith and credit of the City of Rehoboth Beach, not to exceed in the aggregate the principal amount of \$1,100,000 without regard to any debt limitation contained in its charter or in any other law for the purpose of providing financing for the expansion of the Rehoboth Beach Sewage Treatment Facilities.

Section 2. Any sum or sums so borrowed shall be secured by a promissory note or other certificate of indebtedness of the City of Rehoboth Beach duly authorized by a resolution adopted by the Commissioners of Rehoboth Beach and signed by the Mayor of the City of Rehoboth Beach and attested by the Secretary of the Commissioners of Rehoboth Beach with the corporate seal affixed and no officer or commissioner shall be liable for the payments of such promissory note or other certificate of indebtedness because it is signed by them as officials of the City and is authorized by resolution of the Commissioners of Rehoboth Beach. Said promissory notes or other certificates of indebtedness shall be dated, shall bear interest at a rate or rates as may be determined by the Commissioners of Rehoboth Beach and shall mature at such time or times not exceeding three years and shall contain such other terms and conditions as may be fixed by the Commissioners of Rehoboth Beach.

Section 3. The full faith and credit of the City of Rehoboth Beach shall be pledged for the repayment of the principal and interest on said promissory notes or certificates of indebtedness issued hereunder which shall be general obligations of the City of Rehoboth Beach.

Section 4. Such promissory notes or other certificates of indebtedness issued hereunder shall be exempt from all taxation by the State of Delaware or by any political subdivision, municipality, agency or authority thereof.

Section 5. Any promissory notes or certificates of indebtedness issued by the City of Rehoboth Beach hereunder may be sold by the City at either private or public sale and in such manner and for such price, but not less than par value, as the Board of Commissioners of Rehoboth Beach may determine to be for the best interest of the City.

Approved June 10, 1987.

CHAPTER 40

FORMERLY

HOUSE BILL NO. 76

AN ACT TO AMEND AN ACT BEING CHAPTER 166, VOLUME 37, LAWS OF DELAWARE, AS AMENDED BY CHAPTER 122 VOLUME 38, CHAPTER 165 VOLUME 41, CHAPTER 185 VOLUME 43, CHAPTER 186 VOLUME 43, CHAPTER 187 VOLUME 43, CHAPTER 220 VOLUME 46, CHAPTER 279 VOLUME 46, CHAPTER 20 VOLUME 47, CHAPTER 65 VOLUME 48, CHAPTER 108 VOLUME 48, CHAPTER 211 VOLUME 57, CHAPTER 85 VOLUME 58, CHAPTER 193 VOLUME 59, CHAPTER 182 VOLUME 65 AND CHAPTER 250 VOLUME 65, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF SELBYVILLE" TO INCREASE THE AMOUNT OF TAXES THAT MAY BE RAISED IN ANY ONE YEAR.

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

Section 1. Amend Section 8, Chapter 166, Volume 37, Laws of Delaware, as amended by Chapter 122 Volume 38, Chapter 165 Volume 41, Chapter 185 Volume 43, Chapter 186 Volume 43, Chapter 187 Volume 43, Chapter 220 Volume 46, Chapter 279 Volume 46, Chapter 20 Volume 47, Chapter 65 Volume 48, Chapter 108 Volume 48, Chapter 211 Volume 57, Chapter 85 Volume 58, Chapter 193 Volume 59, Chapter 182 Volume 65 and Chapter 250 Volume 65, Laws of Delaware, by striking the words and figures "One Hundred Thousand Dollars (\$100,000.00)" as the same appear in said Section and substituting in lieu thereof the words and figures "Five Hundred Thousand Dollars (\$500,000.00)".

Approved June 12, 1987.

CHAPTER 41

FORMERLY

SENATE BILL NO. 82

AN ACT TO AMEND TITLE 21 AND TITLE 30 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLES WHICH ARE EXEMPT FROM CERTAIN FEES; AND PROVIDING THAT RED CROSS VEHICLES SHALL BE EXEMPT FROM SUCH FEES.

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

Section 1. Amend §2159, Chapter 21, Part II, Title 21 of the Delaware Code by striking subsection (a) in its entirety, and substituting in lieu thereof the following:

"(a) The following motor vehicles shall be registered, but shall be exempt from the payment of registration fees:

(1) All motor vehicles of the State or any governmental agency thereof, including school buses owned by private contractors holding valid pupil transportation contracts with a school district or with the State Board of Education, or of any fire department, fire engine company, police department or any county or incorporated city or town thereof, used exclusively in the performance of the principal's, official's, employee's or agent's respective functions or duties;

(2) All motor ambulances owned and used by any agency in this State for charitable purposes, or for the benefit of any hospital or hospitals in this State;

(3) All motor vehicles owned by any veteran's organization, and used by such organization in charitable or public welfare work;

(4) All motor vehicles owned and used by the Delaware Civil Air Patrol (CAP) registered in this State, and used by such organization for its respective functions or duties; and

(5) All motor vehicles owned by the American Red Cross, and used by such organization in charitable or public welfare work.

The Secretary shall furnish, without cost, certain number and registration plates for all such vehicles, of such design as will distinguish them from other plates for which fees are paid. Number and registration plates for certain motor vehicles of the fire departments and fire companies of this State shall have such design and bear such numbers, words and letters as are provided in subsection (b) of this Section. Nothing herein contained shall be construed as exempting such vehicles from the requirement of inspection."

Section 2. Amend Subsection (a), Section 3002, Chapter 30, Title 30 of the Delaware Code by striking paragraph (6) of said subsection, and substituting in lieu thereof the following:

"(6) All motor vehicles, trailers or motorcycles purchased, transferred, registered, owned, operated or used by: this State, its agencies and departments; any political subdivision of the State; the American Legion; Veterans of Foreign Wars; any volunteer fire company; the Delaware Civil Air Patrol; and the American Red Cross; or"

Approved June 15, 1987.

CHAPTER 42

FORMERLY

SENATE BILL NO. 42

AN ACT TO AMEND CHAPTER 21, TITLE 19, OF THE DELAWARE CODE RELATING TO THE DUTIES OF THE STATE AUDITOR OF ACCOUNTS IN APPROVING DISBURSEMENTS MADE BY THE INDUSTRIAL ACCIDENT BOARD.

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

Section 1. Amend Section 2107(b), Subchapter I, Chapter 21, Title 19, of the Delaware Code by striking the words "and approved by the State Auditor of Accounts" in their entirety.

Approved June 15, 1987.

CHAPTER 43

FORMERLY

SENATE BILL NO. 54
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND SUBCHAPTER VI, CHAPTER 7, TITLE 7, DELAWARE CODE, RELATING TO RACCOON TRAPPING.

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 §791(d), Subchapter VI, Chapter 7, Title 7, Delaware Code, by adding thereto the following:

"; provided, however, that this subsection shall not apply to lands in Kent County lying east of the center line of Rt. 113, north of the Sussex County line, and south of the St. Jones River."

Approved June 17, 1987.

CHAPTER 44

FORMERLY

HOUSE BILL NO. 123

AN ACT TO AMEND AN ACT BEING VOLUME 63, CHAPTER 64, LAWS OF DELAWARE AS AMENDED BY VOLUME 63, CHAPTER 245, LAWS OF DELAWARE ENTITLED AN ACT TO REINCORPORATE THE TOWN OF OCEAN VIEW IN SUSSEX COUNTY, DELAWARE.

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, Section 2.102(e), Volume 63, Chapter 64, Laws of Delaware, as amended by Volume 63, Chapter 245, Laws of Delaware by deleting the words "no license fee shall exceed \$50.00 per year" as they appear therein and substituting in lieu thereof the words "no license fee shall exceed \$400.00 per year".

Approved June 18, 1987.

CHAPTER 45

FORMERLY

SENATE BILL NO. 65

AN ACT TO AMEND TITLE 18, DELAWARE CODE RELATING TO INSURANCE AND A SEALED CONTAINER DEFENSE IN PRODUCT LIABILITY.

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

Section 1. Amend Title 18, Delaware Code by adding a new Chapter 70 thereto which shall read as follows:

"CHAPTER 70. SEALED CONTAINER DEFENSE IN PRODUCT LIABILITY

§7001. Sealed Container Defense in Product Liability.

(a) In this Section, the following words have the meanings indicated.

(1)(i) 'Manufacturer' means a designer, assembler, fabricator, constructor, compounder, producer, or processor of any product or its component parts.

(ii) 'Manufacturer' includes an entity not otherwise a manufacturer that imports a product or otherwise holds itself out as a manufacturer.

(2) 'Product' means any tangible article, including attachments, accessories and component parts and accompanying labels, warnings, instructions and packaging.

(3) 'Sealed container' means a box, container, package, wrapping, encasement or housing of any nature that covers a product so that it would be unreasonable to expect a seller to detect or discover the existence of a dangerous or defective condition in the product. A product shall be deemed to be in a sealed container if the product, by its nature and design, is encased or sold in any other manner making it unreasonable to expect a seller to detect or discover the existence of a dangerous or defective condition.

(4)(i) 'Seller' means a wholesaler, distributor, retailer or other individual or entity other than a manufacturer that is regularly engaged in the selling of a product whether the sale is for resale by the purchaser or is for use or consumption by the ultimate consumer.

(ii) 'Seller' includes a lessor or bailor regularly engaged in the business of the lease or bailment of the product.

(5) 'Similar product' means another article of the same design produced by the same manufacturer.

(b) Elements of defense to action against product's seller. It shall be a defense to an action against a seller of a product for property damage or personal injury allegedly caused by the defective design or manufacture of a product if the seller establishes that:

(1) The product was acquired and then sold or leased by the seller in a sealed container and in unaltered form;

(2) The seller had no knowledge of the defect;

(3) The seller in the performance of the duties he performed or while the product was in his possession could not have discovered the defect while exercising reasonable care;

(4) The seller did not manufacture, produce, design or designate the specifications for the product which conduct was the proximate and substantial cause of the claimant's injury; and

(5) The seller did not alter, modify, assemble or mishandle the product while in the seller's possession in a manner which was the proximate and substantial cause of the claimant's injury; and

(6) The seller had not received notice of the defect from purchasers of similar products.

(c) Defense not available. The defense provided in Subsection (b) of this Section is not available if:

(1) The claimant is unable to identify the manufacturer through reasonable effort;

(2) The manufacturer is insolvent, immune from suit, or not subject to suit in Delaware; or

(3) The seller made any express warranties, the breach of which were the proximate and substantial cause of the claimant's injury.

(d) Summary judgment; reinstatement of action.

(1) Except in an action based on an expressed indemnity agreement, if the seller shows by un rebutted facts that he had satisfied Subsection (b) of this Section and that Subsection (c) of this Section does not apply, summary judgment shall be entered in his favor as to the original or third party actions.

(2) Notwithstanding the granting of a motion for summary judgment pursuant to Subsection (d)(1) of this Section, the seller will thereafter continue to be treated as though he were still a party for all purposes of discovery including the uses thereof.

(3) On a subsequent showing of the occurrence of any condition described in Subsection (c) of this Section or that one or more of the conditions of Subsection (b) of this Section did not exist, during the pending litigation, the actions dismissed by summary judgment pursuant to Subsection (d)(1) of this Section shall be reinstated and are not barred by the passage of time."

Approved June 18, 1987.

CHAPTER 46

FORMERLY

SENATE BILL NO. 133

AN ACT TO AMEND CHAPTER 22, TITLE 16, DELAWARE CODE, RELATING TO IMMUNITY TO CERTAIN PERSONS FOR ACTS UNDERTAKEN PURSUANT TO THE UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT.

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

Section 1. Amend §2211, Chapter 22, Title 16, Delaware Code, by striking paragraph (f) in its entirety.

Section 2. Amend Chapter 22, Title 16, Delaware Code, by adding thereto a new section to be designated as §2232 to read as follows:

"§2232. Immunity of Persons Acting in Compliance with Provisions of this Chapter

(a) Any law-enforcement officer, member of emergency service patrol, licensed physician, qualified person acting under the supervision of a licensed physician, or administrator of an approved public treatment facility who acts in compliance with §2210; §2211; §2212 or §2213 of this Chapter shall not be subject to, and shall be immune from, claim, suit, liability, damages or any other recourse, civil or criminal, for any harm resulting from any act or proceeding, decision or determination undertaken or performed or recommendation made unless such harm was intentional or the result of willful or wanton misconduct on his part.

(b) The employer(s) or agent(s) of any law-enforcement officer, member of emergency service patrol, licensed physician, qualified person acting under the supervision of a licensed physician, or administrator of an approved public treatment facility who acts in compliance with §2210; §2211; §2212 or §2213 of this Chapter shall not be subject to, and shall be immune from, claim, suit, liability, damages or any other recourse, civil or criminal, for any harm resulting from any act or proceeding, decision or determination undertaken or performed or recommendation made by such employee(s) or agent(s) unless such harm was intentional or the result of willful or wanton misconduct on the part of the employee or agent which was approved or condoned by the employer."

Approved June 18, 1987.

CHAPTER 47

FORMERLY

SENATE BILL NO. 134

AN ACT TO AMEND CHAPTER 79, SUBCHAPTER 1, TITLE 29, OF THE DELAWARE CODE, TO INCREASE THE MEMBERSHIP OF THE COUNCIL ON THE AGING.

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

Section 1. Amend §7915(c), Chapter 79, Subchapter 1, Title 29, Delaware Code, by striking the number "9" and substitute in lieu thereof the number "11."

Section 2. Amend §7915(c), Chapter 79, Subchapter 1, Title 29, by striking the phrase "1 member shall be an at-large representative who shall reside anywhere in New Castle County," and substitute in lieu thereof the phrase "3 members shall be at-large representatives who shall reside anywhere in New Castle County."

Section 3. Amend §7915(d), Chapter 79, Subchapter 1, Title 29, Delaware Code, by striking the number "4" wherever it appears in said section and substitute in lieu thereof the number "5."

Section 4. Amend §7915(d), Chapter 79, Subchapter 1, Title 29, Delaware Code, by striking the number "5" and substitute in lieu thereof the number "6."

Section 5. Amend §7915(d), Chapter 79, Subchapter 1, Title 29, Delaware Code, by striking the number "3" where it appears in the first sentence of §7915(d) and insert in lieu thereof the number "4."

Approved June 19, 1987.

CHAPTER 48

FORMERLY

SENATE BILL NO. 135

AN ACT TO AMEND CHAPTER 37, TITLE 31, DELAWARE CODE, RELATING TO THE ELDERLY HOUSING COUNSELING PROGRAM.

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

Section 1. AMEND Chapter 37, Title 31, Delaware Code by striking the title "Home Counseling Center for Senior Citizens" and substitute in lieu thereof the title "ELDERLY HOUSING COUNSELING PROGRAM."

Section 2. AMEND Chapter 37, Title 31, Delaware Code by striking the phrase "Home Counseling Center for Senior Citizens" wherever it occurs in the text, and substitute in lieu thereof the phrase "Elderly Housing Counseling Program."

FURTHER AMEND Chapter 37, Title 31, Delaware Code by striking the phrase "Home Counseling Center" wherever it occurs in the text, and substitute in lieu thereof the phrase "Housing Counseling Program."

FURTHER AMEND Chapter 37, Title 31, Delaware Code by striking the word "Center" wherever it occurs in the text, and substitute in lieu thereof the word "Program."

Section 3. AMEND §3704(2), Title 31, Delaware Code by striking the words "Directly implement," and substitute in lieu thereof the words "Facilitate the establishment of."

FURTHER AMEND §3704 by adding thereto a new subsection (9) to read as follows:

"(9) Evaluate the Program and report annually to the Secretary of the Department of Health and Social Services, who shall make the report available to the General Assembly. The evaluation should include the systematic collection and analysis of client utilization data including, but not limited to, number of clients counseled, number of clients who are participating in various residential alternatives as a result of this program, and the cost effectiveness of the program."

Approved June 19, 1987.

CHAPTER 49
FORMERLY
SENATE BILL NO. 136

AN ACT TO AMEND CHAPTER 39, TITLE 31, DELAWARE CODE RELATING TO ADULT PROTECTIVE SERVICES.

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

Section 1. AMEND §3902(10), Title 31, Delaware Code by inserting "or actual" between "threatened" and "abuse."

Section 2. AMEND §3904(a), Title 31, Delaware Code by striking "with the person's consent or pursuant to Court order, to assist that person in performing the activities of daily living, in maintaining independent living arrangements, or avoiding hazardous living conditions." and substituting "in an emergency situation as defined in Section 3902."

Section 3. AMEND §3908(b)(3), Title 31, Delaware Code by striking the phrase "only for one (1) week period" and substituting "for a maximum of ninety days."

Section 4. AMEND §3908(b)(3), Title 31, Delaware Code by adding a new sentence to said Section to read as follows:

"During this period the infirm person may petition the Court to have the emergency order removed."

Section 5. AMEND §3910(a), Title 31, Delaware Code by inserting "and is in need of protective services as defined in Section 3904 of this Chapter" between "title" and "shall."

Section 6. AMEND §3910(b), Title 31, Delaware Code by striking "shall" as it appears in the second sentence of that paragraph and substituting in lieu thereof "may."

Section 7. AMEND §3910, Title 31, Delaware Code by adding thereto a new subsection (c) to read as follows: "(c) Anyone participating in good faith in the making of a report pursuant to this Chapter shall have immunity from any liability, civil or criminal that might otherwise exist and such immunity shall extend to participation in any judicial proceedings resulting from such report."

Approved June 18, 1987.

CHAPTER 50

FORMERLY

SENATE BILL NO. 153

AN ACT TO AMEND SUBCHAPTER II, CHAPTER I, TITLE 26, DELAWARE CODE, RELATING TO THE PUBLIC SERVICE COMMISSION AND PUBLIC UTILITIES; AND PROVIDING FOR THE ESTABLISHMENT OF SERVICE TERRITORIES FOR REGULATED PUBLIC UTILITIES PROVIDING RETAIL ELECTRIC SERVICE SUBJECT TO THE JURISDICTION OF THE PUBLIC SERVICE COMMISSION.

WHEREAS, the General Assembly finds and declares that it is in the public interest to provide for the establishment of service territories within the State of Delaware for public utilities which provide retail electric service subject to the jurisdiction of the Public Service Commission so as to avoid duplication of facilities by such utilities; to preserve and enhance the State's physical environment; to minimize inconvenience, diminished efficiency and higher cost in serving retail customers; and that in the interest of public convenience and necessity, the State should be divided into territories within which such public utilities shall be obligated and allowed to provide service; and that the Delaware Public Service Commission be specifically empowered and directed to administer the division of such territories.

NOW, THEREFORE:

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

Section 1. Amend Subchapter II, Chapter I, Title 26, Delaware Code by redesignating §203 as §203A and inserting a new section as follows:

"§203B. Service Territories for Electric Utilities

(a) Subject to the provisions of §202, the Commission shall, upon notice and after hearing, establish boundaries throughout the State within which those public utilities providing retail electric service subject to Commission jurisdiction shall have the obligation and authority to provide retail electric service. All certificates of public convenience and necessity granted by the Commission shall be issued or amended to reflect such boundaries. Upon establishment, re-establishment or adjustment of any such boundaries the Commission shall cause to issue maps designating and certifying the territorial boundaries within which such public utilities shall be authorized and obligated to provide service.

(b) In acting under this section, the Commission shall consider among other pertinent factors, which of two or more public utilities subject to its jurisdiction:

(1) had existing distribution facilities in nearest proximity to a designated area as of January 1, 1987;

(2) was the first to furnish retail service to, or in close proximity to, a designated area;

(3) can install and/or upgrade its facilities to furnish service to a designated area with the smaller amount of additional investment; and

(4) is demonstrably capable of providing adequate and reliable service to a designated area within a reasonable period of time and in a feasible manner.

(c) In acting under subsection 203B(b), the Commission shall give no consideration to the location or existence of transmission facilities.

(d) In establishing service territory boundaries under this section, the Commission shall provide that any customer which, as of the date such boundaries are set, was receiving retail electric service from a public utility other than the public utility within whose service territory such customer is located, shall continue to receive such service from the same public utility unless both public utilities agree that service shall be provided by the public utility to whom that service territory has been allocated; and further provided that the Commission may prohibit such a change whenever it determines, after notice and hearing, that such change will not be in the public interest.

(e) If the Commission, after notice and hearing, shall determine that service being furnished or proposed to be furnished by a public utility subject to its jurisdiction to a customer or prospective customer within its service territory is

substantially inadequate and is not likely to be made adequate, or otherwise exceeds the capacity of that public utility to provide adequate service within a reasonable time, the Commission may authorize another public utility to provide service to such customer.

(f) After the establishment of retail electric service territories under this section, two or more public utilities subject to Commission jurisdiction may from time to time hereafter apply to the Commission for adjustment of their adjoining retail electric service territories, and, if the Commission determines, after notice and hearing, that such adjustment is in the public interest, it shall approve such adjustment and, to the extent required cause revised maps to reflect such adjustment to be prepared.

(g) Except as otherwise provided herein, each retail electric supplier which is otherwise subject to the jurisdiction of the Commission shall have the exclusive right to furnish retail electric service to all electric-consuming facilities located within its certificated territory, and shall not furnish, make available, render, or extend its retail electric service to a consumer for use in electric-consuming facilities located within the certificated territory of another retail electric supplier; provided that any retail electric supplier may extend or construct its facilities in or through the certificated territory of another retail electric supplier, if such extension or construction is necessary for such supplier to connect any of its facilities or to serve its consumers within its own certificated territory.

(h) For purposes of this Section 203B:

(1) 'Distribution Facilities' shall mean any lines or facilities, equal to or less than nominal 25 Kilovolts in Kent and Sussex Counties and equal to or less than nominal 34.5 Kilovolts in New Castle County, used primarily to divide and apportion electrical energy to and among retail electric consumers.

(2) 'Transmission Facilities' shall mean any lines or facilities, typically but not necessarily exceeding 50 Kilovolts, used primarily for transferring large quantities of electrical energy at high voltages in bulk from one place to another but which do not divide or apportion it among retail electric consumers."

Section 2. Amend §201, Subchapter II, Chapter I, Title 26, Delaware Code, by inserting after the word "facilities" the following:

" , service territories".

Section 3. Amend §202(a), Subchapter II, Chapter I, Title 26, Delaware Code, by inserting after the word "facilities" the following:

" , service territories".

Approved June 19, 1987.

CHAPTER 51

FORMERLY

SENATE BILL NO. 28
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 68, PART VI, TITLE 16 OF THE DELAWARE CODE RELATING TO EXEMPTIONS FROM CIVIL LIABILITY; AND PROVIDING IMMUNITY FOR THE RENDERING OF EMERGENCY CARE UNDER CERTAIN CIRCUMSTANCES.

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

Section 1. Amend §6801 (a), Chapter 68, Title 16 of the Delaware Code by striking the words "injured person" and inserting in lieu thereof the following:

"injured or ill person or any person in obvious physical distress or discomfort".

Approved June 24, 1987.

CHAPTER 52

FORMERLY

SENATE BILL NO. 43

AN ACT TO AMEND CHAPTER 31, TITLE 19, OF THE DELAWARE CODE RELATING TO THE DUTIES OF THE STATE AUDITOR AS THEY RELATE TO THE EMPLOYMENT SECURITY COMMISSION.

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

Section 1. Amend Section 3132, Subchapter II, Chapter 31, Part III, Title 19, of the Delaware Code by striking the words "and State Auditor" as they appear therein.

Approved June 24, 1987.

CHAPTER 53

FORMERLY

SENATE BILL NO. 102
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 57, TITLE 15 OF THE DELAWARE CODE RELATING TO COSTS.

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

Section 1. Amend §5714, Title 15 of the Delaware Code by deleting the words "upon proper warrants and vouchers submitted to the Governor and approved by the Budget Director."

Approved June 24, 1987.

CHAPTER 54

FORMERLY

SENATE BILL NO. 149

AN ACT TO AMEND CHAPTER 11, TITLE 29, DELAWARE CODE RELATING TO THE FREQUENCY OF LEGISLATIVE COUNCIL MEETINGS.

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

Section 1. Amend §1108(a), Title 29, Delaware Code, by striking the words "at least once every 3 months" as they appear in the first sentence thereof.

Approved June 24, 1987.

CHAPTER 55

FORMERLY

HOUSE BILL NO. 71
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 51, TITLE 29 OF THE DELAWARE CODE BY ADDING A NEW SECTION RELATING TO THE USE OF STATE MAIL SERVICES AND STATE PAID FOR POSTAGE CHARGES BY STATE EMPLOYEES AND OTHERS.

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 51, Title 29 of the Delaware Code by adding a new Section 511B to read as follows:

"Section 511B. Unauthorized Use of State Mail Services and/or of State Paid For Postage

(a) Any person who uses State mail services and/or State paid for postage for his own personal use or for the benefit or use of any person, committee, organization, or association not entitled thereto, is guilty of a class C misdemeanor and shall be fined not more than \$300 per each occurrence.

(b)(1) Except as otherwise provided in this subsection all envelopes, wrappers, labels, or cards used to transmit State paid for mail shall bear in a conspicuous manner the words, 'OFFICIAL BUSINESS, PENALTY FOR PRIVATE USE \$300' and an endorsement above the warning showing the name of the agency, authority, board, bureau, commission, or office from which, or officer from whom, it is transmitted.

(2) The Executive Office of the Governor (DDB 10-01-01) may exempt themselves from the requirements of subsection (b),(1).

(c) Each House of the General Assembly shall prescribe for their respective Houses such rules and regulations which shall govern the use of State mail services and State paid for postage and they shall take such other action as they consider necessary and proper for the Members and Members-elect to conform to the provisions of their respective rules."

Section 2. This Act becomes effective 180 days after its enactment.

Approved June 29, 1987.

CHAPTER 56

FORMERLY

HOUSE BILL NO. 78
AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1

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 §2817, Chapter 28, Title 24, Delaware Code, by striking paragraph (1) in its entirety and substituting in lieu thereof the following:

"(1) Graduates from ABET - Accredited Engineering Curricula

(a) Graduation with a baccalaureate degree from an engineering curriculum accredited by the Accreditation Board for Engineering and Technology (ABET); and

(b) Professional experience in engineering work of a character satisfactory to the Council in the amount of 4 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and

(c) Successful passing of written examinations totaling 16 hours and meeting the additional requirements of §2817(6)."

Section 2. Amend §2817, Chapter 28, Title 24, Delaware Code, by striking paragraph (2) in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

(2) Graduates from non-ABET - accredited engineering, engineering technology or science related to engineering curricula

(a) Graduation with a baccalaureate degree from a Council approved 4 year curriculum in engineering that is not ABET accredited, in engineering technology or in science related to engineering; and

(b) Professional experience in engineering work of a character satisfactory to the Council in the amount of 8 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and

(c) Successful passing of written examinations totaling 16 hours, and meeting the additional requirements of §2817(6)."

Section 3. Amend §2817(3)(a), Chapter 28, Title 24, Delaware Code, by inserting the word "Professional" immediately preceding the word "Experience".

Section 4. Amend §2817(3)(b), Chapter 28, Title 24, Delaware Code, by striking subparagraph (b) in its entirety and substituting in lieu thereof a new subparagraph (b) to read as follows:

"(b) Successful passing of written examinations totaling 16 hours and meeting the additional requirements of §2817(6); and".

Section 5. Amend §2817(5)(a), Chapter 28, Title 24, Delaware Code, by inserting the word "or" immediately following the words "United States" and further striking the words "or any foreign country" immediately following the words "District of Columbia".

Section 6. Amend §2817(5)(b), Chapter 28, Title 24, Delaware Code, by striking subparagraph (b) in its entirety and substituting in lieu thereof a new subparagraph (b) to read as follows:

"(b) A person holding a valid certificate of registration record issued by the National Council of Engineering Examiners, whose qualifications meet the requirements of this Chapter, may be registered by Council as a professional engineer upon receipt from the National Council of Engineering Examiners of a certified copy of such registration record, together with the usual application form and fee from the applicant."

Section 7. Amend §2817(5)(c) of Chapter 28, Title 24, Delaware Code, by striking subparagraph (c) and substituting in lieu thereof a new subparagraph (c) to read as follows:

"(c) If the person who has been registered in Delaware pursuant to §2817(5)(a) or (b) of this Chapter 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 8. Amend §2817(6), Chapter 28, Title 24, Delaware Code, by adding thereto three (3) new subparagraphs (d), (e), and (f) to read as follows:

"(d) The required 16-hour written examinations shall consist of an 8-hour Fundamentals of Engineering examination and an 8-hour Principles and Practice of Engineering examination furnished by, and scored by, the National Council of Engineering Examiners.

(e) The examination in the Fundamentals of Engineering shall be taken after graduation, except it may be taken by a college or university senior in good academic standing in a curriculum leading to a baccalaureate degree in engineering, related science or engineering technology. The Council may permit other students in such curricula to take the Fundamentals of Engineering examination prior to graduation.

(f) The examination in Principles and Practice of Engineering shall not be taken until after the completion of the professional experience requirement. The Council may waive this requirement in the case of an applicant who has previously passed the examination in any other state, territory, or possession of the United States."

Section 9 Amend §2818, Chapter 28, Title 24, Delaware Code, by striking said Section in its entirety and substituting in lieu thereof a new §2818 to read as follows:

"§2818. Experience and Educational Equivalence

(1) The experience of a full-time faculty member teaching advanced engineering subjects in an ABET-accredited engineering curriculum may be accepted as part of the professional experience specified in §2817(1) or (2) of this Chapter.

(2) The award of a master's degree in engineering involving 1 year or more of post graduate study in an engineering curriculum approved by the Council may be accepted as 1 year of professional experience required in §2817 of this Chapter; or

(3) The award of a doctor's degree in science or philosophy, with or without a master's degree, involving full-time post-graduate study in an engineering curriculum approved by the Council may be accepted as two years of professional experience required in §2817 of this Chapter."

Section 10 Amend §2819, Chapter 28, Title 24, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new §2819 to read as follows:

"§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)(a) Graduation with a baccalaureate degree from an ABET-accredited engineering curriculum or from a Council-approved curriculum in engineering not ABET-accredited, engineering technology or science related to engineering; or

(b) Age 45 and Council-approved professional experience of 20 years or more; and

(2) Successful passing of an eight-hour written examination in the Fundamentals of Engineering."

Section 11. Amend §2821, Chapter 24, Title 28, Delaware Code, by adding thereto a new subparagraph (e) to read as follows:

"(e) A registrant who practices, or offers to practice, engineering under a name other than his or her registered name is required to obtain a Certificate of Authorization, or to practice under a Certificate of Authorization."

Section 12. Amend §2808, Chapter 28, Title 24, Delaware Code, by adding a new subsection (e) to read as follows:

"(e) The immediate past president, if not an elected member of Council, shall be a non-voting member of the Council."

Approved June 29, 1987.

CHAPTER 57

FORMERLY

HOUSE BILL NO. 96

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO CERTAIN FARM EQUIPMENT WARRANTIES.

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

Section 1. Amend Title 6, of the Delaware Code by adding thereto a new Chapter 5DA to read as follows:

"CHAPTER 50A. FARM EQUIPMENT WARRANTIES

§5001A. Definitions

As used in this Chapter:

(a) 'Consumer' means a purchaser, other than for purposes of resale, of a new farm tractor, a person to whom the new farm tractor is transferred for the same purposes during the duration of an express warranty applicable to the farm tractor and any other person entitled by the terms of the warranty to enforce the terms of the warranty. In the case of an agricultural vehicle within the warranty period, the sale must be made through an authorized farm equipment dealer.

(b) 'Fair Rental Value' means the rental value calculated in accordance with the 'Tractor and Farm Equipment Trade-In Guide' published by the National Farm and Power Equipment Dealers Association.

(c) 'Farm Tractor' means any self-propelled vehicle which is designed primarily for pulling or propelling agricultural machinery and implements and is used principally in the occupation or business of farming, including an implement of husbandry that is self-propelled.

(d) 'Manufacturer' means a person engaged in the business of manufacturing, assembling, or distributing farm tractors, who under normal business conditions during the year, manufactures, assembles, or distributes to dealers at least ten new farm tractors.

(e) 'Manufacturer's Express Warranty; Warranty' mean the written warranty of the manufacturer of a new farm tractor of its condition and fitness for use, including any terms of conditions precedent to the enforcement of obligations under that warranty.

(f) 'Nonconformity' means any condition of the farm tractor that makes it reasonably unsuitable to use for the purpose for which it was intended.

(g) 'Reasonable Allowance For Prior Use' shall mean no less than the fair rental value of the farm tractor and shall be the sum of:

(1) that amount attributable to use by the consumer prior to the consumer's first report of the nonconformity to the manufacturer or its authorized dealers;

(2) that amount attributable to use by the consumer during any period subsequent to such report of the reported nonconformity; and

(3) that amount attributable to use by the consumer of the farm tractor provided by the manufacturer or its authorized dealers while the farm tractor is out of service by reason of repair of the reported nonconformity.

§5002A. Notice to Consumer

At the time of purchase the manufacturer must provide directly to the consumer a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: 'IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE.'

§5003A. Manufacturer's Duty to Repair

If a farm tractor does not conform to applicable express written warranties and the consumer reports the nonconformity to the manufacturer and its authorized dealer during the term of the express written warranties or during the period of one year following the date of the original delivery of the farm tractor to the consumer, whichever is earlier, the manufacturer or its authorized dealers shall make the repairs necessary to make the farm tractor conform to the express written warranties, notwithstanding that the repairs are made after the expiration of the warranty term or the one-year period. For a self-propelled vehicle this section is limited to warranties on the engine and power train.

§5004A. Manufacturer's Duty to Refund or Replace

(a) If the manufacturer or its authorized dealers are unable to make the farm tractor conform to any applicable express written warranty by repairing or correcting any condition which substantially impairs the use or market value of the farm tractor to the consumer within the time periods and after the number of attempts specified in Subsection (b), the manufacturer, through its authorized dealer who sold the farm tractor, shall, at the option of the consumer, replace the farm tractor with a comparable one, charging the consumer only a reasonable allowance for the consumer's use of the farm tractor, or accept the return of the farm tractor from the consumer and refund to the consumer the cash purchase price, including sales tax, license fees, registration fees, and any similar governmental charges, less a reasonable allowance for prior use. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear in the county Recorder of Deeds and/or Secretary of State's Office. If no replacement or refund is made, the consumer may bring a civil action to enforce the obligation. No action may be brought unless the manufacturer has received prior direct written notification from or on behalf of the consumer and has been offered an opportunity to cure the condition alleged within a reasonable time that is not to exceed 60 business days. For a self-propelled vehicle, this section is limited to warranties on the engine and power train.

(b) The replacement or refund obligation specified in Subsection (a) shall arise if the manufacturer or its authorized dealers are unable to make the farm tractor conform to applicable express written warranties within the express written warranty term or during the period of one year following the date of the original physical delivery of the farm tractor to the consumer, whichever is the earlier date, and (1) the same nonconformity has been subject to repair four or more times by the manufacturer or its authorized dealers, but such nonconformity continues to exist; or (2) the farm tractor is out of service by reason of repair of the same nonconformity for a cumulative total of 60 or more business days when the service department of the authorized dealer in possession of the farm tractor is open for purposes of repair, provided that days when the consumer has been provided by the manufacturer or its authorized dealers with the use of another farm tractor which performs the same function shall not be counted.

§5005A. Extension of Warranty

The terms of any express written warranty, the one-year period, and the 60-day repair period shall be reasonably extended by any period of time during which repair services or replacement parts are not available to the consumer because of a war, invasion, or strike, or fire, flood or other natural disaster.

§5006A. Alternative Dispute Settlement

If a manufacturer has established, or participates in, an informal dispute settlement procedure which substantially complies with the provisions of the Code of Federal Regulations, Title 16, Part 703, as amended, and the requirements of this section, the provisions of Section 5004A concerning refunds or replacement do not apply to a consumer who has not first used this procedure.

(b) Findings as Evidence. The findings and decisions in an informal dispute settlement procedure shall address and state in writing whether the consumer would be entitled to a refund or replacement under the presumptions and criteria set out in Section 5104A and are admissible as nonbinding evidence in any legal action and are not subject to further foundation requirements.

(c) Replacement or Refund. If, in an informal dispute settlement procedure, it is decided that a consumer is entitled to a replacement vehicle under Subsection (d) then the consumer has the option of selecting and receiving either a replacement vehicle or a full refund as authorized by Section 5004A. Any refund selected by a consumer shall include all amounts authorized by Section 5004A.

(d) In any informal dispute settlement procedure provided for by this section:

(1) No documents shall be received by any informal dispute settlement arbitrators unless those documents have been provided to each of the parties in the dispute prior to the arbitrator's meeting, with an opportunity for the parties to comment on the documents in writing, or with oral presentation at the request of the arbitrators;

(2) 'Nonvoting' manufacturer or dealer representatives shall not attend or participate in the internal dispute settlement procedures unless the consumer is also present and given a chance to be heard, or unless the consumer previously consents to the manufacturer or dealer participation without the consumer's presence and participation;

(3) Consumers shall be given an adequate opportunity to contest a manufacturer's assertion that a nonconformity falls within intended specifications for the vehicle by having the basis of the manufacturer's claim appraised by a technical expert selected and paid for by the consumer prior to the informal dispute settlement hearing;

(4) No disputes shall be heard where there has been a recent attempt by the manufacturer to repair a consumer's vehicle, but no response has yet been received by the informal dispute arbitrators from the consumer as to whether the repairs were successfully completed. This provision shall not prejudice a consumer's rights under this section nor shall it extend the informal dispute mechanism's 40-day time limit for deciding disputes, as established by the Code of Federal Regulations, Title 16, Part 703; and

(5) The manufacturer shall provide and the informal dispute settlement arbitrators shall consider all information relevant to resolving the dispute, such as the prior dispute records and information required by the Code of Federal Regulations, Title 16, Part 703.6, and any relevant technical service bulletins which may have been issued by the manufacturer or lessor regarding the motor vehicle being disputed.

(6) Any decision reached under this Section shall be binding on the manufacturer.

(e) Exhaustion of Settlement Remedy. No consumer shall be required to first participate in an informal dispute settlement procedure before filing an action in Superior Court if the informal dispute settlement procedure does not comply with the requirements of this section, notwithstanding the procedure's compliance with the Code of Federal Regulations, Title 16, Part 703.

(f) Civil Remedy. Any consumer injured by a violation of this section may bring a civil action to enforce this section and recover costs and disbursements including reasonable attorney's fees.

(g) Affirmative Defenses. It shall be an affirmative defense to claim that (1) the alleged nonconformity does not substantially impair such use and market value or (2) a nonconformity is the result of abuse or neglect, or of modifications or alterations of the farm tractor not authorized by the manufacturer.

§5007A. Limitation on Actions

Any action brought under this Chapter shall be commenced within six months following (1) expiration of the express written warranty term, or (2) one year following the date of the original delivery of the farm tractor to the customer, whichever is later.

§5008A. Remedy Nonexclusive

Nothing in this section limits the rights or remedies which are otherwise available to a consumer under any other law.

§5009A. The Division of Consumer Affairs shall promulgate necessary rules and regulations to implement the purposes of this Chapter and shall annually evaluate and certify whether any informal dispute settlement procedure utilized or sought to be utilized under this Chapter complies with the provisions of the Code of Federal Regulations, Title 16, Part 703."

Approved June 29, 1987.

CHAPTER 58

FORMERLY

HOUSE BILL NO. 140

AN ACT TO AMEND PART I, CHAPTER 1, TITLE 21, DELAWARE CODE, RELATING TO THE DEFINITION OF CERTAIN WORDS AND PHRASES IN THE MOTOR VEHICLE CODE.

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

Section 1. Amend §101(53), Part I, Chapter 1, Title 21, Delaware Code, by striking said subsection 53 in its entirety and substituting in lieu thereof a new subsection (53) to read as follows:

"(53) 'Moped' shall mean a pedal or non-pedal bicycle having two (2) tandem wheels, either of which is over 12 inches in maximum diameter, and having a motor characterized in that the maximum piston displacement is less than 55 cc., rated at no more than 2.7 brake horsepower and that the maximum speed does not exceed 25 miles per hour."

Section 2. Amend §101(61), Part I, Chapter 1, Title 21, Delaware Code, by striking said subsection (61) in its entirety and substituting in lieu thereof a new subsection (61) to read as follows:

"(61) 'Triped' shall mean a pedal or non-pedal cycle having three (3) wheels, either of which is over 12 inches in maximum diameter, and having a motor, characterized in that the maximum piston displacement is less than 55 cc., rated at no more than 2.7 brake horsepower, and that the maximum speed does not exceed 25 miles per hour."

Approved June 29, 1987.

CHAPTER 59

FORMERLY

HOUSE BILL NO. 172

AN ACT TO AMEND CHAPTER 197, VOLUME 54, LAWS OF DELAWARE, BEING AN ACT ENTITLED "AN ACT REVISING THE PRIOR CHARTER OF THE CITY OF REHOBOTH BEACH AND ESTABLISHING A NEW CHARTER THEREFORE AND PRESCRIBING THE POWERS AND DUTIES OF THE COMMISSIONERS OF REHOBOTH BEACH".

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

Section 1. Amend subsection (a) of Section 4, Chapter 197, Volume 54, Laws of Delaware, as amended by Volume 61, Laws of Delaware, Chapter 58, as amended by Volume 62, Laws of Delaware, Chapter 4, by striking subsection (a) in its entirety and substituting in lieu thereof the following new subsection (a) to read as follows:

"(a) The present Commissioners and Mayor now serving at the date of this amendment shall continue to serve as the Commissioners and Mayor of Rehoboth Beach from and after passage of this amendment until their successors are duly elected. At the annual election held on the second Saturday in August 1987, in accordance with Sections 6 and 7 of the Charter, three Commissioners and the Mayor shall be elected. The term of office for the person elected Mayor shall be for three years. The term of office for the two persons receiving the highest number of votes for Commissioner shall be for three years while the third person elected Commissioner shall initially serve a two year term but such position shall be for a three year term when voted upon after the expiration of its initial two year term. At the annual election held on the second Saturday of August in 1988 in accordance with Section 6 and 7 of this Charter three Commissioners shall be elected. The term of office for the two persons receiving the highest number of votes for Commissioner shall be for three years while the third person elected Commissioner shall initially serve a one year term but such position shall be for a three year term when voted upon after the expiration of its initial one year term."

Section 2. Amend subsection (a) of Section 5, Chapter 197, Volume 54, Laws of Delaware, as amended, by striking the words "for a two year term" as they appear therein and by substituting in lieu thereof the words "for a three year term".

Section 3. Amend subsection (b) of Section 7, Chapter 197, Volume 54, Laws of Delaware, as amended by Volume 55, Laws of Delaware, Chapter 70, by adding the following sentence at the end thereof: "Where voting machines or electronic voting devices are used the procedures set out at 15 Delaware Code, Chapter 50 and 50-A shall be followed."

Section 4. Amend subsection (e) of Section 7, Chapter 197, Volume 54, Laws of Delaware, as amended, by deleting subsection (e) and substituting in lieu thereof a new subsection (e) to read as follows:

"(e) In the event of a challenge to the identity or qualifications of a voter, the Election Board shall by a majority vote determine the matter in accordance with the procedures used for State elections as currently found at 15 Delaware Code Ch. 49."

Section 5. Amend subsection (a) of Section 9, Chapter 197, Volume 54, Laws of Delaware, as amended by Volume 56, Laws of Delaware, Chapter 61, by adding the following sentence at the end thereof: "The Board of Commissioners of Rehoboth Beach may change the date of any regular meeting of the Commissioners of Rehoboth Beach by giving public notice thereof at least seven days in advance, such notice to include, but not be limited to, conspicuous posting of said notice at the City office."

Section 6. Amend subsection (b) of Section 41-A, Chapter 197, Volume 54, Laws of Delaware, as amended by Volume 60, Laws of Delaware, Chapter 121, by striking subsection (b) of Section 41-A in its entirety and by substituting in lieu thereof a new subsection (b) to read as follows:

"(b) A Referendum Petition, signed by persons registered on the corporate 'Books of Registered Voters' of the City of Rehoboth Beach as prescribed in this Charter equal in number to 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) such persons as aforesaid, whichever is greater, shall be presented to the Commissioners of Rehoboth Beach at the next regular meeting of the Commissioners of Rehoboth Beach 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."

Approved June 29, 1987.

CHAPTER 60

FORMERLY

HOUSE BILL NO. 173

AN ACT TO AMEND SECTION 25, CHAPTER 197, VOLUME 54, LAWS OF DELAWARE, BEING AN ACT ENTITLED "AN ACT REVISING THE PRIOR CHARTER OF THE CITY OF REHOBOTH BEACH AND ESTABLISHING A NEW CHARTER THEREFORE AND PRESCRIBING THE POWERS AND DUTIES OF THE COMMISSIONERS OF REHOBOTH BEACH".

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

Section 1. Amend subsection (e) of Section 25, Chapter 197, Volume 54, Laws of Delaware, as amended by Volume 61, Laws of Delaware, Chapter 58, as amended by Volume 63, Laws of Delaware, Chapter 225, by striking subsection (e) in its entirety and substituting in lieu thereof the following new subsection (e) to read as follows:

"(e) On all taxes paid on or after the first day of September next succeeding the delivery of the annual duplicate tax list to the City Manager, there shall be added for each month or part thereof interest in an amount computed on a monthly rate of one and one half percent per month."

Approved June 29, 1987.

CHAPTER 61

FORMERLY

HOUSE BILL NO. 190
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 428, VOLUME 50 AND CHAPTER 240, VOLUME 62, LAWS OF DELAWARE ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF ELSMERE" AS AMENDED RELATING TO THE FISCAL AND BUDGET YEARS OF THE TOWN AS WELL AS THE AUTHORITY OF THE TREASURER AND PRESIDENT PRO TEMPORE OF THE TOWN COUNCIL TO SIGN CHECKS ON BEHALF OF THE TOWN.

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

Section 1. Amend Section 21, paragraph 2, Chapter 428, Volume 50 Delaware Laws, as amended, by striking Section 21, paragraph 2 and inserting in lieu thereof the following:

"The Treasurer shall not pay out any money except upon check or warrant countersigned by the Mayor and authorized by the Council. In case of the temporary absence or inability to act of the Treasurer, the President Pro Tempore shall be employed to countersign checks. The Treasurer shall attend all meetings of the Council."

Section 2. Amend Section 28, Chapter 428, Volume 50 Delaware Laws, as amended by Chapter 240, Volume 62 Delaware Laws by striking Section 28 in its entirety and substituting in lieu thereof a new Section 28 to read as follows:

"The Fiscal Year of the Town of Elsmere shall begin on the first day of July of each year and shall end on the last day of June the following year. Such Fiscal Year shall also constitute the budget and accounting year, except as otherwise provided herein."

Section 3. Amend Section 29, Chapter 428, Volume 50 Delaware Laws, as amended by Chapter 240, Volume 62 Delaware Laws by striking the first paragraph of Section 29 and inserting in lieu thereof the following:

"Annually each year and not later than the first Thursday in June, the Council shall cause to be submitted a budget containing a financial plan for conducting the affairs of the Town for the ensuing Fiscal Year."

Approved June 29, 1987.

CHAPTER 62

FORMERLY

HOUSE BILL NO. 204

AN ACT TO AMEND AN ACT BEING CHAPTER 170, VOLUME 57, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE CITY OF LEWES" AS AMENDED BY CHAPTER 590, VOLUME 58, LAWS OF DELAWARE, AND CHAPTER 127, VOLUME 60, LAWS OF DELAWARE RELATING TO THE ANNUAL MUNICIPAL ELECTION.

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

Section 1. Amend Subsection (a) Section 7, Chapter 170, Volume 57, Laws of Delaware, as amended by Chapter 127, Volume 60, Laws of Delaware, by striking the words "Twelve o'clock noon" and substituting in lieu thereof the words "Eight o'clock in the morning".

Section 2. Amend Subsection (g), Section 7, Chapter 170, Volume 57, Laws of Delaware, as amended by Chapter 590, Volume 58, Laws of Delaware, by adding to the end of said Subsection (g) a new sentence which shall read as follows:

"The City Council may provide by resolution for the office of the City Manager to be open on one (1) Saturday within the thirty (30) day period immediately preceding the date of the Annual Municipal Election for the purpose of permitting persons to register to vote in such Annual Municipal Election."

Section 3. Amend Subsection (h), Section 7, Chapter 170, Volume 57, Laws of Delaware, as amended by Chapter 127, Volume 60, Laws of Delaware, by striking the existing Subsection (h) in its entirety and substituting in lieu thereof a new Subsection (h) to read as follows:

"(h) The City Council of the City of Lewes may by ordinance, provide for any qualified registered voter to cast an absentee ballot if such person is unable to appear and cast his or her ballot."

Approved June 29, 1987.

CHAPTER 63

FORMERLY

HOUSE BILL NO. 228

AN ACT TO AMEND AN ACT BEING CHAPTER 15B, VOLUME 36, LAWS OF DELAWARE, ENTITLED "AN ACT TO INCORPORATE THE CITY OF DOVER AND CHANGING THE NAME THEREOF" AS AMENDED BY CHAPTER 456, VOLUME 60, LAWS OF DELAWARE, AND CHAPTER 5, VOLUME 64, LAWS OF DELAWARE, AND CHAPTER 28, VOLUME 65, LAWS OF DELAWARE RELATING TO REIMBURSEMENT OF EXPENSES TO THE MAYOR, MEMBERS OF THE ELECTION BOARD, MEMBERS OF THE PLANNING COMMISSION, AND OTHER ELECTED OR APPOINTED OFFICIALS.

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 12, Chapter 15B, Volume 36, Laws of Delaware, as amended by Chapter 28, Volume 65, Laws of Delaware, by striking the present Section 12 in its entirety and substituting in lieu thereof a new Section 12 to read as follows:

"Section 12. REIMBURSEMENT OF MAYOR AND COUNCIL AND ELECTION BOARD; REIMBURSEMENT OF EXPENSES.

The Mayor and each Council member shall receive per diem reimbursement for expenses to be paid quarterly for preparation and attendance at each regular or special meeting of City Council which he attends, the amount or amounts to be determined by Council. Any member of Council sitting to hear appeals from the municipal assessment shall be paid per diem in reimbursement for expenses for the preparation and attendance of each meeting of the Assessment Appeals Committee in an amount to be determined by Council. Each person, not a City employee, appointed to serve as an election judge for any City municipal election shall receive per diem reimbursement for expenses for each election attended in an amount to be determined by Council. Employees of the City appointed to serve as election judges or officials for any municipal election shall receive per diem reimbursement for expenses for each municipal election attended in addition to their regular salary in an amount to be determined by Council. Each appointed member to any City Council committee not serving an elected term to any City office shall receive per diem reimbursement for expenses for preparation and attendance at each committee meeting to which said member is appointed in an amount to be determined by Council. Any City employee appointed to a Council committee shall be entitled to reimbursement for expenses per diem for each meeting attended which is held after 5:00 p.m. on a scheduled work day or at any time on a weekend or City approved holiday in an amount to be determined by Council. Any other elected or appointed officials or employees who serve Council appointments or perform functions for Council may be reimbursed for expenses for preparation and attendance at meetings and performing similar duties and functions in amounts determined by Council. The Mayor and members of Council shall be reimbursed for all expenses incurred in the execution of their official duties in amounts to be determined by Council."

Section 2. Amend Section 23, Chapter 15B, Volume 36, Laws of Delaware, as amended by Chapter 456, Volume 60, and Chapter 5, Volume 64, Laws of Delaware, by striking the last paragraph of Section 23 thereof in its entirety and substituting in lieu thereof the following:

"Each appointed member of the Commission shall receive per diem reimbursement for expenses to be paid quarterly for preparation and attendance at each meeting of the Planning Commission attended in an amount to be set by Council."

Section 3. This legislation shall become effective on July 1, 1988.

Approved June 29, 1987.

CHAPTER 64

FORMERLY

HOUSE BILL NO. 244

AN ACT TO AMEND ARTICLE X, SECTION 1002, OF THE CHARTER OF THE CITY OF NEWARK AS ADOPTED ON APRIL 26, 1965, BY REFERENDUM PURSUANT TO CHAPTER 260, VOLUME 53, LAWS OF DELAWARE, AS AMENDED BY CHAPTER 479, VOLUME 58, LAWS OF DELAWARE, RELATING TO ELECTION PROCEDURE.

WHEREAS, it is deemed advisable that the Charter of the City of Newark, adopted pursuant to the provisions of Chapter 8, Title 22, Delaware Code, and as thereafter amended, be in certain respects further 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):

Section 1. Amend Section 1002.1 of Article X, Charter of the City of Newark, as amended by Chapter 479, Volume 58, Laws of Delaware, by striking the words and numbers "thirty (30)" as they appear in the first paragraph and substituting in lieu thereof the words and numbers "twenty-four (24)".

Section 2. Amend Section 1002.1 of Article X, Charter of the City of Newark, as amended by Chapter 479, Volume 58, Laws of Delaware, by striking the phrase "and whose name is recorded in the registration book of the city," as said phrase appears in the first paragraph and substituting in lieu thereof the following:

"and whose name is recorded: (1) for elections conducted until December 31, 1988, in the registration book of the City, and/or (2) for elections conducted after December 31, 1987 in the list of registered voters provided to the City by the New Castle County Department of Elections,"

Section 3. Amend Section 1002.1 of Article X, Charter of the City of Newark, as amended by Chapter 479, Volume 58, Laws of Delaware, by striking the words and numbers "three (3)" as they appear in the second paragraph and substituting in lieu thereof the words and numbers "two (2)".

Section 4. Amend Section 1002.1 of Article X, Charter of the City of Newark, as amended by Chapter 479, Volume 58, Laws of Delaware by striking the third paragraph in its entirety which reads as follows:

"The council shall provide by ordinance for the appeal of anyone who seeks to register as a qualified voter but who has been denied such registration by the board of election. The appellate body shall be designated as the registration appeal board and shall consist of three (3) members, not councilmen or members of the election board, appointed by the council."

Section 5. Amend Section 1002.3 of Article X, Charter of the City of Newark, as amended by Chapter 479, Volume 58, Laws of Delaware, by deleting the phrase "for absentee registration and".

Approved June 29, 1987.

CHAPTER 65

FORMERLY

HOUSE BILL NO. 338

AN ACT TO AMEND CHAPTER 348, VOLUME 65, LAWS OF DELAWARE, BEING SENATE BILL NO. 560 OF THE 133RD GENERAL ASSEMBLY, AND BEING AN ACT ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1987; SPECIFYING CERTAIN PROCEDURES, CONDITIONS, AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BY MAKING CERTAIN ADDITIONS, DELETIONS, AND ADJUSTMENTS.

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

Section 1. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by making the following adjustments to General Funds in Section 1:

Page	Line	Organization/Item	From	To	Increase (Decrease)
		<u>02-17-00 Administrative Office of the Courts</u>			
		<u>02-17-03 Foster Care Review Board</u>			
6	26	Salaries (6.0)	\$101.0 (5.0)	\$101.0 (6.0)	\$ 0
		<u>10-02-00 Office of the Budget</u>			
		<u>10-02-04 Budget Office-Contingencies</u>			
7	30	Contingency - Self Insurance Fund	650.0	1,150.0	500.0 Increase
Page	Line	Organization/Item	From	To	Increase (Decrease)
		<u>10-02-05 Budget Office - Other Items (One-Time Appropriations)</u>			
8	3	Contingency - Other Items	\$9,552.0	\$9,616.0	64.0
		<u>10-02-07 Postsecondary Education</u>			
8	15	Scholarships	989.3	1,109.3	120.0
		<u>12-05-03 Debt Management</u>			
14	34	Debt Service - Regular	7,598.8	4,204.8	(3,394.0)
		<u>20-06-00 Division of Historical & Cultural Affairs</u>			
		<u>20-06-01 Office of Administration</u>			
16	44	Delaware Heritage Commission	104.1	354.1	250.0
		<u>30-05-00 Division of Facilities Management</u>			
		<u>30-05-01 Administration</u>			
21	30	Salaries (13.0)	336.5 (14.0)	336.5 (13.0)	0
		<u>35-01-01 Office of the Secretary</u>			
24	New	Contingency - Salaries	0	1,700.0	1,700.0
		<u>35-03-01 Office of Planning Research and Evaluation</u>			

24	28	(29.2) NSF Salaries & Wages	423.6 (17.8)	473.6 (17.8)	50.0
24	29	Other Employment Costs	102.9	112.9	10.0
		<u>35-06-01 Office of the Director</u>			
26	New	18-21 Program (Start-up)	0	200.0	200.0
		<u>35-07-01 Division of Economic Services</u>			
27	44	Title XIX Non-State Institutions	26,200.6	26,700.6	500.0

Section 2. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by striking the amount of "\$120.0" on page 116, line 11, and substitute in lieu thereof "\$184.0."

Section 3. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by striking the amount "\$5,500" as it appears in said section and substituting in lieu thereof the amount of "\$6,500."

Section 4. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by adding a new section to read as follows:

"Section 279. Section 1 of this Act provides an appropriation to the several departments for debt service. The State Treasurer is authorized through the transfer process to recover unobligated balances in the debt service accounts of the several departments."

Section 5. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by adding a new section to read as follows:

"Section 280. The new position added to the Office of the State Bank Commissioner and funded with appropriated special funds in Section 1 of this Act shall be an exempt position."

Section 6. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by adding a new section to read as follows:

"Section 281. Section 1 of this Act provides an appropriation to the Delaware Heritage Commission. Of this appropriation, \$250.0 may be spent only as it is matched dollar for dollar with private funds and shall be used for Bicentennial Events only, not projects that have been previously funded."

Section 7. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by adding a new section to read as follows:

"Section 282. Section 1 of this Act appropriates \$473.6 in salaries to the Department of Health & Social Services, Division of Planning, Research & Evaluation, Bureau of Health Planning & Facilities Management. Of this amount, \$50.0 may be used to fund 7.0 positions until June 30, 1987. To accomplish this, 7.0 Special Fund positions may be converted to General Fund positions until June 30, 1987."

Section 8. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by adding a new section to read as follows:

"Section 283. The line item salary in Section 10 of this Act for the Director of the Youth Diagnostic Center in the Department of Services for Children, Youth, and Their Families shall not be effective until September 1, 1986."

Section 9. Amend Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, Section 10(a) by striking the line associated with Budget Unit (60-09-01) in its entirety and substituting in lieu thereof the following:

"(60-09-01) Director - Employment and Training 2.9 43.9."

Section 10. Amend Section 1 of Chapter 348, Volume 65, Laws of Delaware, being Senate Bill No. 560 of the 133rd General Assembly, by recomputing all subtotals and totals accordingly, as a result of this Act.

Approved June 25, 2987.

CHAPTER 66

FORMERLY

SENATE BILL NO. 128
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, TITLE 16, OF THE DELAWARE CODE BY CLARIFYING THE DEFINITIONS OF A CONTROLLED SUBSTANCE.

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

Section 1. Amend Section 4716 (b) (4), Title 16, of the Delaware Code by inserting the following after "coca leaves," where first found therein and before "and any salt," where first found therein:

"including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives,".

Approved June 29, 1987.

CHAPTER 67

FORMERLY

SENATE BILL NO. 141
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT AUTHORIZING THE DISINTERRING AND REINTERING OF BODIES IN A CEMETERY LOCATED ON THE SOUTH SIDE OF EAST PINE STREET IN GEORGETOWN, DELAWARE, BELONGING TO THE RECTOR, WARDEN AND VESTRY OF ST. PAUL'S EPISCOPAL CHURCH, GEORGETOWN, DELAWARE.

WHEREAS, in The Town of Georgetown in Sussex County, Delaware, there is a small and old cemetery on the property of and belonging to the Rector, Warden and Vestry of St. Paul's Episcopal Church, Georgetown, Delaware; and

WHEREAS, part of the building of St. Paul's Episcopal Church has recently been victimized by a tragic fire; and

WHEREAS, in the reconstruction of the building destroyed by fire, it may be advantageous and in the best interest of St. Paul's Episcopal Church, Georgetown, Delaware, to enlarge that part of the building which is to be reconstructed; and

WHEREAS, if the building is so enlarged, it will be necessary to move certain graves located immediately adjacent to the site of such enlargement; and

WHEREAS, it is the desire of the Rector, Warden and Vestry of St. Paul's Episcopal Church, Georgetown, Delaware, to relocate in another portion of the cemetery under the control and perpetual care of St. Paul's Episcopal Church, Georgetown, Delaware, those bodies which it is necessary to disinter;

NOW THEREFORE:

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

Section 1. The Rector, Warden and Vestry of St. Paul's Episcopal Church, Georgetown, Delaware, be and it is hereby authorized and fully empowered carefully and properly to disinter and remove all the bodies from the said cemetery located on the south side of East Pine Street in The Town of Georgetown, Sussex County, Delaware, and carefully and properly to reinter the same bodies in another part of the cemetery under the control of St. Paul's Episcopal Church, Georgetown, Delaware, where perpetual care is provided.

Section 2. The cost of the disintering and reintering of the bodies from the cemetery herein described shall be at the cost and expense of St. Paul's Episcopal Church, Georgetown, Delaware.

Section 3. Before removing any of the said bodies which removal is necessary because of the church building being destroyed by fire, the Rector, Warden and Vestry of St. Paul's Episcopal Church, Georgetown, Delaware, shall first make a reasonable effort to give notice in writing to descendants of the said deceased persons whose bodies are there and buried and which bodies are proposed to be removed by advertising in two (2) weekly newspapers in Sussex County for three (3) successive weeks and if, after such advertising, the Rector, Warden and Vestry received no objection from any descendant of any person whose body is to be disinterred and reinterred, then and in such event, the Rector, Warden and Vestry may proceed to disinter and reinter those bodies which it is necessary to disinter and reinter in order for the church building destroyed by fire to be enlarged.

Approved June 29, 1987.

CHAPTER 68

FORMERLY

SENATE BILL NO. 143

AN ACT TO AMEND TITLE 6, CHAPTER 45 OF THE DELAWARE CODE RELATING TO SUPPORT ANIMALS.

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 §4501, Title 6, Delaware Code by adding a new subsection 3, as follows:

"(3) 'Handicap' includes the use of support animal(s) because of a physical handicap of the user. Support animal means any animal individually trained to do work or perform tasks to meet the requirements of a physically disabled person, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items."

Section 2. Amend §4504(a), Title 6, Delaware Code by adding the following:

"For the purposes of training support animals to be used by the handicapped, all trainers and their support animals shall be included within the those covered by this subsection."

Approved June 29, 1987.

CHAPTER 69

FORMERLY

SENATE BILL NO. 152
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SECTIONS 7002, 8001 AND 8003, TITLE 9 OF THE DELAWARE CODE TO CHANGE THE DATES FOR ADOPTION OF THE SUSSEX COUNTY BUDGET AND LEVYING THE SUSSEX COUNTY TAX.

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

Section 1. Amend §7002, Chapter 70, Title 9 of the Delaware Code by striking the word "June" in the second paragraph of subsection (n) and substituting in lieu thereof the word "July."

Section 2. Amend §8001, Chapter 80, Title 9 of the Delaware Code by striking subsection (d) in its entirety and by inserting a new subsection (d) in lieu thereof to read as follows:

"(d) In New Castle County, the budget shall be adopted not later than the 1st day of June in each year, in Kent County, not later than the 30th day of April in each year, and in Sussex County, not later than the 1st day of July in each year."

Section 3. Amend §8003, Chapter 80, Title 9 of the Delaware Code by striking the words "the last Tuesday in April" in subsection (b) and substituting in lieu thereof the following "July 1."

Approved June 29, 1987.

CHAPTER 70

FORMERLY

SENATE BILL NO. 161
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 51, PART III, TITLE 25 OF THE DELAWARE CODE RELATING TO THE LANDLORD-TENANT CODE; AND PROVIDING FOR CERTAIN EXCLUSIONS FROM THE APPLICATION OF THE CODE.

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

Section 1. Amend §5102, Chapter 51, Part III, Title 25 of Delaware Code by adding thereto a new subsection, designated as subsection (13), which new subsection shall read as follows:

"(13) 'Transient lodgings' shall mean any rental unit which is leased or rented by a tenant for a period of 120 days or less in any calendar year under the terms of a non-renewable lease."

Section 2. Amend §5111, Chapter 51, Part III, Title 25 of the Delaware Code by adding thereto a new subsection, designated as subsection (4), which new subsection shall read as follows:

"(4) Transient lodgings located within the boundaries of Broadkill Hundred, Lewes-Rehoboth Hundred, Indian River Hundred, and Baltimore Hundred."

Section 3. Amend §5111, Chapter 51, Part III, Title 25 of the Delaware Code by striking the word "transient" as the same appears in subsection (3), and substituting the word "similar" in lieu thereof.

Approved June 29, 1987.

CHAPTER 71

FORMERLY

SENATE BILL NO. 174

AN ACT AUTHORIZING AND DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO ISSUE A COMMERCIAL GILL NET FOOD FISHING PERMIT TO JOSEPH F. FORST OF GEORGETOWN, DELAWARE, WHO IS PRESENTLY PROHIBITED FROM OBTAINING A PERMIT UNDER THE DELAWARE FINFISHING STATUTES.

WHEREAS, Mr. Joseph F. Forst of R.D. 4, Box 21B, Georgetown, Delaware has been engaged in commercial gill net fishing since 1979; and

WHEREAS, Mr. Forst was incapacitated with a back injury and subsequently required surgery during 1982 and 1983, thus rendering him physically unable to pursue his occupation due to health reasons; and

WHEREAS, Mr. Forst appeared before the Advisory Council on Tidal Finfisheries and gained their support by resolution to have legislation introduced to authorize the DNREC to issue a commercial gill net permit; and

WHEREAS, the Department of Natural Resources and Environmental Control has no objection to issuing Mr. Forst a commercial gill net permit if authorized by appropriate legislation.

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 and directed to issue a commercial gill net permit to Mr. Joseph F. Forst of R.D. 4, Box 21B, Georgetown, Delaware, notwithstanding the provisions of §915(f), Chapter 9, Title 7, Delaware Code.

Approved June 29, 1987.

CHAPTER 72

FORMERLY

HOUSE BILL NO. 215

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Chapter 33, title 19 of the Delaware Code by striking Section 3350(9) as it appears therein in its entirety and by substituting in its place a new Section 3350(9) to read as follows:

"(9) Supplemental Assessment Rate.

a. For any calendar year beginning January 1, 1988 and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is equal to or greater than \$90 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the following table:

<u>New Employer/ Basic Assessment Rate</u>	-	<u>Supplemental Assessment Rate</u>
.1 - 3.9%	-	1.1%
4.0 - 5.9%	-	1.2%
6.0 - 7.9%	-	1.3%
8.0%	-	1.5%

b. For any calendar year beginning January 1, 1988 and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is less than \$90 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the following table:

<u>New Employer/ Basic Assessment Rate</u>	-	<u>Supplemental Assessment Rate</u>
.1 - 3.9%	-	1.5%
4.0 - 5.9%	-	1.8%
6.0 - 7.9%	-	2.1%
8.0%	-	2.5%"

Section 2. Amend Section 3313(b), Chapter 33, Title 19 of the Delaware Code by striking the words "The amount shall not be less than \$20 nor more than 66-2/3 per cent of the statewide average weekly wage as defined in subdivision (21) of Section 3302 of this Title; however," as they appear after the words "If such weekly benefit amount is not an even dollar amount, it shall be rounded down to the next whole dollar." Therein and by substituting in their place the words "The minimum and maximum weekly benefit amount shall be determined in accordance with the following:"

Section 3. Amend Section 3313(b), Chapter 33, Title 19 of the Delaware code by redesignating paragraph "(4)" as it appears therein as subsection "(5)" and by inserting a new paragraph (4) to read as follows:

"(4) For the period beginning July 1, 1987 and ending December 31, 1987, the amount shall not be less than \$20 nor more than \$205."

Section 4. Amend Section 3313, Chapter 33, Title 19 of the Delaware Code by redesignating subsections "(c), (d), (e), (f), and (g)" as they appear therein as subsections "(f), (g), (h), (i), and (j)" respectively.

Section 5. Amend Section 3313, Chapter 33, Title 19 of the Delaware Code by adding a new subsection (c) to read as follows:

"(c) For claims establishing a benefit year beginning January 1, 1988 and thereafter, with respect to which the Unemployment Insurance Trust Fund balance, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is equal to or greater than \$90 million as of the preceding September 30, an individual's weekly benefit amount shall be an amount equal to 1/46 of his total wages for employment by employers paid during the 2 quarters of the individual's base period in which such wages were highest. If such weekly benefit amount is not an even dollar amount, it shall be rounded down to the next whole dollar. The amount shall not be less than \$20 nor more than \$205. Computations for any change in the maximum weekly benefit amount shall commence with new claims filed to establish a benefit year effective on or after January 1 of each year."

Section 6. Amend Section 3313, Chapter 33, Title 19 of the Delaware Code by adding a new subsection (d) to read as follows:

"(d) For claims establishing a benefit year beginning January 1, 1988 and thereafter, with respect to which the Unemployment Insurance Trust Fund balance, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is less than \$90 million as of the preceding September 30, an individual's weekly benefit amount shall be an amount equal to 1/52 of his total wages for employment by employers paid during the 2 quarters of the individual's base period in which such wages were highest. If such weekly benefit amount is not an even amount, it shall be rounded down to the next whole dollar. The amount shall not be less than \$20 nor more than \$205. Computations for any change in the maximum weekly benefit amount shall commence with new claims filed to establish a benefit year effective on or after January 1 of each year."

Section 7. Amend Section 3313, Chapter 33, Title 19 of the Delaware Code by adding a new subsection (e) to read as follows:

"(e) The Unemployment Compensation Advisory Council as defined in Section 3107 of this Title shall meet not less than every two years to review and make recommendations regarding the maximum weekly benefit amount. The Council's final recommendations shall be submitted to the Director of Unemployment Insurance by May 15 of the year in which the Council has met."

Approved June 30, 1987.

CHAPTER 73

FORMERLY

HOUSE BILL NO. 217

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Section 3302(17), Chapter 33, Title 19 of the Delaware Code by striking the words "which the employing unit is not legally required to make" as they appear after the words "dismissal payments" and before the words ", holiday pay" as they appear therein.

Approved June 30, 1987.

CHAPTER 74

FORMERLY

HOUSE BILL NO. 218

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Section 3348, Chapter 33, Title 19 of the Delaware Code by deleting subsection "(g)" in its entirety and by re-designating subsections "(h)" and "(i)" of this Section as subsections "(g)" and "(h)" respectively.

Section 2. Amend Section 3349, Chapter 33, Title 19 of the Delaware Code by deleting the words "standard rate" as they appear in the title of this subsection therein and by substituting in their place the words "new employer rate".

Section 3. Amend Section 3349(a)(3), Chapter 33, Title 19 of the Delaware Code by inserting after the words "subsection (b) or (c)" and before the words "of this Section" as they appear therein, the words "or (d)".

Section 4. Amend Section 3349(d), Chapter 33, Title 19 of the Delaware Code by deleting the words "and no employer shall be eligible for a reduced rate if he has reported no employment for 5 or more consecutive calendar quarters in such 2 experience years" as they appear after the words "preceding the computation date" and in their place insert a ".".

Section 5. Amend Section 3350, Chapter 33, Title 19 of the Delaware Code by deleting the words "standard rate" as they appear in the title of this subsection therein and by substituting in their place the words "new employer rate".

Section 6. Amend Section 3350(6), Chapter 33, Title 19 of the Delaware Code by striking this subsection in its entirety and by substituting in its place a new subsection 3350(6) to read as follows:

"(6) No employer's basic assessment rate or new employer rate for the period of 12 months commencing the 1st of January of any calendar year shall be less than 6-3/10% unless all required reports and all assessments due on wages paid for employment for such employer during pay periods ending on or prior to June 30 of the preceding year have been received by the Department on or prior to September 30 of such preceding year. If such required reports and assessments due are received by the Department after September 30 of the preceding year but prior to or on the last day of any calendar quarter of any calendar year, such employer's basic assessment rate or new employer rate for assessments on wages paid for employment for such employers during pay period in the said calendar quarter and for wages paid for employment for such employer during pay period in all succeeding calendar quarters in such calendar year shall be the basic assessment rate as determined for such employer under subsection (5) of this Section or the new employer rate as determined for such employer under Section 3348 of this Title, whichever the Department determines is applicable."

Section 7. Amend Section 3359, Chapter 33, Title 19 of the Delaware Code by deleting the sentence "Such assessment and determination shall be final and conclusive as to such employing unit's liability and the amount thereof, unless the employing unit shall protest such assessment and determination within 15 days after the mailing of the notice thereof." as it appears therein and insert in its place, a new sentence to read "Such assessment and determination shall, based upon administrative determination of the Department, be final and conclusive as to such employing unit's liability and the amount thereof, only until such time as the employing unit submits the required assessment report(s) to the Department, or unless the employing unit shall protest such assessment and determination within 15 days after the mailing of the notice thereof."

Approved June 30, 1987.

CHAPTER 75

FORMERLY

HOUSE BILL NO. 243

AN ACT TO AMEND TITLE 19, DELAWARE CODE, RELATING TO MINIMUM WAGE.

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

Section 1. Amend §901 (5), Title 19 of the Delaware Code by adding a new paragraph "g" to read as follows:

"g. Any individual under the age of eighteen (18) participating in and employed as a junior counselor or counselor in training (CIT) by a non-profit organization in a summer camp program."

Approved June 30, 1987.

CHAPTER 76

FORMERLY

HOUSE BILL NO. 278

AN ACT TO AMEND CHAPTER 137, VOLUME 61, LAWS OF DELAWARE ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF DELMAR" RELATING TO ELECTIONS AND TO THE ORGANIZATION OF THE TOWN COUNCIL.

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

Section 1. Amend Section 7, (a), Chapter 137, Volume 61, Laws of Delaware, by deleting that Section in its entirety and substituting in lieu thereof the following:

"The municipal election shall be held biannually on the first Monday in October between the hours of 7:00 a.m. and 7:00 p.m., prevailing time, at such place as designated by Town Council, the first municipal election to be held pursuant to this Charter to be held on the first Monday in October, A.D., 1988."

Section 2. Amend Section 8, Chapter 137, Volume 61, Laws of Delaware, by deleting that Section in its entirety and substituting in lieu thereof the following:

"On the first Monday in November after the municipal election, the Town Council shall meet at 8:00 p.m. prevailing time and the newly elected officers shall assume their duties. Before entering the duties of their office, the newly elected members shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity."

Section 3. Those who presently hold elected office at the time of the passage of this Act shall continue to hold office until their respective successors have been duly elected and qualified.

Approved June 30, 1987.

CHAPTER 77

FORMERLY

SENATE BILL NO. 230

AN ACT TO AMEND CHAPTER 49, TITLE 18 OF THE DELAWARE CODE RELATING TO REDOMESTICATION OF INSURERS.

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

Section 1. Amend Chapter 49, Title 18 of the Delaware Code by adding thereto a new section to read as follows:

"§4946. Redomestication: Approval as a Domestic Insurer; Conversion to Foreign Insurer: Effects of Redomestication: Authority to Promulgate Rules and Regulations.

(a) Any insurer which is organized under the laws of any other state and is admitted to do business in this State for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in this State. Said domestic insurer will be entitled to like certificates and licenses to transact business in this State and shall be subject to the authority and jurisdiction of this State.

(b) Any domestic insurer, may upon approval of the Commissioner transfer its domicile to any other state in which it is admitted to transact the business of insurance and upon such transfer shall cease to be a domestic insurer, and shall be admitted to this State if qualified as a foreign insurer. The Commissioner shall approve any such proposed transfer unless he shall determine such transfer is not in the interest of the policyholder of this State.

(c) The certificate of authority, agents appointments and licenses, rates, and other items which the Commissioner of Insurance allows, in his discretion, which are in existence at the time any insurer licensed to transact the business of insurance in this State transfers its corporate domicile to this or any other state by merger, consolidation or any other lawful method shall continue in full force and effect upon such transfer while the insurer remains duly qualified to transact the business of insurance in this State. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the Commissioner of Insurance. Every transferring insurer shall file new policy forms with the Commissioner of Insurance on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by the Commissioner of Insurance. However, every such transferring insurer shall notify the Commissioner of the details of the proposed transfer, and shall file promptly, any resulting amendments to corporate documents filed or required to be filed with Commissioner.

(d) The Commissioner of this State may promulgate rules and regulations to carry out the purposes of the section.

Section 2. This Act shall become effective immediately.

Approved June 30, 1987.

CHAPTER 78

FORMERLY

HOUSE BILL NO. 305

AN ACT TO AMEND CHAPTER 3, TITLE 3 OF THE DELAWARE CODE RELATING TO MARKETING.

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

Section 1. Amend Section 302, Chapter 3, Title 3 of the Delaware Code by adding a new paragraph, to be known and referred to as paragraph (a)(4) which shall read as follows:

"(a)(4) Provide testing of feeds, fertilizers, liming materials, frozen desserts, milk and milk products for the public and charge for the cost of these services."

Section 2. Amend Section 302(b), Chapter 3, Title 3 of the Delaware Code by changing the phrase "butter fat samples" as it appears therein, to the phrase "feeds, fertilizers, liming materials, frozen desserts, milk and milk products."

Approved July 2, 1987.

CHAPTER 79

FORMERLY

HOUSE BILL NO. 306

AN ACT TO AMEND CHAPTER 87, TITLE 3 OF THE DELAWARE CODE RELATING TO MEAT AND POULTRY INSPECTION LICENSING FEES.

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

Section 1. Amend §8709, Chapter 87, Title 3 of the Delaware Code by striking the amount "\$10" where it appears therein and by substituting in lieu thereof the amount "\$25".

Approved July 2, 1987.

CHAPTER 80

FORMERLY

HOUSE BILL NO. 307

AN ACT TO AMEND CHAPTER 51, TITLE 6 OF THE DELAWARE CODE RELATING TO WEIGHMASTER LICENSE FEES.

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

Section 1. Amend §5132(b), Chapter 51, Title 6 of the Delaware Code by striking said subsection in its entirety and substituting the following new Subsection:

"(b) The term of appointment of each weighmaster shall be for a term of three years. The appointment period will run concurrent with the calendar years. Any weighmaster may have his license revoked by the Secretary of Agriculture by whom he was appointed or by his successor, for misconduct in office, dishonesty, incompetency, violation of a provision of this Subchapter or if he ceases to possess the qualifications specified for his original appointment."

Section 2. Amend §5132, Chapter 51, Title 6, Delaware by striking the amount "\$5" where it appears therein and by substituting in lieu thereof the amount "\$25".

Approved July 2, 1987.

CHAPTER 81

FORMERLY

HOUSE BILL NO. 309

AN ACT TO AMEND SECTION 9801, CHAPTER 98 TITLE 10 OF THE DELAWARE CODE RELATING TO JUSTICE OF THE PEACE COURT COSTS.

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

Section 1. Amend Section 9801, Chapter 98, Title 10 of the Delaware Code, by striking the said Section in its entirety and substituting, in lieu thereof, a new Section 9801 to read as follows:

"§9801. Rates.

All costs in proceedings before Justices of the Peace shall be at the following rates:

1. Civil

a. For receipt, issuance and process of civil action \$24.

In addition to the above:

For issuance of an alias, pluries or any subsequent writ of process \$15.

Action of replevin \$15.

Attachment in lieu of summons \$20.

Scire facias \$10.

Hearings for relief from judgment or order under J.P.Ct.Civ.R. 20, or to vacate a default judgment or a non-suit judgment \$10.
For preparation of docket entries or full copies of records, duly certified \$7.

b. Landlord/tenant appeals to 3 judge court \$30.

c. Executions:

Execution process, to include Prothonotary fee and fieri facias \$25.

Garnishment \$25.

Vendition exponas and costs incident to sale of goods \$20.

d. For issuance of civil subpoena \$2.

e. For mailing of subpoena . at prevailing mail rate.

2. Processing all Traffic and Criminal Cases.

a. For issuing, processing and filing a warrant or summons \$11.50

b. For processing a voluntary assessment agreement \$8.50

c. For conducting a trial or accepting a plea of guilty (including a Robinson plea) or nolo contendere \$3.50

d. For preparation of commitment and detention forms; each form \$2.

e. For preparation of bail, judgment and appeal bonds, each bond \$2.

f. For preparing certified transcript of the record \$7.

- g. For issuance of a capias \$10.
- h. Capias returned by constable \$10.
- 3. For Processing Applications for Authorization to Sell Motor Vehicles Under Chapter 39 of Title 25, Chapter 44 of Title 21 and Chapter 69 of Title 21.
 - a. For issuing orders without necessity of a hearing \$3.
 - b. For issuing orders with a hearing \$15.
- 4. Dishonored Checks.
 - a. In connection with any Justice of the Peace Court proceeding, for processing a check dishonored for insufficient funds or closed account \$30.

These rates are absolute. There shall be no refund nor shall there be any additional charges except as otherwise authorized by Delaware law."

Approved July 2, 1987.

CHAPTER 82

FORMERLY

HOUSE BILL NO. 311

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE FEE ASSESSED FOR DRIVER RECORDS AND VEHICLE RECORDS.

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

Section 1. Amend Section 305(e), Chapter 3, Title 21 of the Delaware Code by striking the figures "\$2" as they appear in said section and insert in lieu thereof the figures "\$4", striking the figure "\$4" as they appear in said section and insert in lieu thereof the figure "\$8."

Approved July 2, 1987.

CHAPTER 83

FORMERLY

HOUSE BILL NO. 313

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE FEE ASSESSED FOR RETAINING A REGISTRATION PLATE.

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

Section 1. Amend Section 2128, Chapter 21, Title 21 of the Delaware Code by striking the figures "\$5" as they appear in subsection (a) and inserting in lieu thereof the figures "\$10."

Approved July 2, 1987.

CHAPTER 84

FORMERLY

HOUSE BILL NO. 318

AN ACT TO AMEND CHAPTER 83, TITLE 21 OF THE DELAWARE CODE RELATING TO THE INCREASE IN LICENSE FEE FOR A COMMERCIAL DRIVER TRAINING SCHOOL INSTRUCTOR.

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

Section 1. Amend Section 8305, Chapter 83, Title 21 of the Delaware Code by striking the figures "\$5" and inserting in lieu thereof the figures "\$50."

Approved July 2, 1987.

CHAPTER 85
FORMERLY
HOUSE BILL NO. 350

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1988; 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, 1988, 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 1988, shall not have been paid out of the State Treasury, shall revert to the General Fund, provided: however, that no funds shall revert which are encumbered pursuant to Section 6521, Title 29, Delaware Code.

The several amounts hereby appropriated are as follows:

DEPARTMENTS

Year Ending June 30, 1988

(01-00-00) LEGISLATIVE

(01-01-01) General Assembly - House

Salaries - House Members	\$ 947.2
Salaries (15.0)	350.0
Salaries - Attaches	334.3
Other Employment Costs	245.3
Travel	
Mileage - Legislators	68.0
Other - Travel	32.0
Contractual Services	210.4
Supplies and Materials	20.0
Capital Outlay	20.5
Computer/Software	25.0
Maintenance/Restoration	.6
Expenses - House Members	205.0
House Committee Expenses	25.0
	<hr/> 25.0

TOTAL -- General Assembly - House \$ 2,483.3

(01-02-01) General Assembly - Senate

Salaries - Senate Members	\$ 502.4
Salaries (10.0)	240.3
Salaries - Attaches	285.0
Other Employment Costs	131.8
Travel	
Mileage - Legislative	36.5
Other - Travel	27.5
Contractual Services	170.7
Supplies and Materials	23.0
Capital Outlay	14.0
Maintenance/Restoration	.5
Expenses - Senate Members	105.0
Senate Committee Expenses	25.0
	<hr/> 25.0

TOTAL -- General Assembly - Senate \$ 1,561.7

(01-05-01) Commission on Interstate Cooperation

Travel	\$ 18.0
Legislative Travel	65.0
Contractual Services	30.0
Supplies and Materials	.5
Council of State Governments	35.8
Delaware River Basin Commission	205.0
National Conference of State Legislatures	43.6
	<hr/> 43.6

TOTAL -- Commission on Interstate Cooperation \$ 397.9

(01-08-00) Legislative Council

(01-08-01) Office of the Research Director

Salaries (16.0)	\$ 398.9
Other Employment Costs	97.3
Travel	6.0
Contractual Services	46.8
Supplies and Materials	40.2
Capital Outlay	35.0
Printing & Binding Session Laws	20.0
Sunset Committee Expenses	30.4
Set Services Program	17.0
	<hr/> 17.0

Sub-Total \$ 691.6

Debt Service \$ 17.1

TOTAL -- Office of the Research Director \$ 708.7

(01-08-02) Office of Controller General

Salaries (14.0)	\$	485.7
Other Employment Costs		109.4
Travel		8.9
Contractual Services		130.8
Supplies and Materials		17.2
Capital Outlay		2.7
Computer/Software		10.0
Contingency - Zero Base Budget		10.0
Contingency - Internship		10.0
Contingency - Legislative Council		20.0

TOTAL -- Office of Controller General \$ 804.7

(01-08-03) Code Revisors

Travel	\$.8
Contractual Services		140.8
Supplies and Materials		1.0

TOTAL -- Code Revisors \$ 142.6

(01-08-06) Commission on Uniform State Laws

Travel	\$	8.0
Contractual Services		5.0
Supplies and Materials		1

TOTAL -- Commission on Uniform State Laws \$ 13.1

TOTAL -- Legislative Council \$ 1,669.1

TOTAL -- LEGISLATIVE \$ 6,112.0

TOTAL POSITIONS

OF - 55.0

(02-00-00) JUDICIAL(02-01-00) Supreme Court

Personnel Costs (21.0)	\$		\$ 1,060.4
Travel		5.0	21.0
Contractual Services		74.9	82.0
Supplies & Materials		5.1	14.4
Capital/Equipment			10.8

Sub-Total \$ 85.0 \$ 1,188.6

Debt Service \$ 15.1

TOTAL -- Supreme Court \$ 85.0 \$ 1,203.7

(02-01-10) Appeal Processing (20.5) \$ 85.0 \$1,112.4

(02-01-20) Regulation of Practice of Law 91.3

(02-01-30) Judicial Administration (.5) \$ 85.0 \$1,203.7

(02-02-00) Court of Chancery(02-02-01) Court of Chancery

Salaries (20.0)	\$	720.5
Other Employment Costs		232.3
Travel		7.9
Contractual Services		48.8
Supplies and Materials		11.9
Capital Outlay		9.2

TOTAL -- Court of Chancery \$ 1,030.6

(02-02-02) Public Guardian

Salaries (6.0)	\$	140.5
Other Employment Costs		33.5
Travel		2.6
Contractual Services		6.9
Supplies and Materials		4.7
Capital Outlay		.9

TOTAL -- Public Guardian \$ 189.1

TOTAL -- Court of Chancery \$ 1,219.7

(02-03-00) Superior Court(02-03-00) Superior Court

Personnel Costs (136.0)	\$	4,584.8
Travel		29.1
Contractual Services		233.5
Supplies and Materials		45.5

Capital Outlay			\$ 50.0	
			\$ 4,942.9	
<u>(02-03-50) New Castle County Prothonotary</u>				
Salaries (60.0)			\$ 796.0	
Other Employment Costs			161.2	
Travel			1.3	
Contractual Services			107.4	
Supplies and Materials			12.9	
Capital Outlay			11.1	
			\$ 1,089.9	
<u>(02-03-60) Kent County Prothonotary</u>				
Salaries (11.0)			\$ 124.1	
Other Employment Costs			33.5	
Travel			1.0	
Contractual Services			34.0	
Supplies and Materials			5.6	
Capital Outlay			6.2	
			\$ 204.4	
<u>(02-03-70) Sussex County Prothonotary</u>				
Salaries (7.0)			\$ 78.7	
Other Employment Costs			56.6	
Travel			.1	
Contractual Services			13.9	
Supplies and Materials			2.2	
Capital Outlay			3.0	
			\$ 154.5	
TOTAL -- Superior Court			\$ 6,391.7	
(02-03-10) Case Processing	(98.0)	\$ 3,924.8		
(02-03-20) Presentence	(31.0)	771.2		
(02-03-30) Administration	(4.0)	157.1		
(02-03-40) Arbitration	(3.0)	89.8		
(02-03-50) New Castle County Prothonotary	(60.0)	1,089.9		
(02-03-60) Kent County Prothonotary	(11.0)	204.4		
(02-03-70) Sussex County Prothonotary	(7.0)	154.5		
		\$ 6,391.7		
<u>(02-06-01) Court of Common Pleas</u>				
Salaries (62.0)			\$ 1,469.2	
Other Employment Costs			442.9	
Travel			4.8	
Contractual Services			77.4	
Supplies and Materials			16.3	
Capital Outlay			15.2	
TOTAL -- Court of Common Pleas			2,025.8	
<u>(02-08-01) Family Court of Delaware</u>				
(6.0)NSF Salaries (229.0)		\$ 570.7	\$ 5,234.2	
(30.0)ASF Other Employment Costs		185.9	1,532.7	
Travel		10.5	24.4	
Contractual Services		198.7	567.5	
Supplies and Materials		14.4	85.9	
Capital Outlay		31.9	32.2	
Computer/Software		13.5		
Sub-Total		\$ 1,025.6	\$ 7,476.9	
Debt Service			\$ 13.8	
TOTAL -- Family Court of Delaware		\$ 1,025.6	\$ 7,490.7	
<u>(02-09-01) Kent County Law Library</u>				
Salaries (1.5)			\$ 31.6	
Other Employment Costs			9.2	
Travel			.2	
Contractual Services			2.0	
Supplies and Materials			.5	
Capital Outlay			74.3	
TOTAL -- Kent County Law Library			\$ 117.8	
<u>(02-10-01) Sussex County Law Library</u>				
Salaries (1.0)			\$ 21.6	
Other Employment Costs			4.9	
Travel			.1	
Contractual Services			2.8	
Supplies and Materials			.6	
Capital Outlay			61.8	
TOTAL -- Sussex County Law Library			\$ 91.8	
<u>(02-11-01) New Castle County Law Library</u>				

Salaries (2.0)	\$	35.6	
Other Employment Costs		9.1	
Travel		.5	
Contractual Services		3.7	
Supplies and Materials		.6	
Capital Outlay		<u>75.3</u>	
TOTAL -- New Castle County Law Library	\$	124.8	
<u>(02-13-01) Justice of the Peace Courts</u>			
Salaries (202.0)	\$	4,119.1	
Other Employment Costs		1,027.7	
Travel		92.3	
Contractual Services		549.5	
Supplies and Materials		70.1	
Capital Outlay		42.0	
Maintenance/Restoration		<u>2.0</u>	
TOTAL -- Justice of the Peace Courts	\$	5,902.7	
<u>(02-17-00) Administrative Office of the Courts</u>			
<u>(02-17-01) Office of the Director</u>			
Salaries (12.0)	\$	326.5	
Other Employment Costs		79.2	
Travel		3.8	
Contractual Services		2,336.7	
Supplies and Materials		5.5	
Capital Outlay		2.0	
Court Appointed Attorneys		347.8	
Maintenance/Restoration		<u>2.2</u>	
TOTAL -- Office of the Director	\$	3,103.7	
<u>(02-17-02) Violent Crimes Compensation Board</u>			
(5.0)ASF Salaries	\$	147.2	
Other Employment Costs		36.3	
Travel		14.0	
Contractual Services		28.9	
Supplies and Materials		1.6	
Capital Outlay		2.6	
Revenue Refunds		.7	
Attorneys		14.6	
Medical Opinions		.5	
Victims' Compensation		<u>558.8</u>	
TOTAL -- Violent Crimes Compensation Board	\$	805.2*	
*Special Funds appropriated per Chapter 90, Title 11, Delaware Code			
<u>(02-17-03) Foster Care Review Board</u>			
Salaries (6.0)	\$	112.5	
Other Employment Costs		29.0	
Travel		17.6	
Contractual Services		34.9	
Supplies and Materials		5.2	
Capital Outlay		<u>2.9</u>	
TOTAL -- Foster Care Review Board	\$	202.1	
<u>(02-17-04) Judicial Information Center</u>			
Salaries (9.5)	\$	287.9	
Other Employment Costs		63.6	
Travel		3.7	
Contractual Services		391.3	
Supplies and Materials		7.8	
Capital Outlay		2.6	
Computer/Software		<u>35.0</u>	
TOTAL -- Judicial Information Center	\$	791.9	
TOTAL -- Administrative Office of the Courts	\$	805.2	\$ 4,097.7
TOTAL -- JUDICIAL	\$	1,915.8	\$ 28,666.4
<u>TOTAL POSITIONS</u>			
GF - 786.0			
ASF - 35.0			
NSF - 6.0			
<u>(10-00-00) EXECUTIVE</u>			
<u>(10-01-01) Office of the Governor</u>			
(1.0)ASF Salaries (22.5)	\$	25.7	\$ 782.4
(3.0)NSF Other Employment Costs		4.6	171.3
Travel		1.0	21.9
Contractual Services		168.3	171.4
Supplies and Materials		2.5	29.6

	Capital Outlay	1.0	18.4
	Computer/Software	4.0	
	Woodburn Expenses		30.3
	Contingency - Other Expenses		8.7
	Contingency - Legal Fees		5.0
	<hr/>		<hr/>
TOTAL -- Office of the Governor		\$ 207.1	\$ 1,239.0
<u>(10-02-00) Office of the Budget</u>			
<u>(10-02-01) Administration</u>			
(3.0)ASF	Salaries (29.0)	\$ 79.6	\$ 979.7
	Other Employment Costs	17.3	220.6
	Travel	.6	11.2
	Contractual Services	118.6	241.7
	Supplies and Materials	1.9	13.9
	Capital Outlay	.5	5.2
	Computer/Software		4.1
	Data Processing - Development Projects		1,800.0
	Budget Automation - Operations		127.9
	Management Improvement Program		90.0
	Other		9.2
	<hr/>	<hr/>	<hr/>
Sub-Total		\$ 668.5	\$ 3,503.5
	Debt Service		\$ 70.0
	<hr/>	<hr/>	<hr/>
TOTAL -- Administration		\$ 668.5	\$ 3,573.5
<u>(10-02-04) Budget Office - Contingencies</u>			
	Contingency - Termination Pay	\$	\$ 25.0
	Contingency - Salaries and Other Employment Costs		2,430.1
	Contingency - Prior Years' Obligations		250.0
	Contingency - Selective Market Variations		155.0
	Contingency - Self Insurance Fund		1,919.0
	Contingency - Energy		200.0
	Contingency - Legal Fees		150.0
	Contingency - State Special Funds		
	<hr/>	<hr/>	<hr/>
TOTAL -- Budget Office - Contingencies		\$ 16,000.0	\$ 5,129.1
<u>(10-02-05) Budget Office - Other Items</u>			
<u>(One-Time Appropriations)</u>			
	Contingency - Other Items		\$ 21,885.2
TOTAL -- Budget Office - Other Items			\$ 21,885.2
<u>(10-02-06) Budget Commission</u>			
	Contingency Funds		\$ 150.0
TOTAL -- Budget Commission			\$ 150.0
<u>(10-02-07) Postsecondary Education</u>			
(3.0)HSF	Salaries (5.5)	\$	\$ 148.6
	Other Employment Costs		34.1
	Travel		6.0
	Contractual Services		41.0
	Supplies and Materials		4.7
	Scholarships		1,089.3
	<hr/>		<hr/>
TOTAL -- Postsecondary Education			\$ 1,323.7
<u>(10-02-09) Information Service Operations and Facilities Management</u>			
	Salaries (112.0)	\$	\$ 2,650.6
	Other Employment Costs		638.8
	Travel		12.0
	Contractual Services	290.0	4,089.9
	Supplies and Materials		194.5
	Capital Outlay		20.2
	<hr/>	<hr/>	<hr/>
Sub-Total		\$ 290.0	\$ 7,606.0
	Debt Service		\$ 27.6
	<hr/>	<hr/>	<hr/>
TOTAL -- Information Systems		\$ 290.0	\$ 7,633.6
<u>(10-02-11) Biggs Center</u>			
(5.0)ASF	Salaries (11.0)	\$ 89.4	\$ 331.7
	Other Employment Costs	24.2	75.5
	Travel		5.7
	Contractual Services	281.7	448.3
	Supplies and Materials		38.8
	Capital Outlay		5.0
	<hr/>	<hr/>	<hr/>
TOTAL -- Health and Social Information Systems		\$ 395.3	\$ 905.0
<u>(10-02-12) Office of Telecommunications</u>			

Salaries (8.0)		\$	309.1
Other Employment Costs			71.2
Travel			10.5
Contractual Services			125.2
Supplies and Materials			4.0
Computer/Software			5.8
DFMS Network			<u>300.0</u>
TOTAL -- Office of Telecommunications		\$	825.8
<u>(10-02-13) Carvel Center:</u>			
Salaries (7.0)		\$	157.0
Other Employment Costs			43.0
Contractual Services			<u>96.9</u>
TOTAL -- Carvel Center		\$	296.9
<u>(10-02-14) Information Planning & Administration</u>			
Salaries and Wages (10.0)		\$	391.3
Other Employment Costs			94.3
Travel			7.7
Contractual Services			166.6
Supplies and Materials			1.6
Capital Outlay		\$.9
Computer/Software			<u>12.1</u>
TOTAL -- Information Planning & Administration		\$	674.5
<u>(10-02-15) Information Systems</u>			
Salaries (7.0)	\$	\$	221.1
Other Employment Costs			58.7
Travel			6.4
Contractual Services			86.0
Supplies and Materials			5.4
Capital Outlay		\$	<u>2.2</u>
			<u>379.8</u>
TOTAL -- Office of the Budget	\$	17,353.8	\$ 42,777.1
<u>(10-03-00) Delaware Development Office</u>			
<u>(10-03-01) Office of the Director</u>			
Salaries (13.0)	\$	\$	359.6
Other Employment Costs			86.0
Travel			5.0
Contractual Services	20.5		34.8
Supplies and Materials			3.8
Teacher Recruitment			<u>70.0</u>
Sub-Total	\$	20.5	\$ 559.2
Debt Service			<u>224.5</u>
TOTAL -- Office of the Director	\$	20.5	\$ 783.7
<u>(10-03-02) Delaware Tourism Office</u>			
Salaries (8.0)	\$	\$	187.9
Other Employment Costs			46.8
Travel			11.4
Contractual Services			711.3
Supplies and Materials			9.4
Capital Outlay			2.5
Business Tourism Promotion	245.0		245.0
Junior Miss			.5
Mother of the Year			.8
Young Mother of the Year			<u>.8</u>
TOTAL -- Delaware Tourism Office	\$	245.0	\$ 1,216.4
<u>(10-03-03) Delaware Economic Development Authority</u>			
(3.0)ASF Salaries (29.0)	\$	84.5	\$ 883.0
Other Employment Costs		15.1	188.2
Travel		10.0	39.5
Contractual Services		717.3	559.4
Supplies and Materials		11.9	18.5
Capital Outlay		5.0	11.6
Other Items		993.0	160.0
General Obligation Bonds			279.2
International Trade			<u>40.0</u>
Sub-Total	\$	1,836.8	\$ 2,179.4
Debt Service			<u>1,445.5</u>
TOTAL -- Delaware Economic Development Authority	\$	1,836.8	\$ 3,624.9
TOTAL -- Delaware Development Office	\$	2,102.3	\$ 5,625.0

(10-04-00) Office of State Personnel(10-04-01) Administration

(2.0)ASF	Salaries (11.0)	\$ 45.9	\$ 323.1
	Other Employment Costs	5.9	77.9
	Travel	.5	6.0
	Travel - Commission		3.0
	Contractual Services	9.5	105.3
	Supplies and Materials	5.5	28.4
TOTAL -- Administration		\$ 67.3	\$ 543.7

(10-04-02) Operations

(9.0)ASF	Salaries (18.0)	\$ 158.1	\$ 461.4
	Other Employment Costs	39.1	111.5
	Travel	2.1	4.5
	Contractual Services	20.0	88.6
	Supplies and Materials	22.5	2.8
	Capital Outlay	14.5	12.0
	Generic Aides (20.0)		249.8
TOTAL -- Operations		\$ 256.3	\$ 930.6

(10-04-04) Staff Development and Training

(1.0)ASF	Salaries (3.0)	\$ 14.2	\$ 116.5
	Other Employment Costs	3.9	27.9
	Travel	.5	1.5
	Contractual Services	1.0	53.4
	Supplies and Materials	1.0	23.8
TOTAL -- Staff Development and Training		\$ 20.6	\$ 223.1

(10-04-05) Insurance Coverage Office

	Salaries & Wages (1.0)	\$	\$ 44.3
	Other Employment Costs		9.7
	Contractual Services	7,500.0	573.4
TOTAL -- Insurance Coverage Office		\$ 7,500.0	\$ 627.4
TOTAL -- Office of State Personnel		\$ 7,844.2	\$ 2,324.8

(10-07-00) Criminal Justice(10-07-01) Criminal Justice Council

(3.5)NSF	Salaries (11.0)		\$ 329.4
	Other Employment Costs		70.9
	Travel		6.5
	Contractual Services		49.5
	Supplies and Materials		3.9
	Capital Outlay		3.4
	SENTAC		10.0
	Other		92.8
TOTAL -- Criminal Justice Council			\$ 566.4

(10-07-02) Delaware Justice Information System

	Salaries (5.0)		\$ 151.8
	Other Employment Costs		34.7
	Travel		3.9
	Contractual Services		19.4
	Supplies and Materials		3.7
	Computer/Software		90.0
TOTAL -- Delaware Justice Information System			\$ 303.5

(10-07-03) Statistical Analysis Center

(1.0)NSF	Salaries (3.0)		\$ 80.2
	Other Employment Costs		19.1
	Travel		2.2
	Contractual Services		7.3
	Supplies		2.3
	Capital Outlay		1.5
	Computer/Software		1.7
TOTAL -- Statistical Analysis Center			\$ 114.3
TOTAL -- Criminal Justice			\$ 984.2

(10-08-01) Planning and Coordination

	Salaries (4.0)		\$ 129.1
	Other Employment Costs		30.9
	Travel		4.5
	Contractual Services		65.5
	Supplies and Materials		0.5
TOTAL -- Planning and Coordination			\$ 236.5

TOTAL -- EXECUTIVE		\$ 27,507.4	\$ 53,186.6
<u>TOTAL POSITIONS</u>			
GF - 338.0			
ASF - 24.0			
NSF - 10.5			
<u>(12-00-00) OTHER ELECTIVE OFFICES</u>			
<u>(12-01-01) Lieutenant Governor</u>			
Salaries (5.0)		\$	128.9
Salaries - Board of Pardons			.3
Other Employment Costs			24.1
Travel			10.9
Contractual Services			27.8
Supplies and Materials			6.4
Expenses - Lieutenant Governor			<u>6.4</u>
TOTAL -- Lieutenant Governor		\$	204.8
<u>(12-02-01) Auditor of Accounts</u>			
(15.0) ASF	Salaries (41.0)	\$ 314.0	\$ 973.9
	Other Employment Costs	84.5	246.2
	Travel	3.6	3.5
	Contractual Services	197.5	110.9
	Supplies and Materials	10.8	9.2
	Capital Outlay	16.7	15.5
	Computer/Software	<u>3.5</u>	<u>1.9</u>
TOTAL -- Auditor of Accounts		\$ 630.6	\$ 1,361.1
<u>(12-03-00) Insurance Commissioner</u>			
<u>(12-03-01) Regulatory Activities</u>			
Salaries (18.0)		\$	470.2
Other Employment Costs			96.8
Travel		10.7	8.3
Contractual Services			160.2
Supplies and Materials			7.3
Capital Outlay			5.4
Computer/Software			.4
Maintenance/Restoration			.4
Malpractice Review			<u>13.5</u>
TOTAL -- Regulatory Activities		\$ 10.7	\$ 762.5
<u>(12-03-02) Bureau of Examination, Rehabilitation and Guaranty</u>			
(23.0) ASF	Salaries	\$ 661.3	
	Other Employment Costs	149.2	
	Travel	112.0	
	Contractual Services	342.4	
	Supplies	33.8	
	Capital Outlay	14.4	
	Maintenance/Restoration	.2	
	Contract Examiners	<u>5,000.0</u>	
TOTAL -- Bureau of Examination, Rehabilitation and Guaranty		\$ 6,313.3	
TOTAL -- Insurance Commissioner		\$ 6,324.0	\$ 762.5
<u>(12-05-00) State Treasurer</u>			
<u>(12-05-01) Administration</u>			
(6.0) ASF	Salaries (20.0)	\$ 176.2	\$ 474.5
(1.0) NSF	Other Employment Costs	43.8	108.2
	Travel	6.6	3.5
	Contractual Services	34.5	139.6
	Banking Services	920.9	
	Supplies and Materials	2.3	9.2
	Capital Outlay	5.8	3.1
	Computer/Software	4.0	1.6
	Maintenance/Restoration		1.0
	Data Processing	10.0	
	Blood Bank Membership Dues		<u>20.0</u>
TOTAL -- Administration		\$ 1,204.1	\$ 810.7
<u>(12-05-02) Pensions</u>			
(28.7) ASF	Salaries (1.3)	\$ 577.4	\$ 31.8
	Other Employment Costs	144.3	8.2
	Travel	24.5	.8
	Contractual Services	4,854.9	3.1
	Supplies and Materials	18.1	.5
	Capital Outlay	5.5	.5
	Computer/Software	4.5	
	Data Processing	90.0	
	Maintenance/Restoration	<u>7.5</u>	

Health Insurance - Retirees		9,750.2
Pensions - Paraplegic Veterans		16.8
Death Benefits		<u>114.0</u>

TOTAL -- Pensions	\$ 5,726.7	\$ 9,925.9
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*All Administrative Expenses are paid out of State Employees Retirement Fund.

(12-05-03) Debt Management

Expense of Issuing Bonds	\$	152.7
Debt Service - Regular		284.4
Debt Service - Local Schools		1,185.0
Debt Service - Farmers Bank Preferred Stock		1,625.5
Debt Service - Solid Waste Authority		467.6
Debt Service - Refunding		782.4
Defeasance Escrow		<u>5.0</u>

TOTAL -- Debt Management		\$ 4,502.6
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TOTAL -- State Treasurer	\$ 6,930.8	\$ 15,239.2
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TOTAL -- OTHER ELECTIVE OFFICES	\$ 13,885.4	\$ 17,567.6
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TOTAL POSITIONS

GF - 85.3

ASF - 72.7

NSF - 1.0

(15-00-00) LEGAL

(15-01-00) Department of Justice

(15-01-01) Office of Attorney General

(2.0)ASF Salaries (137.0)	\$ 52.4	\$ 3,536.9
(21.5)NSF Other Employment Costs	6.4	843.3
Travel		10.0
Contractual Services		658.2
Supplies and Materials		33.5
Capital Outlay		40.7
Extradition		<u>48.0</u>

TOTAL -- Office of Attorney General	\$ 58.8	\$ 5,170.6
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TOTAL -- Department of Justice	\$ 58.8	\$ 5,170.6
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(15-02-01) Public Defender

Salaries (66.0)	\$	1,754.4
Other Employment Costs		414.7
Travel		1.9
Contractual Services		283.5
Supplies and Materials		22.7
Capital Outlay		<u>29.6</u>

TOTAL -- Public Defender		\$ 2,506.8
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(15-03-01) Board of Parole

Salaries (7.0)	\$	165.7
Other Employment Costs		37.4
Travel		9.1
Contractual Services		19.1
Supplies and Materials		<u>5.5</u>

TOTAL -- Board of Parole		\$ 236.8
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TOTAL -- LEGAL	\$ 58.8	\$ 7,914.2
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TOTAL POSITIONS

GF - 210.0

ASF - 2.0

NSF - 21.5

(20-00-00) DEPARTMENT OF STATE

(20-01-00) Office of the Secretary

(20-01-01) Administration

Salaries (6.0)	\$	184.1
Other Employment Costs		37.0
Travel		4.6
Contractual Services		27.0
Supplies and Materials		2.7
Capital Outlay		<u>12.8</u>

Sub-Total	\$	268.2
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Debt Service	\$	226.1
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TOTAL - Administration		<u>494.3</u>
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(20-01-02) Delaware Commission on Veterans Affairs

	Salaries (2.0)			\$	37.6
	Other Employment Costs				10.7
	Travel				4.2
	Contractual Services				6.0
	Supplies and Materials				1.5
	Capital Outlay				1.2
	Computer/Software				1.3
	TOTAL -- Delaware Commission on Veterans Affairs			\$	62.5
	TOTAL -- Office of the Secretary			\$	556.8
	<u>(20-05-01) Division of Corporations</u>				
(28.1)ASF	Salaries (45.5)	\$	535.3	\$	798.7
	Other Employment Costs		113.0		181.7
	Travel		27.0		1.4
	Contractual Services		95.0		257.8
	Supplies and Materials		10.0		60.6
	Capital Outlay		7.0		13.6
	Computer/Software		138.4		
	Maintenance/Restoration				.2
	Other Items		5.0		
	Microfiche on-line computer system		45.0		
	New Telephone System - Corporations		110.0		
	TOTAL -- Division of Corporations	\$	1,085.7	\$	1,314.0
	<u>(20-06-00) Division of Historical and Cultural Affairs</u>				
	<u>(20-06-01) Office of Administration</u>				
	Salaries (3.7)			\$	98.8
	Other Employment Costs				20.7
	Travel				1.0
	Contractual Services				6.5
	Supplies and Materials				2.0
	Other Items				104.1
	Sub-Total			\$	233.1
	Debt Service			\$	206.0
	TOTAL -- Office of Administration			\$	439.1
	<u>(20-06-02) Archives and Records Management</u>				
(5.0)NSF	Salaries (12.0)			\$	200.0
	Other Employment Costs				49.3
	Travel				1.3
	Contractual Services				26.6
	Supplies and Materials				9.5
	Capital Outlay				9.5
	Maintenance/Restoration				.8
	TOTAL -- Archives and Records Management			\$	297.0
	<u>(20-06-03) Bureau of Archaeology and Historic Preservation</u>				
(4.0)NSF	Salaries (4.0)			\$	96.6
	Other Employment Costs				22.8
	Travel				.6
	Contractual Services				6.8
	Supplies and Materials				4.1
	Capital Outlay				.9
	Maintenance/Restoration				.1
	TOTAL -- Bureau of Archaeology and Historic Preservation			\$	131.9
	<u>(20-06-04) Bureau of Museums and Historic Sites</u>				
	Salaries (32.5)	\$		\$	592.6
	Other Employment Costs				126.4
	Travel		.5		1.5
	Contractual Services		23.5		127.3
	Supplies and Materials		42.7		22.8
	Capital Outlay		3.6		20.0
	Maintenance/Restoration		5.0		96.6
	Sub-Total	\$	75.3	\$	987.2
	Debt Service			\$	137.1
	TOTAL -- Bureau of Museums and Historic Sites	\$	75.3	\$	1,124.3
	<u>(20-06-05) Microfilm Services</u>				
	Salaries (17.0)	\$	10.0	\$	251.6
	Other Employment Costs		.2		67.5
	Travel		1.0		1.4
	Contractual Services		28.3		179.3
	Supplies and Materials		5.7		74.1
	Capital Outlay		9.2		22.0
	Maintenance/Restoration		.2		2.0

TOTAL -- Microfilm Services		\$	54.6	\$	597.9
<u>(20-06-16) Office of Arts Council</u>					
(3.5)NSF	Salaries (4.0)			\$	77.4
	Other Employment Costs				16.4
	Travel				1.7
	Contractual Services				47.4
	Supplies and Materials				1.9
	Capital Outlay				<u>1.5</u>
TOTAL -- Office of Arts Council				\$	<u>146.3</u>
TOTAL -- Division of Historical and Cultural Affairs		\$	129.9	\$	2,736.5
<u>(20-15-01) Division of State Banking Commission</u>					
(31.8)ASF	Salaries	\$	704.6		
	Other Employment Costs		173.6		
	Travel		28.5		
	Contractual Services		131.3		
	Supplies and Materials		13.2		
	Capital Outlay		42.6		
	Computer/Software		4.0		
	Maintenance/Restoration		1.0		
	Other Items		<u>2.0</u>		
TOTAL -- Division of State Banking Commission		\$	<u>1,100.8*</u>		
*Special funds total budget appropriated per Chapter 1, Title 5, Delaware Code.					
TOTAL -- DEPARTMENT OF STATE		\$	2,316.4	\$	4,607.3
<u>TOTAL POSITIONS</u>					
GF - 126.7					
ASF - 59.9					
NSF - 12.5					
<u>(25-00-00) DEPARTMENT OF FINANCE</u>					
<u>(25-01-01) Office of the Secretary</u>					
	Salaries (15.0)	\$	441.3		
	Other Employment Costs		111.7		
	Travel		7.1		
	Contractual Services		112.3		
	Supplies and Materials		8.6		
	Capital Outlay		2.8		
	Maintenance/Restoration		2.5		
	Other Items		<u>6.0</u>		
TOTAL -- Office of the Secretary				\$	692.3
<u>(25-05-01) Division of Accounting</u>					
	Salaries (44.0)	\$	963.5		
	Other Employment Costs		240.7		
	Travel		5.0		
	Contractual Services		363.0		
	Supplies and Materials		77.4		
	Capital Outlay		<u>10.0</u>		
TOTAL -- Division of Accounting				\$	1,659.6
<u>(25-06-01) Division of Revenue</u>					
	Salaries (221.0)	\$		\$	4,407.9
	Other Employment Costs				1,083.0
	Travel				30.8
	Contractual Services	60.0			764.3
	Supplies and Materials				82.3
	Capital Outlay				54.7
	Computer/Software				<u>145.2</u>
Sub-Total		\$	60.0	\$	6,568.7
Debt Service				\$	<u>256.5</u>
TOTAL -- Division of Revenue		\$	60.0	\$	6,825.2
<u>(25-07-01) State Lottery Office</u>					
(22.0)ASF	Salaries	\$	451.1		
	Other Employment Costs		101.2		
	Travel		11.0		
	Contractual Services	3,057.0			
	Supplies and Materials		18.7		
	Capital Outlay		127.6		
	Maintenance/Restoration		<u>2.5</u>		
TOTAL -- State Lottery Office		\$	<u>3,769.1*</u>		

*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; 45%
for Lottery Prizes.

TOTAL -- DEPARTMENT OF FINANCE		\$ 3,829.1	\$ 9,177.1
<u>TOTAL POSITIONS</u>			
GF - 280.0			
ASF - 22.0			
<u>(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES</u>			
<u>(30-01-00) Administration</u>			
(3.0)ASF	Personnel Costs (48.0)	\$ 58.7	\$ 1,325.8
(1.0)NSF	Travel		9.4
	Contractual	97.0	311.9
	Supplies and Materials		40.8
	Capital/Equipment		14.6
TOTAL -- Administration		\$ 155.7	\$ 1,702.5
(1.0)NSF(30-01-10)	Office of the Secretary (14.0)	\$ 451.8	
(30-01-20)	Fleet Management (2.0)	97.0	120.8
(3.0)ASF(30-01-30)	Capitol Police (28.0)	58.7	964.6
(30-01-40)	PERB (4.0)		165.3
TOTAL -- Internal Program Units		\$ 155.7	\$ 1,702.5
<u>(30-03-00) Regulations and Licensing</u>			
(22.0)ASF	Personnel Costs (43.0)	\$ 822.2	\$ 1,131.2
	Travel	44.2	37.2
	Contractual	1,389.8	175.2
	Supplies and Materials	21.5	7.2
	Capital/Equipment	20.0	
TOTAL -- Regulations and Licensing		\$ 2,297.7	\$ 1,350.8
(30-03-10)	Alcoholic Beverage Comm. (23.0)	\$ 16.4	\$ 642.5
(1.0)ASF(30-03-20)	Professional Regulation (20.0)	280.5	708.3
(21.0)ASF(30-03-30)	Public Service Commission	2,000.8	
TOTAL -- Internal Program Units		\$2,297.7	\$ 1,350.8
<u>(30-04-00) Division of Support Operations</u>			
(17.0)ASF	Personnel Costs (22.0)	\$ 467.1	\$ 426.5
	Travel	8.2	
	Contractual	6,019.2	29.6
	Energy	2.5	
	Supplies and Materials	246.3	10.4
	Capital/Equipment	124.3	27.9
TOTAL -- Division of Support Operations		\$ 6,867.6	\$ 494.4
(30-04-10)	Mail/Courier (11.4)	\$ 511.2	\$ 236.4
(30-04-20)	Telephone Services (11.0)	5,177.9	258.0
(17.0)ASF(30-04-30)	Graphics and Printing	1,178.5	
TOTAL -- Internal Program Units		\$6,867.6	\$ 494.4
<u>(30-05-00) Division of Facilities Management</u>			
(5.0)NSF	Personnel Costs (99.0)		\$ 2,053.2
	Travel		7.5
	Contractual		2,000.0
	Energy		1,130.7
	Supplies and Materials		99.4
	Capital/Equipment		524.0
Sub-Total			\$ 5,864.8
Debt Service			\$ 5,520.8
TOTAL -- Division of Facilities Management			\$ 11,435.6
(5.0)NSF(30-05-10)	Property Management (20.0)	\$ 6,757.7	
(30-05-20)	Building Oper./Mainten. (79.0)	4,677.9	
TOTAL -- Internal Program Units		\$11,435.6	
<u>(30-06-00) Division of Purchasing</u>			
(5.0)ASF	Personnel Costs (18.0)	\$ 115.8	\$ 534.4
(2.0)NSF	Travel	5.9	6.9
	Contractual	84.6	110.6
	Energy	12.2	4.3
	Supplies and Materials	171.0	45.7
	Capital/Equipment	37.1	8.3
Sub-Total		\$ 426.6	\$ 710.2
Debt Service			\$ 1.1
TOTAL -- Division of Purchasing		\$ 426.6	\$ 711.3

(30-06-10) Purchasing	(11.0)	\$ 100.0	\$ 392.4
(2.0)ASF(30-06-20) Surplus Property	(2.0)	72.1	88.8
(3.0)ASF(30-06-30) Distribution	(5.0)	254.5	230.1
(2.0)NSF			

TOTAL -- Internal Program Units		\$ 426.6	\$ 711.3
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TOTAL -- DEPARTMENT OF ADMINISTRATIVE SERVICES		\$ 9,747.6	\$ 15,694.6
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TOTAL POSITIONS

GF - 230.0

ASF - 47.0

NSF - 8.0

(35-00-00) DEPARTMENT OF HEALTH AND SOCIAL SERVICES(35-01-01) Office of the Secretary

(12.5)NSF Salaries (17.5)		\$ 20.6	\$ 439.1
Other Employment Costs		1.9	104.6
Travel		5.3	2.5
Contractual Services		11.0	45.3
Supplies and Materials		2.0	2.3
Capital Outlay		5.0	
Gov. Health Care Management Comm.			35.0

TOTAL -- Office of the Secretary		\$ 45.8	\$ 628.8
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(35-02-01) Division of Business Administration and General Services

(21.6)NSF Salaries (65.0)		\$ 71.1	\$ 1,444.1
(4.8)ASF Other Employment Costs		19.6	348.2
Travel			1.5
Contractual Services		1.7	208.6
Supplies and Materials			19.5
Capital Outlay			11.6
Minor Capital Improvements			305.3

Sub-Total		\$ 92.4	\$ 2,338.8
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Debt Service

TOTAL -- Division of Business Administration and General Services		\$ 92.4	\$ 2,636.2
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(35-03-01) Division of Planning, Research and Evaluation

(17.2)NSF Salaries (25.8)		\$	\$ 651.6
Other Employment Costs			160.5
Travel		.3	5.4
Contractual Services		2.2	122.6
Supplies and Materials		2.6	4.1
Capital Outlay			3.0
Maintenance/Restoration			1.0

Sub-Total		\$ 5.1	\$ 948.2
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Debt Service

TOTAL -- Division of Planning, Research and Evaluation		\$ 5.1	\$ 2,220.8
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(35-04-01) Office of Chief Medical Examiner

Salaries (28.0)		\$	\$ 851.2
Other Employment Costs			184.0
Travel			8.1
Contractual Services			99.7
Supplies and Materials			81.4
Capital Outlay			38.5
Minor Capital Improvements			21.6

Sub-Total		\$	\$ 1,284.5
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Debt Service

TOTAL -- Office of Chief Medical Examiner		\$	\$ 70.3
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(35-05-00) Division of Public Health(35-05-02) Community Health

(134.4)NSF Salaries (353.0)		\$ 558.4	\$ 7,799.0
(30.4)ASF Other Employment Costs		141.6	1,905.6
Travel		9.0	40.1
Contractual Services		450.4	1,681.2
Supplies and Materials		15.0	744.6
Capital Outlay		13.6	234.9
Computer/Software		18.6	
Maintenance/Restoration			17.5
Diagnosis and Treatment of Handicapped Children			98.0
Streptococcal Program			11.1
Renal Disease Program			178.2

AIOS Program (3.0)		85.8
Right-to-know		37.1
Animal Bite Control		<u>70.0</u>
TOTAL -- Community Health	\$ 1,206.6	\$ 12,903.1
<u>(35-05-03) Emily P. Bissell Hospital</u>		
(2.0)NSF Salaries (287.3)		\$ 4,763.6
Other Employment Costs		1,047.8
Travel		2.3
Contractual Services		636.1
Supplies and Materials		766.1
Capital Outlay		59.1
Maintenance/Restoration		<u>91.8</u>
Sub-Total		\$ 7,366.8
Debt Service		\$ <u>502.0</u>
TOTAL -- Emily P. Bissell Hospital		\$ 7,868.8
<u>(35-05-04) Delaware Hospital for the Chronically Ill</u>		
Salaries (736.5)		\$ 11,616.0
Other Employment Costs		3,089.7
Travel		1.7
Contractual Services		1,163.0
Supplies and Materials		1,072.4
Capital Outlay		117.8
Maintenance/Restoration		<u>111.6</u>
Sub-Total		\$ 17,172.2
Debt Service		\$ <u>610.4</u>
TOTAL -- Delaware Hospital for the Chronically Ill		\$ 17,782.6
<u>(35-05-05) Governor Bacon Mental Health Center</u>		
Salaries (143.0)		\$ 2,651.7
Other Employment Costs		630.8
Travel		.3
Contractual Services		977.3
Supplies and Materials		190.1
Capital Outlay		22.4
Maintenance/Restoration		<u>65.4</u>
Sub-Total		\$ 4,538.0
Debt Service		\$ <u>453.9</u>
TOTAL -- Governor Bacon Mental Health Center		\$ 4,991.9
TOTAL -- Division of Public Health	\$ 1,206.6	\$ 43,546.4
<u>(35-06-00) Division of Alcoholism, Drug Abuse, and Mental Health</u>		
<u>(35-06-01) Office of the Director</u>		
(4.0)NSF Salaries (7.0)		\$ 252.2
Other Employment Costs		53.4
Travel		2.9
Contractual Services		216.5
Supplies and Materials		1.3
Capital Outlay		1.5
Maintenance/Restoration		.6
Operating Costs - Group Homes		115.4
Residential Program/18-21 year olds		<u>650.0</u>
TOTAL -- Office of the Director		\$ 1,293.8
<u>(35-06-02) Delaware State Hospital</u>		
(1.0)NSF Salaries (732.3)	\$ 31.8	\$ 13,465.7
(1.0)ASF Other Employment Costs		3,124.6
Travel		1.9
Maintenance/Restoration		1.5
Indigent Burial		15.0
General Assistance		1,993.9
SSI Supplementation		685.1
Homemaker Services		95.0
AFDC		12,945.0
Child Care		1,246.9
Emergency and Disaster Assistance		217.0
Title XIX - Non-State Institutions		27,485.1
Title XIX - State Institutions		18,398.2
First Step Program (8.1)		<u>868.3</u>
TOTAL -- Division of Economic Services		\$ 70,669.4
<u>(35-08-01) Division for the Visually Impaired</u>		

(23.7)NSF	Salaries (21.0)	\$ 55.5	\$ 459.1
(3.3)ASF	Other Employment Costs	14.3	112.8
	Travel		2.3
	Contractual Services		146.3
	Supplies and Materials		26.7
	Capital Outlay		10.0
	Maintenance/Restoration		26.2
	Shop and Machine Tools	4.0	
	Food Service Facilities	641.3	
TOTAL -- Division for the Visually Impaired		\$ 715.1	\$ 783.4
<u>(35-10-01) Division of Child Support Enforcement</u>			
(58.5)NSF	Salaries (31.5)		\$ 559.9
	Other Employment Costs		134.4
	Travel		2.3
	Contractual Services		279.2
	Supplies and Materials		14.2
	Capital Outlay		2.0
	Data Processing		15.0
	Maintenance/Restoration		.3
TOTAL -- Division of Child Support Enforcement			\$ 1,007.3
<u>(35-11-00) Division of Mental Retardation Services</u>			
<u>(35-11-01) Office of the Director</u>			
	Salaries (16.0)		\$ 417.9
	Other Employment Costs		87.9
	Travel		2.2
	Contractual Services		70.1
	Supplies and Materials		6.0
	Capital Outlay		1.2
	Maintenance/Restoration		.3
TOTAL -- Office of the Director			\$ 585.6
<u>(35-11-02) Stockley Center</u>			
	Salaries (742.0)		\$ 11,772.0
	Other Employment Costs		3,100.3
	Travel		4.4
	Contractual Services		1,347.0
	Supplies and Materials		746.5
	Capital Outlay		84.4
	Music Therapy Stipends		9.6
	Purchase of Care		2,088.7
	Other Items		5.0
	Maintenance/Restoration		100.1
Sub-Total			\$ 19,266.0
	Debt Service		\$ 430.2
TOTAL -- Stockley Center			\$ 19,696.2
<u>135-11-031 Community Mental Retardation Program</u>			
	Salaries (128.8)		\$ 2,222.5
	Other Employment Costs		546.6
	Travel		1.0
	Contractual Services		315.4
	Supplies and Materials		88.6
	Capital Outlay		101.2
	Purchase of Community Based Service		2,235.9
	Purchase of Care		1,985.4
	Maintenance/Restoration		22.6
	Neighborhood Homes-Operating Costs		18.8
Sub-Total			\$ 7,538.0
	Debt Service		\$ 13.5
TOTAL -- Community Mental Retardation Program			\$ 7,551.5
TOTAL -- Division of Mental Retardation Services			\$ 27,833.3
<u>(35-12-01) State Service Centers</u>			
(34.3)NSF	Salaries (43.2)		\$ 856.0
	Other Employment Costs		205.1
	Travel		2.4
	Contractual Services		1,152.2
	Supplies and Materials		34.0
	Capital Outlay		10.0
	Maintenance/Restoration		239.1
Sub-Total			\$ 2,498.8
	Debt Service		\$ 122.2

TOTAL -- State Service Centers			\$	2,621.5
<u>(35-14-01) Division of Aging</u>				
(15.5)NSF Salaries (18.5)			\$	381.8
Other Employment Costs				95.7
Travel				4.0
Contractual Services				94.0
Supplies and Materials				1.6
Capital Outlay				2.0
Older Americans Act				217.7
Nutrition Program				155.0
Maintenance/Restoration				<u>1.7</u>
Sub-Total			\$	953.5
Debt Service			\$	<u>4.1</u>
TOTAL -- Division of Aging			\$	<u>957.6</u>
TOTAL -- DEPARTMENT OF HEALTH AND SOCIAL SERVICES			\$	2,105.3
			\$	185,207.0
<u>TOTAL POSITIONS</u>				
GF - 3,736.5				
ASF - 39.5				
NSF - 540.4				
<u>(37-00-00) DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES</u>				
<u>(37-01-00) Administration</u>				
(8.4)NSF Personnel Costs (71.2)			\$	169.8
(6.0)ASF Travel				8.1
Contractual Services		367.4		529.5
Supplies and Materials				83.3
Capital/Equipment				<u>12.8</u>
TOTAL -- Administration			\$	537.2
			\$	3,005.6
(37-01-10) Office O/T Secretary (4.0)	\$	472.9		
(2.8)NSF(37-01-20) Fiscal Operations/Mgmt.				
(6.0)ASF Services (14.4)	537.2	618.9		
(37-01-30) Personnel Services (16.4)		435.0		
(5.6)NSF(37-01-40) Education (36.4)		<u>1,478.8</u>		
TOTAL -- Internal Program Units	\$	537.2	\$	3,005.6
<u>(37-02-00) Division of Child Protective Services</u>				
(112.0)NSF Personnel Costs (115.0)			\$	2,567.9
Travel				2.3
Contractual Services		75.0		425.7
Energy				57.4
Supplies and Materials				31.6
Capital/Equipment				32.4
Child Foster Assistance				<u>4,724.3</u>
TOTAL -- Division of Child Protective Services			\$	75.0
			\$	7,841.6
(4.5)NSF(37-02-10) Office O/T Director (13.4)	\$	75.0	\$	450.8
(23.4)NSF(37-02-20) Report Investigation and Risk Assessment (22.8)		1,271.4		
(41.4)NSF(37-02-30) Family Preservation (39.2)		1,300.6		
(35.0)NSF(37-02-40) Substitute Care Svcs. (33.0)		4,312.1		
(7.7)NSF(37-02-50) Adoption Services (6.6)		<u>500.7</u>		
TOTAL -- Internal Program Units	\$	75.0	\$	7,841.6
<u>(37-03-00) Division of Child Mental Health</u>				
(5.0)NSF Personnel Costs (137.0)			\$	3,756.3
Travel				8.3
Contractual Services				6,512.0
Energy				97.2
Supplies and Materials				153.0
Capital/Equipment				<u>33.9</u>
Sub-Total			\$	10,560.7
Debt Service				<u>39.1</u>
TOTAL -- Division of Child Mental Health			\$	10,599.8
(5.0)NSF(37-03-10) Office O/T Director (4.0)	\$	217.0		
(37-03-20) Child Outpatient (15.5)		513.3		
(37-03-30) Child Day Hospital (24.5)		860.5		
(37-03-40) Child Inpatient (44.0)		1,211.5		
(37-03-50) Adolescent Outpatient (8.0)		761.3		
(37-03-60) Adolescent Community-Based Residential (38.5)		3,558.7		
(37-03-70) Adolescent Inpatient (2.5)		<u>3,477.5</u>		
TOTAL -- Internal Program Units			\$	10,599.8

(37-05-00) Division of Youth Rehabilitation Services

Personnel Costs (187.9)		\$	5,205.2
Travel			12.3
Contractual Services			1,193.4
Energy			220.0
Supplies and Materials			266.8
Capital/Equipment			34.4
Health Care Costs			<u>331.6</u>
Sub-Total		\$	7,263.7
Debt Service		\$	<u>390.8</u>
TOTAL -- Division of Youth Rehabilitation Services		\$	7,654.5
(37-05-10) Office O/T Director (23.0)	\$	1,481.3	
(37-05-20) Detention (35.0)		1,195.9	
(37-05-30) Probation and Aftercare (24.0)		809.3	
(37-05-40) Altern. to Incarceration (3.0)		885.6	
(37-05-50) Secure Treatment (102.9)		<u>3,282.4</u>	
TOTAL -- Internal Program Units	\$	7,654.5	

(37-08-00) Program Support

(21.6)NSF Personnel Costs (38.4)		\$		\$	1,105.6
Travel					9.6
Contractual Services			25.0		437.3
Supplies and Materials					22.3
Capital/Equipment					15.8
Parent Training					153.0
Diagnostic Evaluation					<u>40.1</u>
TOTAL -- Program Support		\$	25.0	\$	1,783.7
(4.0)NSF(37-08-10) Office O/T Director (3.0)	\$	25.0	\$	221.6	
(1.6)NSF(37-08-20) Program Planning and Monitoring (4.4)				197.3	
(9.5)NSF(37-08-30) Office of Case Management (8.5)				286.8	
(37-08-40) Office of Prevention (9.0)				462.5	
(6.5)NSF(37-08-50) Licensing (3.5)				220.5	
(37-08-60) Youth Diagnostic Center (10.0)				<u>395.0</u>	
TOTAL -- Internal Program Units	\$	25.0	\$	1,783.7	

TOTAL -- DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES \$ 637.2 \$ 30,885.2

TOTAL POSITIONS

GF - 549.5
NSF - 147.0

ASF

6.0

(38-00-00) DEPARTMENT OF CORRECTION(38-01-01) Office of the Commissioner

Salaries (33.0)		\$	693.7
Other Employment Costs			162.5
Travel			8.2
Contractual Services			33.8
Supplies and Materials			7.2
Capital Outlay			1.8
Contingency - Salaries & Wages			923.6
Contingency - Shakedowns			<u>40.0</u>
TOTAL -- Office of the Commissioner		\$	1,870.8

(38-02-00) Bureau of Administration and Operational Support(38-02-01) Bureau Chief - Administration and Operational Support

Salaries (5.0)		\$	144.4
Other Employment Costs			39.0
Travel			1.0
Contractual Services			149.0
Supplies and Materials			13.5
Capital Outlay			1.7
Medical Services			<u>3,872.5</u>
Sub-Total		\$	4,221.1
Debt Service		\$	<u>8.1</u>
TOTAL -- Bureau Chief - Administration and Operational Support		\$	4,229.2
(38-02-02) Business Office			
Salaries (14.0)		\$	240.7
Other Employment Costs			55.3

Travel		1.0	
Contractual Services		5.1	
Supplies and Materials		5.0	
Capital Outlay		<u>4</u>	
TOTAL -- Business Office	\$	307.5	
<u>(38-02-03) General Administrative Services</u>			
Salaries (9.0)	\$	220.4	
Other Employment Costs		60.5	
Travel		.7	
Contractual Services		10.3	
Supplies and Materials		250.7	
Capital Outlay		<u>2.3</u>	
TOTAL -- General Administrative Services	\$	544.9	
<u>(38-02-04) Food Services</u>			
Salaries (42.0)	\$	878.5	
Other Employment Costs		230.0	
Travel		1.8	
Contractual Services		23.7	
Supplies and Materials		2,466.9	
Capital Outlay		<u>39.2</u>	
TOTAL -- Food Services	\$	3,640.1	
<u>(38-02-05) Facilities Maintenance and Construction</u>			
Salaries (34.0)	\$	776.4	
Other Employment Costs		207.2	
Travel		1.2	
Contractual Services		142.7	
Supplies and Materials		213.2	
Capital Outlay		16.8	
Maintenance/Restoration		<u>559.1</u>	
Sub-Total	\$	1,916.6	
Debt Service	\$	<u>144.9</u>	
TOTAL -- Facilities Maintenance and Construction	\$	2,061.5	
<u>(38-02-06) Personnel and Staff Training</u>			
Salaries (46.0)	\$	948.2	
Other Employment Costs		247.6	
Travel		2.8	
Contractual Services		75.3	
Supplies and Materials		27.6	
Capital Outlay		<u>17.7</u>	
TOTAL -- Personnel and Staff Training	\$	<u>1,319.2</u>	
TOTAL -- Bureau of Administration and Operational Support	\$	12,102.4	
<u>(38-03-00) Bureau of Industries and Services</u>			
<u>(38-03-01) Bureau Chief -- Industries and Services</u>			
Salaries (9.0)	\$	228.7	
Other Employment Costs		54.1	
Travel		2.8	
Contractual Services		28.7	
Supplies and Materials		4.9	
Capital Outlay		<u>3.8</u>	
TOTAL -- Bureau Chief -- Industries and Services	\$	323.0	
<u>(38-03-02) Prison Industries</u>			
(8.0) NSF Salaries (20.0)	\$	175.6	\$ 465.8
Other Employment Costs		49.1	120.0
Travel		.2	
Contractual Services		143.4	23.5
Supplies & Materials		333.4	64.2
Maintenance/Restoration		<u>1.0</u>	
TOTAL -- Prison Industries	\$	702.7	\$ 673.5
<u>(38-03-03) Education</u>			
(2.0) NSF Salaries (17.0)	\$	519.8	
Other Employment Costs		126.2	
Travel		1.2	
Contractual Services		43.8	
Supplies and Materials		46.8	
Capital Outlay		<u>14.2</u>	
TOTAL -- Education	\$	<u>752.5</u>	

TOTAL -- Bureau of Industries and Services	\$ 702.7	\$ 1,749.0
<u>(38-04-00) Bureau of Adult Corrections</u>		
<u>(38-04-01) Bureau Chief - Adult Corrections</u>		
Salaries (21.0)	\$	558.4
Other Employment Costs		137.1
Travel		1.7
Contractual Services		307.6
Supplies and Materials		6.8
Capital Outlay		8.0
Gate Money		<u>10.0</u>
Sub-Total	\$	1,029.6
Debt Service	\$	<u>27.2</u>
TOTAL -- Bureau Chief - Adult Corrections	\$	1,056.8
<u>(38-04-02) Pre-Trial Annex</u>		
Salaries (25.0)	\$	556.1
Other Employment Costs		146.4
Travel		.8
Contractual Services		46.0
Supplies and Materials		34.3
Capital Outlay		<u>9.7</u>
TOTAL -- Pre-Trial Annex	\$	793.3
<u>(38-04-03) Delaware Correctional Center</u>		
Salaries (412.0)	\$	8,695.2
Other Employment Costs		2,205.4
Travel		3.6
Contractual Services		1,018.0
Supplies and Materials		459.0
Capital Outlay		<u>25.7</u>
Sub-Total	\$	12,406.9
Debt Service	\$	<u>1,425.9</u>
TOTAL -- Delaware Correctional Center	\$	13,832.8
<u>(38-04-04) Sussex Correctional Institution</u>		
Salaries (155.0)	\$	3,375.9
Other Employment Costs		939.3
Travel		1.4
Contractual Services		333.8
Supplies and Materials		130.9
Capital Outlay		<u>41.2</u>
Sub-Total	\$	4,822.5
Debt Service	\$	<u>392.3</u>
TOTAL -- Sussex Correctional Institution	\$	5,214.8
<u>(38-04-05) Women's Correctional Institution</u>		
Salaries (37.0)	\$	842.3
Other Employment Costs		211.7
Travel		1.0
Contractual Services		130.9
Supplies and Materials		58.4
Capital Outlay		<u>7.3</u>
Sub-Total	\$	1,251.6
Debt Service	\$	<u>1.1</u>
TOTAL -- Women's Correctional Institution	\$	1,252.7
<u>(38-04-06) Multi-Purpose Criminal Justice Facility</u>		
Salaries (214.0)	\$	4,304.5
Other Employment Costs		1,129.7
Travel		5.5
Contractual Services		428.1
Supplies and Materials		276.2
Capital Outlay		7.1
Maintenance/Restoration		<u>8.5</u>
Sub-Total	\$	6,159.6
Debt Service	\$	<u>2,252.8</u>
TOTAL -- Multi-Purpose Criminal Justice Facility	\$	8,412.4
<u>(38-04-07) Morris Correctional Institution</u>		

Salaries (26.0)		\$	604.0
Other Employment Costs			151.6
Travel			1.0
Contractual Services			55.8
Supplies and Materials			31.1
Capital Outlay			.6
TOTAL -- Morris Correctional Institution		\$	844.1
<u>(38-04-08) Transportation</u>			
Salaries (28.0)		\$	809.5
Other Employment Costs			209.0
Travel			4.3
Contractual Services			14.6
Supplies and Materials			19.9
Capital Outlay			3.1
TOTAL -- Transportation		\$	1,060.4
<u>(38-04-09) Community Services</u>			
(10.0)NSF Salaries (132.0)		\$	2,729.9
Other Employment Costs			672.4
Travel			2.8
Contractual Services			229.9
Supplies and Materials			15.7
Capital Outlay			50.2
House Arrest/Hardware			47.5
TOTAL -- Community Services		\$	3,748.4
<u>(38-04-10) Community Corrections</u>			
Salaries (66.0)	\$	29.6	\$ 1,333.4
Other Employment Costs		5.6	328.9
Travel			3.4
Contractual Services		5.7	123.6
Supplies and Materials		10.2	49.4
Capital Outlay			10.6
Sub-Total	\$	51.1	\$ 1,849.3
Debt Service			\$ 29.0
TOTAL -- Community Corrections	\$	51.1	\$ 1,878.3
TOTAL -- Bureau of Adult Corrections		51.1	\$ 38,094.0
TOTAL -- DEPARTMENT OF CORRECTION	\$	753.8	\$ 53,816.2
<u>TOTAL POSITIONS</u>			
GF - 1,345.0			
ASF - 8.0			
NSF - 12.0			
<u>(40-00-00) DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL</u>			
<u>(40-01-01) Department Management</u>			
(11.0)ASF Salaries (29.5)	\$	215.1	\$ 743.7
(8.5)NSF Other Employment Costs		45.3	188.7
Travel		2.8	4.4
Contractual Services		12.8	97.4
Supplies and Materials		106.9	18.7
Capital Outlay		5.0	
Delaware Conservationist			31.7
Coastal Zone Management		145.0	
Non-Game Habitat Preservation-Fund		100.0	
Sub-Total	\$	632.9	\$ 1,084.6
Debt Service			\$ 2,631.8
TOTAL -- Department Management	\$	632.9	\$ 3,716.4
<u>(40-05-00) Division of Fish and Wildlife</u>			
<u>(40-05-01) Management and Support - Fish and Wildlife</u>			
(1.0)ASF Salaries (1.5)	\$	27.3	\$ 45.3
Other Employment Costs		6.9	11.2
Travel		6.0	3.0
Contractual Services		46.4	73.5
Supplies and Materials		12.2	2.6
Capital Outlay		3.3	10.5
Computer/Software		1.0	
Sub-Total	\$	103.1	\$ 146.1
Debt Service			\$ 481.7
TOTAL -- Management and Support - Fish and Wildlife	\$	103.1	\$ 627.8

(40-05-02) Wildlife/Fisheries

(41.5)ASF	Salaries (15.5)	\$ 922.2	\$ 331.3
	Other Employment Costs	202.8	88.6
	Travel	33.1	1.2
	Contractual Services	902.9	127.0
	Supplies and Materials	518.2	148.0
	Capital Outlay	1,403.5	27.9
	Computer/Software	6.3	
	Maintenance/Restoration	182.3	2.3
	Oyster Seeding		50.0
	Revenue Refunds	1.0	
	Petty Cash	.5	
	Travel Advance	3.0	
	Termination Account	100.0	

Sub-Total	\$ 4,275.8	\$ 776.3
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Debt Service		\$ 158.1
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TOTAL -- Wildlife/Fisheries	\$ 4,275.8	\$ 934.4
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(40-05-04) Mosquito Control

Salaries (17.0)	\$	\$ 350.7
Other Employment Costs		92.8
Travel	1.0	1.6
Contractual Services	2.3	51.6
Supplies and Materials	1.0	52.8
Capital Outlay	3.4	10.8
Maintenance/Restoration		5.1
Spraying and Insecticides		333.3

Sub-Total	\$ 7.7	\$ 898.7
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Debt Service		\$ 18.4
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TOTAL -- Mosquito Control	\$ 7.7	\$ 917.1
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(40-05-05) Dog Control

Contractual Services	\$ 125.6	\$ 358.0
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TOTAL -- Dog Control	\$ 125.6	\$ 358.0
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(40-05-06) Enforcement

(1.5)NSF	Salaries (31.0)	\$	\$ 643.6
	Other Employment Costs		174.2
	Travel	1.2	4.0
	Contractual Services		70.4
	Supplies and Materials	4.1	65.9
	Capital Outlay	2.6	23.5

TOTAL -- Enforcement	\$ 7.9	\$ 981.6
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TOTAL -- Division of Fish and Wildlife	\$ 4,520.1	\$ 3,818.9
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(40-06-00) Division of Parks and Recreation(40-06-01) Management and Support - Parks and Recreation

(4.0)ASF	Salaries (22.0)	\$ 133.9	\$ 408.6
	Other Employment Costs	21.2	121.1
	Travel	10.4	1.0
	Contractual Services	129.1	67.1
	Supplies and Materials	18.1	6.9
	Capital Outlay	1,320.0	11.0
	Maintenance/Restoration	140.8	50.0
	Grants	460.0	

Sub-Total	\$ 2,233.5	\$ 724.7
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Debt Service		\$ 1,339.1
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TOTAL -- Management and Support - Parks and Recreation	\$ 2,233.5	\$ 2,063.8
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(40-06-02) Operations and Maintenance

(30.5)ASF	Salaries (48.5)	\$ 1,402.2	\$ 926.9
	Other Employment Costs	167.8	256.4
	Travel	7.0	.2
	Contractual Services	599.3	95.8
	Supplies and Materials	723.8	23.3
	Capital Outlay	355.5	63.2
	Maintenance/Restoration	175.0	
	Grants	166.0	
	Revenue Refunds	3.0	
	Petty Cash	2.5	

Sub-Total	\$ 3,602.1	\$ 1,365.8
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Debt Service		\$ 7.4
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TOTAL -- Operations and Maintenance	\$ 3,602.1	\$ 1,373.2
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(40-06-03) Special Programs

(3.0)ASF	Salaries (5.0)	\$ 145.1	\$ 120.6
	Other Employment Costs	20.5	29.3
	Travel	1.5	1.5
	Contractual Services	28.8	14.1
	Supplies and Materials	18.1	10.4
	Capital Outlay	6.5	11.9
	Computer/Software	3.0	
	TOTAL -- Special Programs	\$ 223.5	\$ 187.8
	TOTAL -- Division of Parks and Recreation	\$ 6,059.1	\$ 3,624.8

(40-07-00) Division of Soil and Water Conservation(40-07-01) Management and Support - Soil and Water

	Salaries (7.0)	\$ 184.3	
	Other Employment Costs	44.4	
	Travel	1.2	
	Contractual Services	14.6	
	Supplies and Materials	1.4	
	Computer/Software	3.0	
	Sub-Total	\$ 248.9	
	Debt Service	\$ 545.8	
	TOTAL -- Management and Support - Soil and Water	\$ 794.7	

(40-07-02) Drainage

	Salaries (8.0)	\$ 170.8	
	Other Employment Costs	44.7	
	Travel	1.0	
	Contractual Services	212.4	
	Supplies and Materials	109.4	
	Capital Outlay	22.0	
	Maintenance/Restoration	3.0	
	Tax Ditches*	180.0	
	Sub-Total	\$ 743.3	
	Debt Service	\$ 298.1	
	TOTAL -- Drainage	\$ 1,041.4	

*Pursuant to Section 3921, Title 7, Delaware Code

(40-07-03) Beach Preservation

	Salaries (9.0)	\$ 1.0	\$ 161.4
	Other Employment Costs	.3	47.1
	Travel	2.0	1.5
	Contractual Services	505.4	14.7
	Supplies and Materials	.5	19.5
	Maintenance/Restoration		1.5
	Sub-Total	\$ 509.2	\$ 245.7
	Debt Service		\$ 338.2
	TOTAL -- Beach Preservation	\$ 509.2	\$ 583.9

(40-07-04) District Operations

	Salaries (1.0)	\$ 32.0	
	Other Employment Costs	11.8	
	Travel	1.1	
	Contractual Services	174.4	
	Supplies and Materials	6.0	
	Capital Outlay	23.0	
	Sub-Total	\$ 248.3	
	Debt Service	\$ 54.0	
	TOTAL -- District Operations	\$ 302.3	

(40-07-05) Dredge Operations

	Salaries (12.0)	\$ 2.2	\$ 200.9
	Other Employment Costs	.2	59.3
	Contractual Services		69.0
	Supplies and Materials		76.4
	Capital Outlay		17.0
	Maintenance/Restoration		3.0
	New Castle County Dredge		150.0
	Sub-Total	\$ 2.4	\$ 575.6
	Debt Service		\$ 125.3

TOTAL -- Oredge Operations	\$ 2.4	\$ 700.9
TOTAL -- Division of Soil and Water Conservation	\$ 511.6	\$ 3,423.2
<u>(40-08-00) Division of Water Resources</u>		
<u>(40-08-01) Management and Support - Water Resources</u>		
(2.0)ASF Salaries (3.0)	\$ 69.2	\$ 88.2
Other Employment Costs	17.9	20.3
Travel	3.0	.7
Contractual Services	5.5	55.2
Supplies and Materials	3.6	1.4
Computer/Software	10.5	3.5
Sub-Total	\$ 109.7	\$ 169.3
Debt Service		\$ 5.6
TOTAL -- Management and Support - Water Resources	\$ 109.7	\$ 174.9
<u>(40-08-02) Technical Services</u>		
(8.0)ASF Salaries (17.0)	\$ 149.6	\$ 421.0
(8.0)NSF Other Employment Costs	36.4	103.7
Travel	2.1	3.3
Contractual Services	52.3	26.6
Supplies and Materials	30.6	73.7
Capital Outlay	341.2	31.0
Computer/Software	14.1	
TOTAL -- Technical Services	\$ 626.3	\$ 659.3
<u>(40-08-03) Planning and Support</u>		
(2.0)ASF Salaries (4.0)	\$ 24.7	\$ 137.4
(6.0)NSF Other Employment Costs	7.7	32.9
Travel		1.0
Contractual Services	11.4	16.2
Supplies and Materials	1.2	5.0
Capital Outlay		3.0
Computer/Software	3.1	
Water Resource Agency		15.0
TOTAL -- Planning and Support	\$ 48.1	\$ 210.5
<u>(40-08-04) Surface Water Management</u>		
(2.0)ASF Salaries (15.0)	\$ 145.1	\$ 349.9
(15.0)NSF Other Employment Costs	19.1	90.4
Travel	8.0	5.7
Contractual Services	194.6	74.7
Supplies and Materials	14.5	32.1
Capital Outlay	50.0	3.7
Computer/Software	75.0	
Inland Bay Research Study		200.0
Sub-Total	\$ 506.3	\$ 756.5
Debt Service		\$ 2,416.8
TOTAL -- Surface Water Management	\$ 506.3	\$ 3,173.3
<u>(40-08-05) Ground Water Management</u>		
(1.0)ASF Salaries (22.0)	\$ 26.4	\$ 466.3
(13.0)NSF Other Employment Costs	7.0	119.7
Travel	2.0	6.0
Contractual Services	9.4	37.3
Supplies and Materials	6.7	11.1
Capital Outlay	25.5	19.5
Computer/Software	.5	
TOTAL -- Ground Water Management	\$ 77.5	\$ 659.9
TOTAL - Division of Water Resources	\$ 1,367.9	\$ 4,877.9
<u>(40-09-00) Division of Air and Waste Management</u>		
<u>(40-09-01) Management and Support - Air and Waste Management</u>		
(4.0)ASF Salaries (6.0)	\$ 138.9	\$ 172.7
(3.0)NSF Other Employment Costs	44.6	42.9
Travel	1.1	1.2
Contractual Services	25.7	103.1
Supplies and Materials	4.7	3.5
Capital Outlay	102.0	3.8
Computer/Software	40.0	
TOTAL - Management and Support - Air and Waste Management	\$ 357.0	\$ 327.2
<u>(40-09-02) Air Resources</u>		
(1.0)ASF Salaries (11.0)	\$ 18.8	\$ 265.8

(16.0)NSF	Other Employment Costs	5.7	67.4
	Travel		.1
	Contractual Services		57.7
	Supplies and Materials		25.0
	Capital Outlay		2.5
TOTAL -- Air Resources		\$ 24.5	\$ 418.5
<u>(40-09-03) Waste Management</u>			
(3.0)ASF	Salaries (20.0)	\$ 80.4	\$ 398.7
(23.0)NSF	Other Employment Costs	17.1	93.8
	Travel	43.0	3.2
	Contractual Services	129.9	162.0
	Supplies and Materials	36.3	8.4
	Capital Outlay	103.9	21.1
	Superfund	1,000.0	
	Computer/Software	22.9	
	Petty Cash	2.0	
	Travel Advance	1.0	
Sub-Total		\$ 1,436.5	\$ 687.2
Debt Service			\$ 264.9
TOTAL -- Waste Management		\$ 1,436.5	\$ 952.1
TOTAL -- Division of Air and Waste Management		\$ 1,818.0	\$ 1,697.8
TOTAL -- DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL		\$ 14,909.6	\$ 21,159.0
<u>TOTAL POSITIONS</u>			
GF - 305.0			
ASF - 114.0			
NSF - 94.0			
<u>(45-00-00) DEPARTMENT OF PUBLIC SAFETY</u>			
<u>(45-01-01) Administration</u>			
	Salaries (13.0)	\$	\$ 338.4
	Other Employment Costs		81.7
	Travel		2.0
	Contractual Services		18.6
	Supplies and Materials		4.4
	Capital Outlay	35.0	
	Police Training Council		10.0
	Maintenance/Restoration		95.0
	Hazardous Substance Spill Clean Up		
	Revolving Fund	100.0	
Sub-Total		\$ 135.0	\$ 550.1
Debt Service			\$ 166.5
TOTAL -- Administration		\$ 135.0	\$ 716.6
<u>(45-03-01) Division of Communications</u>			
	Salaries (16.0)	\$	\$ 372.0
	Other Employment Costs		94.4
	Travel		4.1
	Maintenance/Restoration		3.2
	Contractual Services		49.7
	Supplies and Materials	89.0	9.2
Sub-Total		\$ 89.0	\$ 533.3
Debt Service			\$ 193.8
TOTAL -- Division of Communications		\$ 89.0	\$ 727.1
<u>(45-04-00) Division of Motor Fuel Tax</u>			
<u>(45-04-01) Administration</u>			
	Salaries (9.0)	\$	\$ 192.7
	Other Employment Costs		45.3
	Travel		2.2
	Contractual Services		99.0
	Supplies and Materials		11.1
TOTAL -- Administration		\$	\$ 350.3
<u>(45-04-02) Audit and Compliance</u>			
	Salaries (6.0)	\$	\$ 146.9
	Other Employment Costs		41.4
	Travel		11.5
	Contractual Services		4.2
	Supplies and Materials		2.1
TOTAL -- Audit and Compliance		\$	\$ 206.1

TOTAL -- Division of Motor Fuel Tax		\$	556.4
<u>(45-06-00) Division of State Police</u>			
<u>(45-06-01) Executive Offices</u>			
Salaries (36.0)		\$	1,207.8
Other Employment Costs			174.5
Travel			4.6
Contractual Services			251.4
Maintenance/Restoration			25.9
Supplies and Materials			142.3
Crime Reduction Fund			75.0
Pension - State Police Retirees			<u>6,604.9</u>
Sub-Total		\$	8,486.4
Debt Service			<u>152.3</u>
TOTAL -- Executive Offices		\$	8,638.7
<u>(45-06-03) Patrol Division</u>			
(3.0)ASF Salaries (312.0)	\$ 99.0	\$	9,583.3
Other Employment Costs	20.2		1,604.6
Travel			4.8
Contractual Services			178.6
Maintenance/Restoration			26.0
Supplies and Materials	17.5		283.9
Capital Outlay	<u>23.0</u>		
Sub-Total	\$ 159.7	\$	11,681.2
Debt Service			<u>21.7</u>
TOTAL -- Patrol Division	\$ 159.7	\$	11,702.9
<u>(45-06-04) Criminal Investigation</u>			
Salaries (79.0)		\$	2,447.3
Other Employment Costs			250.6
Travel			10.1
Contractual Services			32.1
Maintenance/Restoration			4.8
Supplies and Materials			<u>72.3</u>
Sub-Total		\$	2,817.2
Debt Service			<u>14.5</u>
TOTAL -- Criminal Investigation		\$	2,831.7
<u>(45-06-05) Special Investigative Unit</u>			
Salaries (20.0)		\$	678.9
Other Employment Costs			63.2
Travel			2.5
Contractual Services			5.7
Maintenance/Restoration			2.5
Supplies and Materials			<u>14.1</u>
TOTAL -- Special Investigative Unit		\$	766.9
<u>(45-06-06) Aviation</u>			
Salaries (17.0)		\$	543.9
Other Employment Costs			60.7
Travel			1.2
Contractual Services			328.3
Maintenance/Restoration			.2
Supplies and Materials			<u>89.4</u>
Sub-Total		\$	1,023.7
Debt Service			<u>101.8</u>
TOTAL -- Aviation		\$	1,125.5
<u>(45-06-07) Traffic</u>			
(3.0)ASF Salaries (21.0)	\$ 530.0	\$	563.1
Other Employment Costs	106.3		93.1
Travel	25.0		3.2
Contractual Services	78.8		32.2
Supplies and Materials	109.1		3.0
Capital Outlay	<u>148.0</u>		
Maintenance/Restoration			<u>11.0</u>
TOTAL -- Traffic	\$ 997.2	\$	705.6
<u>(45-06-08) State Bureau of Identification</u>			
Salaries (28.0)		\$	436.6
Other Employment Costs			111.0
Travel			1.5

Contractual Services	50.0	54.5
Supplies and Materials		14.2
Maintenance/Restoration		10.1
TOTAL -- State Bureau of Identification	\$ 50.0	\$ 627.9
<u>(45-06-09) Training</u>		
Salaries (6.0)		\$ 183.3
Other Employment Costs		17.7
Contractual Services		10.2
Maintenance/Restoration		1.5
Supplies and Materials		57.7
Capital Outlay		10.0
Training Constables At Large		1.8
TOTAL -- Training		\$ 282.2
<u>(45-06-10) Communications</u>		
Salaries (75.0)		\$ 1,306.4
Other Employment Costs		275.9
Travel		2.7
Contractual Services		675.8
Maintenance/Restoration		13.3
Supplies and Materials		18.3
Sub-Total		\$ 2,292.4
Debt Service		\$ 1.9
TOTAL -- Communications		\$ 2,294.3
<u>(45-06-11) Transportation Support</u>		
Salaries (17.0)		\$ 350.2
Other Employment Costs		103.1
Contractual Services		46.1
Maintenance/Restoration		3.3
Supplies and Materials		230.2
Capital Outlay		780.0
TOTAL -- Transportation Support		\$ 1,512.9
<u>(45-06-12) Community Relations</u>		
Salaries (4.0)		\$ 142.2
Other Employment Costs		13.6
Travel		.1
Contractual Services		2.9
Supplies and Materials		4.5
TOTAL -- Community Relations		\$ 163.3
TOTAL -- Division of State Police	\$ 1,206.9	\$ 30,651.9
<u>(45-07-00) Division of Motor Vehicles</u>		
<u>(45-07-01) Administration</u>		
Salaries (29.0)		\$ 531.4
Other Employment Costs		143.2
Travel	5.0	.8
Contractual Services	85.0	326.5
Maintenance/Restoration		3.1
Supplies and Materials	10.0	14.7
Computer/Software	25.0	10.2
Sub-Total	\$ 125.0	\$ 1,030.4
Debt Service		\$ 113.9
TOTAL -- Administration	\$ 125.0	\$ 1,144.3
<u>(45-07-02) Driver Licensing</u>		
Salaries (32.0)		\$ 552.2
Other Employment Costs		147.1
Travel		.2
Contractual Services		140.6
Supplies and Materials		12.4
Capital Outlay		3.4
TOTAL -- Driver Licensing		\$ 855.9
<u>(45-07-03) Driver Improvement</u>		
(1.0)ASF Salaries (34.0)	\$ 12.4	\$ 565.8
Other Employment Costs	5.1	153.8
Travel		.4
Contractual Services	.2	23.7
Supplies and Materials		3.4
TOTAL -- Driver Improvement	\$ 17.7	\$ 747.1
<u>(45-07-04) Title Registration</u>		

Salaries (70.0)		\$	1,102.3
Other Employment Costs			285.8
Contractual Services			58.3
Supplies and Materials			390.0
Capital Outlay			5.0
TOTAL -- Title Registration		\$	1,841.4
<u>(45-07-05) Vehicle Inspection</u>			
Salaries (31.0)		\$	525.1
Other Employment Costs			151.6
Travel			5
Contractual Services			17.1
Supplies and Materials			14.0
TOTAL -- Vehicle Inspection		\$	708.3
TOTAL -- Division of Motor Vehicles	\$	142.7	\$ 5,297.0
<u>(45-08-01) Division of Emergency Planning and Operations</u>			
(16.0)NSF Salaries (7.0)	\$	127.9	\$ 139.6
(6.0)ASF Other Employment Costs		36.9	37.0
Travel		4.0	2.0
Contractual Services		604.4	28.4
Supplies and Materials		28.3	5.3
Capital Outlay		46.0	
Computer/Software		10.0	
Sub-Total	\$	857.5	\$ 212.3
Debt Service			1.1
TOTAL -- Division of Emergency Planning and Operations	\$	857.5	\$ 213.4
<u>(45-09-01) Division of Boiler Safety</u>			
Salaries (7.0)		\$	165.9
Other Employment Costs			41.8
Travel			13.8
Contractual Services			14.8
Supplies and Materials			2.6
TOTAL -- Division of Boiler Safety		\$	238.9
<u>(45-10-01) Office of Highway Safety</u>			
(1.0) NSF Salaries (4.0)		\$	103.0
Other Employment Costs			27.5
Travel			6.3
Contractual Services			13.9
Supplies and Materials			3.7
Capital Outlay			2.0
TOTAL -- Office of Highway Safety		\$	156.4
TOTAL -- DEPARTMENT OF PUBLIC SAFETY	\$	2,431.1	\$ 38,557.7
<u>TOTAL POSITIONS</u>			
GF - 873.0			
ASF - 13.0			
NSF - 17.0			
<u>(50-00-00) DEPARTMENT OF COMMUNITY AFFAIRS</u>			
<u>(50-01-00) Office of the Secretary</u>			
<u>(50-01-01) Administration</u>			
(2.5) ASF Salaries (12.0)	\$	44.8	\$ 293.1
Other Employment Costs		13.7	70.9
Travel		1.5	8.1
Contractual Services		.7	101.2
Supplies and Materials		.5	10.4
Sub-Total	\$	61.2	\$ 483.7
Debt Service			102.3
TOTAL -- Administration	\$	61.2	\$ 586.0
<u>(50-01-02) Commission for Women</u>			
Salaries (3.0)		\$	57.4
Other Employment Costs			12.0
Travel			3.9
Contractual Services			18.3
Supplies and Materials			2.4
Capital Outlay			.7
TOTAL -- Commission for Women		\$	94.7

(50-01-03) Office of Handicapped Services

(3.3)NSF	Salaries (1.5)		\$	27.6
	Other Employment Costs			6.7
	Travel			.5
	Contractual Services			4.1
	Supplies and Materials			.3
TOTAL -- Office of Handicapped Services				39.2
TOTAL -- Office of the Secretary				\$ 61.2 \$ 719.9

(50-02-01) Division of Community Services

(13.0)NSF	Salaries (3.0)		\$	94.3
	Other Employment Costs			18.4
	Travel			4.8
	Contractual Services			23.1
	Supplies and Materials			5.8
	Capital Outlay			1.4
	Congregate Feeding			23.1
TOTAL -- Division of Community Services				\$ 170.9

(50-03-00) Division of Volunteer Services(50-03-01) Volunteer Services

(1.0)ASF	Salaries (4.0)	\$	18.7	\$	85.6
	Other Employment Costs		3.7		20.7
	Travel		.4		2.1
	Contractual Services		2.4		16.4
	Supplies and Materials		.6		1.4
	Capital Outlay				.6
	Kent County RSVP				22.0
TOTAL -- Volunteer Services				\$ 25.8	\$ 148.8

(50-03-03) Foster Grandparents Program

	Salaries (6.8)		\$	154.9
	Other Employment Costs			36.1
	Travel			1.7
	Contractual Services			543.0
	Supplies and Materials			5.3
	Capital Outlay			.8

TOTAL -- Foster Grandparents Program				\$ 741.8
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(50-03-04) RSVP - New Castle

(2.5)NSF	Salaries (2.3)		\$	39.9
	Other Employment Costs			7.7
	Travel			3.5
	Contractual Services			30.3
	Supplies and Materials			6.1
	Capital Outlay			12.5
TOTAL -- RSVP - New Castle				\$ 100.0

(50-03-05) RSVP - Sussex

(1.9)NSF	Salaries (2.3)		\$	37.2
	Other Employment Costs			9.8
	Travel			1.7
	Contractual Services			15.8
	Supplies and Materials			2.7
	Capital Outlay			.2
TOTAL -- RSVP - Sussex				\$ 67.4

TOTAL -- Division of Volunteer Services				\$ 25.8 \$ 1,058.0
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(50-04-01) Office of the Public Advocate

(1.0)ASF	Salaries (2.0)	\$	29.4	\$	72.9
	Other Employment Costs		5.4		16.1
	Travel		4.4		4.0
	Contractual Services		74.8		16.4
	Supplies and Materials		5.4		3.3
TOTAL -- Office of the Public Advocate				\$ 119.4	\$ 112.7

(50-06-01) Office of Human Relations

(1.0)ASF	Salaries (9.0)	\$	21.2	\$	211.5
	Other Employment Costs		4.4		46.1
	Travel		3.0		8.0
	Contractual Services		2.0		25.7
	Supplies and Materials		.5		3.6
	Computer/Software		1.4		

TOTAL -- Office of Human Relations				\$ 32.5	\$ 294.9
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(50-09-01) Division of Housing

(37.0)ASF	Salaries	\$ 769.4	\$	
(3.0)NSF	Other Employment Costs	202.5		
	Travel	28.5		
	Contractual Services	531.4		
	Supplies and Materials	29.0		
	Capital Outlay	44.8		
	Computer/Software	41.0		
	Debt Service			64.1
	Holly Square	87.2		
	Huling Cove	129.9		
	Huling Cove Annex	253.0		
	Housing Development Fund	8,500.0		
	Public Housing	624.1		
	Home Improvement Insurance	168.3		
	TOTAL -- Division of Housing	\$ 11,409.1*	\$	64.1

* The appropriated Special Funds in the Division of Housing do not include any appropriation for payment of debt service or loan servicing fees for the Delaware State Housing Authority.

(50-10-01) Division of Libraries

(2.0)ASF	Salaries (10.0)	\$ 29.4	\$	185.6
(11.0)NSF	Other Employment Costs	7.9		50.6
	Travel			2.5
	Contractual Services	24.3		238.9
	Supplies and Materials	.2		39.1
	Capital Outlay	2.1		13.3
	Library Standards			395.6
Sub-Total		\$ 63.9	\$	925.6
	Debt Service			3.1
TOTAL -- Division of Libraries		\$ 63.9	\$	928.7

(50-11-01) Division of Consumer Affairs

	Salaries (12.0)		\$	287.1
	Other Employment Costs			60.3
	Travel			5.3
	Contractual Services			23.4
	Supplies and Materials			3.5
	Capital Outlay			1.0
TOTAL -- Division of Consumer Affairs			\$	380.6
TOTAL -- DEPARTMENT OF COMMUNITY AFFAIRS		\$ 11,711.9	\$	3,729.8

TOTAL POSITIONS

GF - 67.9
ASF - 44.5
NSF - 34.7

(55-00-00) DEPARTMENT OF TRANSPORTATION

(55-01-01) Office of the Secretary

	Salaries (2.0)	\$	89.7
	Other Employment Costs		19.1
	Travel		2.1
	Contractual Services		5.0
	Supplies and Materials		1.4
TOTAL -- Office of the Secretary		\$	117.3

(55-02-01) Office of Administration

	Salaries (59.0)	\$	1,434.7
	Other Employment Costs		352.9
	Travel		5.5
	Contractual Services		326.8
	Supplies and Materials		20.4
	Capital Outlay		39.0
	Maintenance/Restoration		.5
TOTAL -- Office of Administration		\$	2,179.8

(55-04-00) Division of Highways

(55-04-01) Office of the Director

(3.0)NSF	Salaries (56.0)	\$	1,689.6
	Other Employment Costs		387.5
	Travel		33.0
	Contractual Services		242.7
	Supplies and Materials		153.3
	Capital Outlay		16.0
	Computer/Software		7.0
	Maintenance/Restoration		1.0
Sub-Total		\$	2,530.1
	Debt Service		34,739.9

TOTAL -- Office of the Director	\$	37,270.0
<u>(55-04-10) Pre-Construction</u>		
(94.0)NSF Salaries (42.0)	\$	1,581.9
Other Employment Costs		<u>395.4</u>
TOTAL -- Pre-Construction	\$	1,977.3
<u>(55-04-30) Bureau of Materials and Research</u>		
(47.0)NSF Salaries (11.0)	\$	423.7
Other Employment Costs		107.7
Travel		3.1
Contractual Services		25.7
Supplies and Materials		24.0
Capital Outlay		22.0
Maintenance/Restoration		<u>.3</u>
TOTAL -- Bureau of Materials and Research	\$	606.5
<u>(55-04-40) Bureau of Construction</u>		
(113.0)NSF Salaries (75.0)	\$	2,608.5
Other Employment Costs		<u>598.5</u>
TOTAL -- Bureau of Construction	\$	3,207.0
<u>(55-04-50) Bureau of Traffic</u>		
(5.0)NSF Salaries (98.0)	\$	2,133.3
Other Employment Costs		544.3
Travel		1.6
Contractual Services		1,024.1
Supplies and Materials		595.9
Capital Outlay		38.4
Maintenance/Restoration		<u>3.0</u>
TOTAL -- Bureau of Traffic	\$	4,340.8
<u>(55-04-60) Field Services</u>		
(2.0)NSF Salaries (12.0)	\$	378.1
Other Employment Costs		<u>92.3</u>
TOTAL -- Field Services	\$	470.4
<u>(55-04-70) Bureau of Maintenance</u>		
Salaries (572.0)	\$	10,349.8
Other Employment Costs		2,856.4
Travel		7.5
Contractual Services		1,764.9
Supplies and Materials		1,831.1
Capital Outlay		1,851.3
Computer/Software		30.0
Maintenance/Restoration		<u>120.3</u>
TOTAL -- Bureau of Maintenance	\$	18,811.3
TOTAL -- Division of Highways	\$	66,683.3
<u>(55-06-01) Delaware Transportation Authority</u>		
(13.0)NSF Delaware Transportation Authority Operations	\$	755.1
Delaware Transportation Authority Capital		900.5
(121.0)NSF Turnpike Operations		3,855.8
Turnpike Operating Reserve		2.3*
Turnpike Improvements		660.0
Interstate Operations		2,017.5
Interstate Improvements		550.0
DART Operations "Public"		3,674.2
OAST Operations "E & H"		735.2
Taxi Services Support "E & H"		125.8
Newark Transportation		60.4
Kent and Sussex Transportation "E & H"		695.0
Rail Commuter Operations		1.0
Rail Freight Improvements		260.3
Aviation		25.0
Contingencies		1.0
Over Transportation "E & H"		91.0
Over Capital "E & H"		1.0
Administrative Support, ODI		<u>50.0</u>
Sub-Total	\$	14,461.1
Debt Service		
Motor Fuel Tax Bonds	\$	13,508.0
Turnpike Bonds	\$	7,962.0

State Obligations		<u>318.4</u>
TOTAL -- Delaware Transportation Authority	\$ 35,931.1**	\$ 318.4
*The Turnpike Operating Reserve Fund is established at \$283.6.		
**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	\$ 35,931.1	\$ 69,298.8
TOTAL POSITIONS		
GF - 927.0		
NSF - 398.0		
(60-00-00) DEPARTMENT OF LABOR		
(60-01-01) Office of the Secretary		
(7.2)ASF Salaries (.8)	\$ 224.0	\$ 25.5
Other Employment Costs	55.2	5.4
Travel	5.0	1.0
Contractual Services	24.5	3.0
Supplies and Materials	3.0	.6
Computer/Software	<u>4.0</u>	
TOTAL -- Office of the Secretary	\$ 315.7	\$ 35.5
(60-06-01) Division of Employment Security		
(3.0)ASF Salaries (1.0)	\$ 45.0	\$ 25.4
(183.0)NSF Other Employment Costs	10.1	7.4
Travel	.2	
Contractual Services	17.8	6.8
Supplies and Materials	2.6	1.2
Maintenance/Restoration	<u>.4</u>	
TOTAL -- Division of Employment Security	\$ 76.1	\$ 40.8
(60-07-01) Division of Industrial Affairs		
(8.5)NSF Salaries (38.5)	\$	\$ 788.8
Other Employment Costs		194.5
Travel	8.0	15.4
Contractual Services	3,297.0	127.2
Supplies and Materials		12.6
Capital Outlay	<u>5.0</u>	<u>6.5</u>
TOTAL -- Division of Industrial Affairs	\$ 3,310.0	\$ 1,145.0
(60-08-01) Division of Vocational Rehabilitation		
(5.2)ASF Salaries	\$ 148.0	\$
(135.8)NSF Other Employment Costs	37.3	
Contractual Services		1,256.0
Supplies and Materials		33.6
Governor's Committee for Employment of the Handicapped		10.5
Sheltered Workshops		<u>284.9</u>
TOTAL -- Division of Vocational Rehabilitation	\$ 185.3	\$ 1,585.0
(60-09-01) Division of Employment and Training		
(1.0)ASF Salaries (21.1)	\$ 33.0	\$ 377.4
(115.9)NSF Other Employment Costs	8.7	93.0
Travel	.5	7.4
Contractual Services	17.0	100.4
Supplies and Materials	1.1	9.6
Capital Outlay	3.0	
Women's Vocational Services	48.2	
Dislocated Workers Program	92.2	
Summer Youth Program	145.7	
Other Grants	<u>1,545.0</u>	
TOTAL -- Division of Employment and Training	\$ 1,605.3	\$ 876.9
TOTAL -- DEPARTMENT OF LABOR	\$ 5,492.4	\$ 3,683.2
TOTAL POSITIONS		
GF - 61.4		
ASF - 16.4		
NSF - 443.2		
(65-00-00) DEPARTMENT OF AGRICULTURE		
(65-01-00) Office of the Secretary		
(65-01-01) Office of the Secretary		
(1.0) ASF Salaries (10.0)	\$ 18.8	\$ 231.3
Other Employment Costs	6.0	55.1
Travel		3.2

Contractual Services	2.5	135.2
Supplies and Materials	1.0	4.9
Capital Outlay		19.8
Computer/Software		2.0
Maintenance/Restoration		25.3
Sub-Total	\$ 28.3	\$ 476.8
Debt Service		\$ 37.4
TOTAL -- Office of the Secretary	\$ 28.3	\$ 514.2
<u>(65-01-02) Agricultural Lands Preservation</u>		
Salaries (3.0)		\$ 69.7
Other Employment Costs		19.5
Travel		2.1
Contractual Services		20.2
Supplies and Materials		2.3
Capital Outlay		10.1
Maintenance/Restoration		.1
TOTAL -- Agricultural Lands Preservation		\$ 124.0
TOTAL -- Office of the Secretary	\$ 28.3	\$ 638.2
<u>(65-03-00) Division of Standards and Inspections</u>		
<u>(65-03-02) Agriculture Compliance Lab</u>		
Salaries (7.0)	\$ 8.0	\$ 145.3
Other Employment Costs	.3	37.6
Travel		4.9
Contractual Services	1.2	33.7
Supplies and Materials	.4	21.2
Capital Outlay		2.4
Sub-Total	\$ 9.9	\$ 245.1
Debt Service		\$ 10.5
TOTAL -- Agriculture Compliance Lab	\$ 9.9	\$ 255.6
<u>(65-03-03) Weights and Measures</u>		
Salaries (6.0)		\$ 115.1
Other Employment Costs		30.9
Travel		2.9
Contractual Services		15.2
Supplies and Materials		8.6
Capital Outlay		14.1
Computer/Software		2.4
Maintenance/Restoration		.4
TOTAL -- Weights and Measures		\$ 189.6
<u>(65-03-04) Poultry and Animal Health</u>		
Salaries (8.0)		\$ 168.5
Other Employment Costs		41.4
Travel		2.8
Contractual Services		48.4
Supplies and Materials		26.0
Capital Outlay		2.1
Maintenance/Restoration		.2
TOTAL -- Poultry and Animal Health		\$ 289.4
<u>(65-03-05) Meat Inspection</u>		
Salaries (14.0)		\$ 300.7
Other Employment Costs		79.0
Travel		4.2
Contractual Services		10.8
Supplies and Materials		6.6
Capital Outlay		16.8
TOTAL -- Meat Inspection		\$ 418.1
<u>(65-03-06) Seed Laboratory</u>		
(4.0)ASF Salaries (3.0)	\$ 137.3	\$ 61.9
Other Employment Costs	25.1	17.1
Travel	2.2	1.3
Contractual Services	7.4	7.2
Supplies and Materials	24.8	5.1
Capital Outlay	16.3	14.9
Computer/Software	2.3	
Maintenance/Restoration	.3	.2
TOTAL -- Seed Laboratory	\$ 215.2	\$ 107.2
TOTAL -- Division of Standards and Inspections	\$ 225.6	\$ 1,260.4

(65-04-00) Division of Production and Promotion(65-04-01) Administration and Management

Salaries (3.0)	\$	85.1
Other Employment Costs		18.9
Travel		1.9
Contractual Services		7.6
Supplies and Materials		2.3
Capital Outlay		<u>10.0</u>
Sub-Total	\$	125.8
Debt Service	\$	<u>5.7</u>
TOTAL -- Administration and Management	\$	131.5

(65-04-02) Forestry

(1.0)ASF Salaries (17.0)	\$	27.3	\$	344.8
(2.0)NSF Other Employment Costs		3.9		93.2
Travel		10.0		
Contractual Services		52.9		4.5
Supplies and Materials		103.8		5.3
Capital Outlay		19.2		12.0
Computer/Software		3.5		
Maintenance/Restoration		<u>4.5</u>		
Sub-Total	\$	225.1	\$	459.8
Debt Service			\$	<u>18.8</u>
TOTAL -- Forestry	\$	225.1	\$	478.6

(65-04-03) Pesticides Control

(.5)ASF Salaries (2.5)	\$	6.2	\$	43.9
(1.0)NSF Other Employment Costs		1.4		14.2
Travel				.4
Contractual Services		10.0		9.1
Supplies and Materials		1.4		1.5
Capital Outlay		<u>2.5</u>		<u>10.3</u>
TOTAL -- Pesticides Control	\$	21.5	\$	79.4

(65-04-04) Poultry Grading and Agriculture Product Inspection

(10.5)ASF Salaries (1.5)	\$	235.8	\$	37.2
Other Employment Costs		65.0		9.4
Travel		5.1		.3
Contractual Services		2.6		6.9
Supplies and Materials				1.3
Capital Outlay		<u>.5</u>		
TOTAL -- Poultry Grading and Agriculture Product Inspection	\$	309.0	\$	55.1

(65-04-05) Commodity Development

Salaries (4.0)	\$		\$	98.4
Other Employment Costs				27.1
Travel				11.1
Contractual Services				73.8
Supplies and Materials	2.5			11.0
Capital Outlay				1.4
Computer/Software				.5
Laurel Auction				10.7
Agriculture Development Program				<u>50.0</u>
TOTAL -- Commodity Development	\$	2.5	\$	284.0

(65-04-06) Plant Industry

Salaries (5.0)	\$		\$	123.0
Other Employment Costs				28.9
Travel				2.7
Contractual Services				178.6
Supplies and Materials				12.1
Capital Outlay				<u>12.3</u>
TOTAL -- Plant Industry			\$	<u>357.6</u>

TOTAL -- Division of Production and Promotion	\$	<u>558.1</u>	\$	<u>1,386.2</u>
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TOTAL -- DEPARTMENT OF AGRICULTURE	\$	812.0	\$	3,284.8
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TOTAL POSITIONS

GF - 84.0

ASF - 17.0

NSF - 3.0

(70-00-00) DEPARTMENT OF ELECTIONS(70-01-01) Commissioner of Elections

Salaries (6.0)		\$	134.8
Other Employment Costs			32.6
Travel			.8
Contractual Services			23.7
Supplies and Materials			3.7
Capital Outlay			.8
TOTAL -- Commissioner of Elections		\$	196.4
<u>(70-02-01) New Castle County Department of Elections</u>			
Salaries (11.0)		\$	249.2
Other Employment Costs			50.3
Travel			5.4
Contractual Services			127.2
Supplies and Materials			7.7
Capital Outlay			3.0
Mobile Registration			20.0
TOTAL -- New Castle County Department of Elections		\$	462.8
<u>(70-03-01) Kent County Department of Elections</u>			
Salaries (4.0)		\$	102.6
Other Employment Costs			26.8
Travel			.8
Contractual Services			53.7
Supplies and Materials			2.4
Computer/Software			13.0
Mobile Registration			5.0
TOTAL -- Kent County Department of Elections		\$	204.3
<u>(70-04-01) Sussex County Department of Elections</u>			
Salaries (4.0)		\$	116.1
Other Employment Costs			21.1
Travel			1.4
Contractual Services			32.7
Supplies and Materials			4.8
Computer/Software			9.3
Mobile Registration			8.0
TOTAL -- Sussex County Department of Elections		\$	193.4
TOTAL -- DEPARTMENT OF ELECTIONS		\$	1,056.9
<u>TOTAL POSITIONS</u>			
GF - 25.0			
<u>(75-00-00) FIRE PREVENTION COMMISSION</u>			
<u>(75-01-01) Office of the State Fire Marshal</u>			
(14.7)ASF Salaries (19.3)	\$	263.0	\$ 483.0
Other Employment Costs		81.8	128.0
Travel		7.2	5.9
Contractual Services		37.0	62.6
Supplies and Materials		17.8	27.7
Capital Outlay		33.8	24.0
Sub-Total	\$	440.6	\$ 731.2
Debt Service			5.8
TOTAL -- Office of the State Fire Marshal	\$	440.6	\$ 737.0
<u>(75-02-01) State Fire School</u>			
(5.3)NSF Salaries (12.7)	\$	-	\$ 297.0
Other Employment Costs			80.1
Travel			2.0
Contractual Services	20.0		163.4
Supplies and Materials			36.8
Capital Outlay			20.0
Maintenance/Restoration			.8
Sub-Total	\$	20.0	\$ 600.1
Debt Service			267.5
TOTAL -- State Fire School	\$	20.0	\$ 867.6
<u>(75-03-01) State Fire Prevention Commission</u>			
Salaries (1.0)		\$	15.1
Other Employment Costs			5.2
Travel			16.0
Contractual Services			10.5
Supplies and Materials			1.2
Statewide Fire Safety Education			50.0
TOTAL -- State Fire Prevention Commission			\$ 98.0

TOTAL -- FIRE PREVENTION COMMISSION \$ 460.6 \$ 1,702.6

TOTAL POSITIONS

GF - 33.0

ASF - 14.7

NSF - 5.3

(76-00-00) DELAWARE NATIONAL GUARD(76-01-01) Delaware National Guard

(43.6) NSF	Salaries (30.4)	\$ 744.5
	Other Employment Costs	181.3
	Travel	4.3
	Contractual Services	418.4
	Supplies and Materials	73.3
	Maintenance/Restoration	202.7
	Unit Fund Allowance	15.0
	Educational Assistance	35.0
	Sick-Leave Entitlements	<u>19.5</u>

Sub-Total \$ 1,694.0

Debt Service \$ 196.2

TOTAL -- DELAWARE NATIONAL GUARD \$ 1,890.2

TOTAL POSITIONS

GF - 30.4

NSF - 43.6

(77-00-00) ADVISORY COUNCIL FOR
EXCEPTIONAL CITIZENS

Salaries (2.0)	\$ 24.4
Other Employment Costs	4.6
Travel	4.8
Contractual Services	4.1
Supplies and Materials	.4
Capital Outlay	<u>.3</u>

TOTAL -- ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS \$ 38.6

TOTAL POSITIONS

GF - 2.0

(90-00-00) HIGHER EDUCATION(90-01-00) University of Delaware(90-01-01) University of Delaware

Operations	\$ 53,029.2
Diagnostic Poultry Service and Swine Program	48.1
Occupational Teachers Education Program	81.8
Sea Grant Program	344.8
Summer School for Teachers	172.9
Academic Incentive Program	100.0
Aid to Needy Students	642.0
General Scholarships	1,224.0
Scholarships	885.0
Title VI Compliance	750.2
Soil Testing/Pesticide Control	84.6
Urban Agent Program	59.3
Student Employment Program	156.8
Research Partnership Fund	1,000.0
Minority Faculty and Professional Recruitment	103.4
Public Service and Applied Research Projects	76.8
Agriculture Experimental Station	61.5
Cooperative Extension	74.7
Carvel Scholarships	200.0
Poultry Disease Research	224.2
Crop Extension	30.9
Pike Creek Greenway	50.0
Urban Journalism	4.0
Agricultural Environmental Quality	35.0
Financial Services Center	<u>50.0</u>

Sub-Total \$ 59,489.2

Debt Service \$ 6,255.1

TOTAL -- University of Delaware \$ 65,744.3

(90-01-02) Delaware Geological Survey

Operations	\$ 668.4
River Master Program	50.2
State Boundary Commission	<u>15.0</u>

TOTAL -- Delaware Geological Survey \$ 733.6

TOTAL -- University of Delaware \$ 66,477.9

(90-02-01) Delaware Institute of Medical
Education and Research

Operations		\$ 1,708.7
TOTAL -- Delaware Institute of Medical Education and Research		\$ 1,708.7
<u>(90-03-00) Delaware State College</u>		
<u>(90-03-01) Executive Services</u>		
(2.5)NSF	Salaries (13.6)	\$ 295.2
	Other Employment Costs	71.7
	Travel	6.0
	Contractual Services	27.3
	Supplies and Materials	11.5
	Capital Outlay	11.0
	Work Study	1.6
		<u>424.3</u>
TOTAL -- Executive Services		\$ 424.3
<u>(90-03-02) Academic Affairs</u>		
(35.8)NSF	Salaries (212.0)	\$ 5,778.4
	Other Employment Costs	1,410.9
	Travel	20.2
	Contractual Services	317.8
	Supplies and Materials	173.0
	Capital Outlay	191.1
	Computer/Software	25.0
	Summer School for Teachers	36.0
	Work Study	22.9
	Faculty Development	100.0
	Mishoe Scholarships	50.0
	Cooperative Extension	15.1
	Cooperative State Research	88.6
		<u>8,229.0</u>
TOTAL -- Academic Affairs		\$ 8,229.0
<u>(90-03-03) Student Affairs</u>		
(37.9)NSF	Salaries (34.8)	\$ 690.2
	Other Employment Costs	178.0
	Travel	8.0
	Contractual Services	237.7
	Supplies and Materials	56.6
	Maintenance/Restoration	24.0
	Title VI Compliance	120.0
	Academic Incentive	50.0
	Scholarships	86.0
	Athletic Grant	83.1
	Work Study	84.0
		<u>1,617.6</u>
TOTAL -- Student Affairs		\$ 1,617.6
<u>(90-03-04) Business and Fiscal Affairs</u>		
(16.0)NSF	Salaries (126.8)	\$ 2,247.4
	Other Employment Costs	626.9
	Travel	8.0
	Contractual Services	1,124.0
	Supplies and Materials	123.8
	Capital Outlay	155.5
	Computer/Software	124.7
	Work Study	19.9
	Maintenance/Restoration	276.0
		<u>4,706.2</u>
Sub-Total		\$ 4,706.2
Debt Service		\$ 1,777.4
TOTAL -- Business and Fiscal Affairs		\$ 6,483.6
<u>(90-03-05) Sponsored Programs and Research</u>		
(37.5)NSF	Salaries	\$
TOTAL -- Sponsored Programs and Research		\$
TOTAL -- Delaware State College		\$ 16,754.5
<u>TOTAL POSITIONS</u>		
	GF - 387.2	
	NSF - 129.7	
<u>(90-04-00) Delaware Technical and Community College</u>		
<u>(90-04-01) Office of the President</u>		
(5.0)NSF	Salaries (34.0)	\$ 1,376.9
	Other Employment Costs	306.3
	Travel	6.5
	Contractual Services	196.7
	Supplies and Materials	30.8
	Capital Outlay	19.3
	Computer/Software	3.0
	Maintenance/Restoration	1.0
	Occupational Teacher Program	36.8

Academic Incentive	50.0
Dental Program	65.0
Salary Plan A Contingency	<u>600.0</u>
Sub-Total	\$ 2,692.3
Debt Service	<u>158.3</u>
TOTAL -- Office of the President	\$ 2,850.6
<u>(90-04-02) Southern Campus</u>	
(34.0)NSF Salaries (136.0)	\$ 4,073.9
Other Employment Costs	939.8
Travel	5.0
Contractual Services	839.3
Supplies and Materials	51.4
Capital Outlay	53.5
Computer/Software	10.0
NOSL Match	6.5
Aid to Needy Students	37.7
Work Study	16.5
Maintenance/Restoration	<u>18.0</u>
Sub-Total	\$ 6,051.6
Debt Service	<u>817.8</u>
TOTAL -- Southern Campus	\$ 6,869.4
<u>(90-04-04) Wilmington Campus</u>	
(17.0)NSF Salaries (109.0)	\$ 3,152.6
Other Employment Costs	681.3
Travel	4.0
Contractual Services	819.1
Supplies and Materials	47.0
Capital Outlay	34.0
Aid to Needy Students	42.0
Work Study	20.0
Maintenance/Restoration	<u>50.3</u>
Sub-Total	\$ 4,850.3
Debt Service	<u>1,509.1</u>
TOTAL -- Wilmington Campus	\$ 6,359.4
<u>(90-04-05) Stanton Campus</u>	
(26.0)NSF Salaries (132.0)	\$ 4,033.8
Other Employment Costs	859.5
Travel	5.0
Contractual Services	172.8
Supplies and Materials	91.0
Capital Outlay	42.0
Aid to Needy Students	32.5
Work Study	21.0
Maintenance/Restoration	<u>43.2</u>
Sub-Total	\$ 5,300.8
Debt Service	<u>756.0</u>
TOTAL -- Stanton Campus	\$ 6,056.8
<u>(90-04-06) Terry Campus</u>	
(40.0)NSF Salaries (87.0)	\$ 2,355.2
Other Employment Costs	543.3
Travel	4.0
Contractual Services	365.2
Supplies and Materials	37.8
Capital Outlay	29.2
Computer/Software	7.8
NOSL Match	1.0
Aid to Needy Students	25.0
Work Study	8.0
Maintenance/Restoration	<u>13.0</u>
Sub-Total	\$ 3,389.5
Debt Service	<u>455.9</u>
TOTAL -- Terry Campus	\$ 3,845.4
TOTAL -- Delaware Technical and Community College	\$ 25,981.6
<u>TOTAL POSITIONS</u>	
GF - 498.0	
NSF - 122.0	
<u>(90-07-01) Delaware Institute of Veterinary Medical Education</u>	

Subvention		\$	179.0
TOTAL -- Delaware Institute of Veterinary Medical Education		\$	179.0
(90-00-01) Delaware Institute of Dental Education and Research			
Subvention		\$	93.5
TOTAL -- Delaware Institute of Dental Education and Research		\$	93.5
TOTAL -- HIGHER EDUCATION		\$	111,195.2
TOTAL POSITIONS -- HIGHER EDUCATION			
GF - 885.2			
NSF - 251.7			
(95-00-00) PUBLIC EDUCATION			
(95-01-00) State Board of Education and State Board for Vocational Education			
(95-01-01) State Board of Education and Superintendent			
(1.8)NSF Salaries (7.2)		\$	323.5
Other Employment Costs			66.0
Travel			15.4
Contractual Services			43.1
Supplies and Materials			4.4
Capital Outlay			12.0
Computer/Software			4.0
Education Compact of the States			28.3
Teacher Incentive Program			10.0
School Improvement Demonstration Fund			50.0
TOTAL -- State Board of Education and Superintendent		\$	556.7
(95-01-02) Administrative Services			
(16.5)NSF Salaries (31.0)		\$	1,004.1
Other Employment Costs			240.8
Travel			9.9
Contractual Services			43.0
Supplies and Materials			7.6
Capital Outlay			22.3
Films			32.0
Educational Assessment			266.6
Private Business and Trade School			2.0
Evaluation - Higher Education			1.0
Computer/Software			11.8
Tallman Scholarships	3.4		
Mather Library Endowment Fund	2.5		
Brown Trust fund	35.0		
(1.5)ASF Film Library	54.5		
Department of Public Instruction Library	34.0		
Trailer Rental Fund	27.5		
DPI Publications	10.0		
TOTAL -- Administrative Services		\$	166.9
		\$	1,641.1
(95-01-03) Office of Educational Computing Services			
(6.0)ASF Salaries (6.0)		\$	189.7
Other Employment Costs			41.1
Operating Costs - Direct	41.7		209.3
Operating Costs - Training Lab	220.0		20.0
District Grants - Unit Allocations			460.0
Curriculum Software Development Program			250.0
Pupil Accounting System			41.8
Career Guidance System			16.5
TOTAL -- Office of Educational Computing		\$	451.4
		\$	1,225.5
(95-01-04) Instructional Services			
(33.0)NSF Salaries (34.0)		\$	1,318.1
Other Employment Costs			287.7
Travel			12.8
Contractual Services			62.7
Supplies and Materials			14.9
Capital Outlay			21.3
Curriculum Improvement			107.9
(1.0)ASF Delaware Secondary School Athletic Fund	59.0		
Computer/Software			7.9
TOTAL -- Instructional Services		\$	59.0
		\$	1,833.3
(95-01-05) Educational Contingency			
School District Appropriations			

Division I Units (5685)

Formula Salaries (8,120.6)	\$ 159,572.5
Cafeteria Funds	1,575.4
Other Employment Costs	44,120.3
Salary Contingency	348.0

Division II (6631)

Other Costs	11,945.1
Energy	8,361.7

All Other Costs

Support-Local Fund Employment Costs	4,921.7
Other Items	193.3
Teacher of the Year	5.5
Delmar Tuition	279.2
General Contingency	3,319.3
Pension - Retired and Disabled Teachers	36.4
Desegregation Monitoring	125.0

Sub-Total	\$ 234,803.4
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Debt Service - School Districts	\$ 10,190.3
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Debt Service - State Board	\$ 2,320.5
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TOTAL -- Educational Contingency	\$ 247,314.2
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(95-01-06) Pass Through/K-12 Programs

Pregnant Students Program	\$ 192.2
Related Services for the Handicapped	955.3
Private Placement of the Handicapped	1,948.3
Youth Organizations	103.6
Gifted and Talented Units	1,881.5
Summer School - Gifted and Talented	111.0
Homebound Instruction Program	572.7
Substitutes in Districts	1,522.1
Division III - Equalization	23,685.9
Basic Skills Units	4,568.2
Non-Public and Summer Driver Education	442.3
Operation and Maintenance - Driver Education Cars	136.3
Student Work Study	125.0
Center for Economic Education	150.0
Educational Resources Program	137.4
Exceptional Student Unit - Vocational	552.9
Disruptive Student Units	527.3
Parent Early Education Center	57.8
Green Circle Program	59.2
Advanced Studies	100.0
Lecturer in Residence	40.0
Education Refinement Program	2,143.4
Beach House	40.0
4 year old Development Pilot Program	189.0
REAO ALOUO Program	92.5
2 + 2 Pre-Technical Curriculum	40.0
Olympics of the Mind	12.0
Teacher in Space	5.4
Articulation	82.0
Summer OCC/VOC Programs	590.0
Delaware Nature Education Society	6.0
Career Guidance Counselors	760.0

TOTAL -- Pass Through/K-12 Programs	\$ 41,829.3
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(95-01-07) Pass Through/Adult Programs

Adult Incarcerated	\$ 167.6
Adult Trade Extension	610.2
Apprentice Program	463.6
James H. Groves High School	802.2
Adult Basic Education	134.3
New Castle County Learning Center	140.5
Wilmington Skills Center	218.0

TOTAL -- Pass Through/Adult Programs	\$ 2,536.4
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(95-01-08) Pupil Transportation

Public School Transportation	\$ 26,047.1
Non-Public School Transportation	
Reimbursement	2,748.2

TOTAL -- Pupil Transportation	\$ 28,795.3
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(95-01-09) -- Teacher Development Services

Teacher Competency and Certification	\$ 30.0
Education in Math	22.6
Education in Science	22.6
Delaware Institute for Arts in Education	55.0
Tuition Reimbursement	300.0
Delaware Teacher Center	257.5

Critical Curriculum Area		505.5
Career Enhancement		402.8
Summer Institute		<u>100.0</u>
TOTAL -- Teacher Development Services		\$ <u>1,696.0</u>
TOTAL -- State Board of Education and State Board for Vocational Education	\$ 677.3	\$ 327,427.8
<u>TOTAL POSITIONS -- STATE BOARD OF EDUCATION</u>		
GF -	78.2	
ASF -	8.5	
NSF -	51.3	
<u>TOTAL POSITIONS -- PUBLIC SCHOOL DISTRICTS</u>		
GF -	8,120.6	
<u>(95-04-01) Delaware Advisory Council on Career and Vocational Education</u>		
(3.5)NSF Salaries (3.5)		\$ 51.4
Other Employment Costs		<u>12.0</u>
TOTAL -- Delaware Advisory Council on Career and Vocational Education		\$ 63.4
<u>TOTAL POSITIONS -- DELAWARE ADVISORY COUNCIL ON CAREER AND VOCATIONAL EDUCATION</u>		
GF -	3.5	
NSF -	3.5	
TOTAL -- PUBLIC EDUCATION	\$ 677.3	\$ 327,491.2
<u>TOTAL POSITIONS -- PUBLIC EDUCATION</u>		
GF -	8,202.3	
ASF -	8.5	
NSF -	54.8	
<u>TOTALS</u>		
TOTAL -- DEPARTMENTS	\$ 134,505.5	\$ 557,235.8
TOTAL -- HIGHER EDUCATION	-0-	111,195.2
TOTAL -- PUBLIC EDUCATION	<u>677.3</u>	<u>327,491.2</u>
GRAND TOTAL -- DEPARTMENTS AND EDUCATION	\$ <u>135,182.8</u>	\$ <u>995,922.2</u>
<u>TOTAL POSITIONS</u>		
GF -	19,238.2	
ASF -	544.2	
NSF -	2,104.2	

GENERAL

Section 2. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Section 3. 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 4. 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 5. 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 6. The provisions of this Act to the contrary notwithstanding, any section, chapter or title of the Delaware Code and any Laws of Delaware providing for the application of "Sunset" shall be operative for those agencies, commissions or boards affected during the fiscal year commencing July 1, 1987.

Section 7. (a) The provisions for salaries in this Act are projected to cover the salaries and wages which shall become due and payable during the Fiscal Year ending June 30, 1988. All departments and agencies shall stay within their appropriations for salaries as well as positions authorized.

(b) Section 1 of this Act assumes salary savings in all branches of State government. All agencies in the Judicial, Executive, and Legislative branches of State government are directed to continue any and all vacancies within their respective agencies as necessary to remain within their level of funding for salaries and wages.

Section 8. All Departments/School Districts receiving energy funding in Section 1 of this Act must make monthly consumption and/or purchase reports to the Energy Office.

Section 9. At the close of the fiscal year, all unencumbered Appropriated Special Funds shall revert to the Budget Unit's holding account, except Title IVD funds.

Section 10. (a) For the fiscal year ending June 30, 1988, the following line item salaries represent the maximum salaries appropriated within Section 1 of this Act.

General All Other

Budget Unit	Line Item	Funds	Funds
(02-01-00)	Chief Justice	\$ 85.1	\$
(02-01-00)	Associate Justice	81.9	
(02-02-01)	Chancellor	80.8	
(02-02-01)	Vice Chancellor	77.6	
(02-02-02)	Public Guardian	35.6	
(02-03-00)	President Judge	80.8	
(02-03-00)	Judge	77.6	
(02-06-01)	Chief Judge	79.8	
(02-06-01)	Judge	75.4	
(02-08-01)	Chief Judge	79.8	
(02-08-01)	Judge	75.4	

(02-13-01)	Chief Magistrate	53.9	
(02-13-01)	Court Administrator	40.0	
(02-13-01)	Magistrate	32.4	
(02-17-01)	Director	54.5	
(02-17-02)	Executive Secretary - Violent Crimes Comp.		40.2
(02-17-03)	Executive Director - Foster Care Review Board	30.1	
(10-01-01)	Governor	70.0	
(10-02-01)	Budget Director	64.6	
(10-02-07)	Executive Director - Postsecondary Education Commission	46.1	
(10-02-15)	Executive Director - Information Systems	57.8	
(10-03-01)	Director - Delaware Development Office	64.7	
(10-04-01)	Personnel Director	59.3	
(10-07-01)	Executive Director - CJC	48.4	
(10-07-02)	Executive Director - DELJIS	39.4	
(10-08-01)	Director - Planning and Coordination	51.5	
(12-01-01)	Lieutenant Governor	32.4	
(12-02-01)	Auditor	48.5	
(12-03-01)	Insurance Commissioner	48.5	
(12-05-01)	State Treasurer	48.5	
(15-01-01)	Attorney General	70.0	
(15-02-01)	Public Defender	53.9	
(15-03-01)	Parole Board Chairman	44.5	
(20-01-01)	Secretary of State	53.9	
(20-05-01)	Director - Corporations	22.6	22.7
(20-06-01)	Director - Historical and Cultural Affairs	45.9	
(20-15-01)	State Banking Commissioner		56.7
(25-01-01)	Secretary - Finance	70.0	
(25-05-01)	Director - Accounting	50.1	
(25-06-01)	Director - Revenue	59.7	
(25-07-01)	Director - State Lottery		53.9
(30-01-00)	Secretary - Administrative Services	53.9	
(30-01-00)	Fleet Management Administrator	40.2	

(30-01-00)	Executive Director - Public Employment Relations Board	37.5	
(30-03-00)	Executive Secretary - Alcoholic Beverage Control Commission	42.0	
(30-03-00)	Director - Professional Regulations	34.0	
(30-03-00)	Director - Public Service Commission		39.7
(30-04-00)	Director - Support Operations		38.0
(30-05-00)	Director - Facilities Management	46.8	
(30-05-00)	Executive Secretary - Architectural Accessibility Board	33.6	
(30-06-00)	Director - Purchasing	41.5	
(35-01-01)	Secretary - Health and Social Services	64.6	
(35-02-01)	Director - Business Administration and General Services	42.4	4.6
(35-03-01)	Director - Planning, Research and Evaluation	42.4	
(35-04-01)	Chief Medical Examiner	79.7	
(35-05-02)	Director - Public Health	81.0	
(35-06-01)	Director - Mental Health	68.0	
(35-07-01)	Director - Economic Services	28.2	28.3
(35-10-01)	Director - Child Support Enforcement	14.3	26.6
(35-11-01)	Director - Mental Retardation	56.5	
(35-12-01)	Director - State Service Centers	40.2	
(35-14-01)	Director - Aging	9.8	29.5
(37-01-00)	Secretary - Services for Children, Youth, and Their Families	59.3	
(37-01-00)	Director - Administration	47.2	
(37-02-00)	Director - Child Protective Services	52.2	
(37-03-00)	Director - Child Mental Health	68.0	
(37-03-00)	Assistant Director - Child Mental Health	43.7	
(37-05-00)	Director - Youth Rehabilitation Services	50.0	
(37-08-00)	Director - Program Support	47.2	
(38-01-01)	Commissioner - Correction	64.6	
(38-02-01)	Bureau Chief - Administration and Operational Support	45.6	
(38-03-01)	Bureau Chief - Industries and Services	45.3	
(38-04-01)	Bureau Chief - Adult	56.5	

(40-01-01)	Secretary - Natural Resources and Environmental Control	59.3	
(40-05-01)	Director - Fish and Wildlife	20.8	20.8
(40-06-01)	Director - Parks and Recreation	41.6	
(40-07-01)	Director - Soil and Water Conservation	41.6	
(40-08-01)	Director - Water Resources	57.1	
(40-09-01)	Director - Air and Waste Management	61.8	
(45-01-01)	Secretary - Public Safety	59.3	
(45-06-01)	Superintendent - State Police	54.8	
(45-06-01)	Assistant Superintendent - State Police	46.7	
(45-07-01)	Director - Motor Vehicles	48.8	
(45-08-01)	Director - Emergency Planning and Operations	17.0	17.0
(45-09-01)	Director - Boiler Safety	33.2	
(45-10-01)	Director - Highway Safety	35.0	
(50-01-01)	Secretary - Community Affairs	53.9	
(50-02-01)	Director - Community Services	36.9	
(50-03-01)	Director - Volunteer Services	33.0	
(50-04-01)	Public Advocate	47.5	
(50-06-01)	Director - Human Relations	36.9	
(50-09-01)	Director - Housing		51.0
(50-10-01)	State Librarian	36.1	
(50-11-01)	Director - Consumer Affairs	36.9	
(55-01-01)	Secretary - Transportation	64.6	
(55-02-01)	Chief - Administration	45.4	
(55-04-01)	Director - Highways	62.9	
(55-06-01)	Director - Delaware Transportation Authority		55.9
(60-01-01)	Secretary - Labor	7.0	46.9
(60-06-01)	Director - Employment Security		46.8
(60-07-01)	Director - Industrial Affairs	39.7	
(60-08-01)	Director - Vocational Rehabilitation		46.8
(60-09-01)	Director - Employment and Training	3.0	43.8
(65-01-01)	Secretary - Agriculture	48.5	
(65-04-01)	Director - Production and Promotion	41.8	
(70-01-01)	Election - Commissioner	34.9	

(70-02-01)	Administrative Director - New Castle County Elections	31.7	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	31.1	
(70-03-01)	Administrative Director - Kent County Elections	31.7	
(70-03-01)	Deputy Administrative Director - Kent County Elections	31.1	
(70-04-01)	Administrative Director - Sussex County Elections	31.7	
(70-04-01)	Deputy Administrative Director - Sussex County Elections	31.1	
(75-01-01)	Fire Marshal	25.1	12.4
(75-02-01)	Director - Fire School	26.9	13.2
(76-01-01)	Adjutant General	48.5	
(95-01-01)	Superintendent - State Board of Education	61.4	24.9
(95-04-01)	Executive Secretary - Advisory Council on Career and Vocational Education	26.3	26.3

(b) For the Fiscal Year ending June 30, 1988, the following line item salaries represent the maximum salaries appropriated within Salaries in Section 1 of this Act:

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(10-02-07)	Commission Members - Postsecondary	\$ 2.4	\$
(10-04-01)	Personnel Commissioners	7.5	
(12-05-02)	Board Members - Pensions		9.6
(15-03-01)	Board Members - Parole	15.0	
(25-06-01)	Board Members - Revenue	33.0	
(30-01-00)	Board Members - Public Employment Relations Board	7.4	
(30-03-00)	Board Members - Alcoholic Beverage Control Commission	8.6	
(30-03-00)	Board Members - Professional Regulations	40.2	
(30-03-00)	Board Members - Public Service Commission		65.8
(30-05-00)	Board Members - Architectural Accessibility Board	2.3	
(38-04-01)	Institutional Classification Board	9.0	
(50-06-01)	Board Members - Human Relations	2.0	
(50-11-01)	Board Members - Consumer Affairs	3.5	
(60-07-01)	Board Members - Industrial Accident Board	84.0	
(70-02-01)	Board Members - New Castle County		

	Elections	10.5
(70-03-01)	Board Members - Kent County Elections	6.5
(70-04-01)	Board Members - Sussex County Elections	6.5
(95-01-01)	Board Members - State Board of Education	8.4

Section 11. Due to the pilot budget format, the restructuring of divisions into programs within divisions has created more exempt positions per division than allowed by law for the participating Departments; therefore, all exempt positions authorized by Title 29, Section 5903, Delaware Code prior to July 1, 1987 shall remain exempt for Fiscal Year 1988.

Section 12. (a) The General Assembly of the State of Delaware supports the State-wide policy that the pay plan for Merit System employees be developed in accordance with the results of valid surveys of salaries provided by a defined labor market. The Director of State Personnel shall conduct such surveys on a yearly basis and report the findings of such surveys by December 15 to the Governor and members of the General Assembly who will be responsible for recommending and approving yearly adjustments as are necessary to maintain the competitive posture of the plan. As the Director of State Personnel has conducted the required surveys for the fiscal year ending June 30, 1988, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1987, the following pay plans are established for State Merit System employees:

STATE OF DELAWARE PAY PLAN*
(Standard Work Schedule of 37.5 Hours Per Work Week)

PAY GRADE	75% of Midpoint	100% of Midpoint	125% of Midpoint
1		\$ 12,314	\$ 15,393
2	\$ 10,154**	13,176	16,470
3	10,574	14,099	17,624
4	11,314	15,085	18,856
5	12,107	16,142	20,178
6	12,954	17,272	21,590
7	13,860	18,480	23,100
8	14,830	19,773	24,716
9	15,869	21,158	26,448
10	16,980	22,640	28,300
11	18,167	24,223	30,279
12	19,440	25,920	32,400
13	20,801	27,734	34,668
14	22,256	29,675	37,094
15	23,815	31,753	39,691
16	25,482	33,976	42,470
17	27,265	36,353	45,441
18	29,173	38,897	48,621
19	31,216	41,621	52,026
20	33,402	44,536	55,670
21	35,740	47,653	59,566
22	38,241	50,988	63,735
23	40,918	54,557	68,196
24	43,783	58,377	72,971
25	46,847	62,463	78,079
26	50,127	66,836	83,545

* Annual Salary in \$

** By State Law, Minimum Salary in Delaware is \$10,154

STATE OF DELAWARE PAY PLAN*
(Standard Work Schedule of 40 Hours Per Work Week)

PAY GRADE	75% of Midpoint	100% of Midpoint	125% of Midpoint
1	\$ 10,154**	\$ 13,135	\$ 16,419
2	10,541	14,054	17,568
3	11,279	15,039	18,799

4	12,068	16,090	20,113
5	12,914	17,219	21,524
6	13,817	18,423	23,029
7	14,784	19,712	24,640
8	15,819	21,092	26,365
9	16,926	22,568	28,210
10	18,112	24,149	30,186
11	19,378	25,837	32,296
12	20,735	27,647	34,559
13	22,187	29,583	36,979
14	23,741	31,654	39,568
15	25,402	33,869	42,336
16	27,181	36,241	45,301
17	29,083	38,777	48,471
18	31,118	41,490	51,863
19	33,297	44,396	55,495
20	35,628	47,504	59,380
21	38,123	50,830	63,538
22	40,791	54,388	67,985
23	43,646	58,194	72,743
24	46,702	62,269	77,836
25	49,970	66,627	83,284
26	53,468	71,291	89,114

* Annual Salary in \$

** By State Law, Minimum Salary in Delaware is \$10,154

- (i) Merit Rule 5.0200 notwithstanding, the standard work week for employees in positions within the Correctional Officer class series, Correctional Security Superintendent class and Warden class series assigned to the Department of Correction, Meat Inspectors and Meat and Poultry Inspection Coordinators in the Department of Agriculture and Emergency Services Training Administrator class assigned to the State Fire School shall be 40 hours.
- (ii) During the fiscal year ending June 30, 1988, the State Personnel Director may designate, with the concurrence of the State Budget Director and the Controller General, other appropriate classes or groups of employees to work and be paid according to a standard work week of 40 hours. Such designation shall be based upon the operational necessity of agencies to require employees to regularly and consistently work in excess of 37.5 hours per week and upon the availability of any required funding.
- (b) The defined labor market survey in Section 12(a) for Fiscal Year 1989 shall be limited to those governments as follows:

<u>Delaware</u>	<u>Other Counties and Municipalities</u>
New Castle County	Cecil County, Maryland
Kent County	Caroline County, Maryland
Sussex County	Salisbury, Maryland
Wilmington	Chester County, Pennsylvania
Newark	Delaware County, Pennsylvania
Dover	West Chester, Pennsylvania
University of Delaware	
Delaware State College	
	<u>Other States</u>
	Maryland
	Pennsylvania
	New Jersey
	North Carolina
	Massachusetts
	New York
	Virginia

(c) Recognizing the need for flexibility to respond to critical external market pressures, selective market variations are permitted to the uniform pay plan structure for job classes that are key to the performance of State functions.

- (i) The appointing authority shall identify job classes or job families to be considered for selective market variations according to turnover rates, recruitment problems, vacancy rates, feasibility for the work to be performed

on a contractual basis and other criteria established by the State Personnel Director.

- (2) Upon receipt of the identified classes, the State Personnel Director shall survey the appropriate labor market to determine the State's position in this labor market.
- (3) This survey information will be reviewed by the State Budget Director, the State Personnel Director and the Controller General who shall recommend approval or disapproval for the classes for selective market compensation variations.
- (4) Any such selective market variation which the State Personnel Director, the State Budget Director and the Controller General have determined to be warranted and have been approved by the Joint Finance Committee, shall be designated to become effective July 1, 1987, provided that such variations have been processed as part of the regular budgetary process and the funds for such charges shall be appropriated.
- (5) Upon approval, the minimum, mid-point and maximum salary values shall be raised according to the results of the labor market surveys for the job class.
- (6) Before application of the general pay increase in Section 12(d)(1) and/or any promotion under Section 12(f), the salaries of employees whose current salaries fall below the adjusted minimum for the assigned job classification shall be raised to the adjusted minimum; the salaries of employees whose current salaries fall within the adjusted salary range shall not be increased.

(d) The amount appropriated by Section 1 of this Act for salaries includes the estimated amount needed to provide for a general salary increase for each State employee, unless as otherwise excepted by Subsections of this Section. This increase is to be provided as follows:

(1) Salary Adjustments for Departments 01 through 77:

- (i) Effective July 1, 1987, the salary of each employee shall be increased by 3.0 percent, unless otherwise noted in this Section.
- (ii) The salary of employees whose salary in effect as of June 30, 1987, is above the maximum salary of the assigned paygrade of the pay plan shall be increased by 1.5 percent.
- (iii) The salary of employees whose salary in effect as of June 30, 1987, is near the maximum salary of the assigned paygrade of the pay plan and where the general 3.0 percent increase would place that salary above the maximum salary, shall be increased by a percentage amount which would place the salary at the maximum or 1.5 percent, whichever is greater.
- (iv) Salaries of employees employed in accordance with Title 29, Section 5903(17), Delaware Code, shall be excluded from Subsection(d)(1)(i) of this Section and may receive a salary increase at the discretion of the agency.

(2) Effective January 1, 1988, the salary of each Merit System employee and each exempt employee whose position has been given a comparable classification rating pursuant to Section 14 of this Act and not otherwise set forth as a line item salary in this Act, with at least six (6) months' service whose salary, as of December 31, 1987, is below the midpoint of the assigned paygrade shall be increased by the lesser of an amount equal to the dollar value of 7 percent of the midpoint for the assigned paygrade or by an amount which would increase the employee's salary to the midpoint for the assigned paygrade.

(e) The classification of any employee whose salary is covered by the appropriations in Section 1 of this Act, may be changed to be effective January 1, 1988, or July 1, 1988, if the requested change is certified critical by the appointing authority; and

- (1) The requested change is approved by the State Personnel Director prior to the effective date of January 1, 1988, or July 1, 1988; and
- (2) The funding source is approved by the State Budget Director; and

(3) The requested change is approved by the Controller General.

(f) Section 1 of this Act makes an appropriation to the Budget Office - Other Items (10-02-05). Of that amount, \$60.0 is allocated to the Office of State Personnel to conduct maintenance reviews of each position in the classified service. Reclassifications resulting from those maintenance reviews completed prior to July 1, 1987, will become effective on July 1, 1987; reclassifications resulting from maintenance reviews completed after July 1, 1987, will become effective retroactive to July 1, 1987. During the fiscal year ending June 30, 1988, the salary of employees receiving promotions under this subsection will be increased to the minimum of the newly-assigned paygrade or be increased by 5.0%, whichever is greater. This increase will be applied to the salary of employees after the general pay increase in Section 12(d)(1) and prior to any increase warranted under Section 12(d)(2). Promotions under this Section may come under Merit Rule 13.0110.

(g) Amend Merit Rule 13.0110 to read as follows:

"In any case where an employee is promoted, the entrance rate shall be the minimum entry level of the higher grade or the lowest level of the higher grade that provides an increase of at least five (5) percent. In exceptional circumstances, the appointing authority may grant a greater increase not to exceed the 80th percentile, unless otherwise approved by the Director in accordance with the criteria listed in 5.0711."

(h) The salaries of teachers employed by State agencies and who are paid from the Basic Schedule 1305 contained in Section (d) above shall receive as salary the amount specified in the appropriate index cell divided by .7 for ten months employment. If employed on a year-round basis, the amount shall be multiplied by 1.2.

(i) During the fiscal year ending June 30, 1988, the paygrade assigned to each job class shall not be changed except as may be required by Section 12(f). Any such paygrade changes which the Personnel Director determines to be warranted shall be designated to become effective July 1, 1988, provided that such paygrade changes have been processed as part of the regular budgetary process and the funds for such changes shall be appropriated.

(j) In all instances where the State Merit Rules refer to a one-step increase or increment, such shall be interpreted to mean 5 percent of the paygrade midpoint unless otherwise noted in this Act.

(1) Where Merit Rule 5.1011 refers to an increase, this shall be interpreted to mean the general salary increase referred to in Section 12(d)(1).

(2) During the Fiscal Year ending June 30, 1988, paragraph 5.1100 of the Merit Rules for a Merit System of Personnel Administration shall be null and void.

(k) The administrative regulation and procedures necessary to implement this Section shall be promulgated by the State Personnel Director, the State Budget Director and the Controller General.

(l) The provisions of Subsection (d) of this Section shall not apply to the employees of the General Assembly - House or the General Assembly - Senate. Salaries for those employees will be established by the Speaker of the House of Representatives and the President Pro Tempore of the Senate respectively.

(m) The provisions of Subsection (d) of this Section shall not apply to the Governor, Uniformed State Police, employees of the University of Delaware, and members and employees of the Delaware National Guard excluding the Adjutant General.

(n) Salaries of designated positions in Section 10 of this Act shall have no further increase applied.

(o) Effective July 1, 1987, attorneys of the Office of Public Defender will receive a 3% increase in salary. Effective January 1, 1988, a new pay plan for attorneys of Office of the Public Defender may be implemented if the new pay plan is approved by the Joint Finance Committee.

(p) Salary schedules contained in Title 14, Chapter 13, Delaware Code, shall be revised as specified in this subsection.

(1) Amend Title 14, Section 1305, Delaware Code, by striking said Section in its entirety and by substituting in lieu thereof the following:

"(a) Upon full implementation, the annual salaries of employees paid under this Section shall be based on the following indexed schedule:

Years of Exp.	No Degree	Bach. Degree	Bach. Degree Plus 15 Grad. Credits	Bach. Degree Plus 30 Grad. Credits	Mast. Degree	Mast. Degree Plus 15 Grad. Credits	Mast. Degree Plus 30 Grad. Credits	Mast. Degree Plus 45 Grad. Credits	Doctor's Degree
0	.960	1.000	1.040	1.080	1.140	1.180	1.220	1.260	1.300
1	.985	1.025	1.065	1.105	1.165	1.205	1.245	1.285	1.325
2	1.010	1.050	1.090	1.130	1.190	1.230	1.270	1.310	1.350
3	1.110	1.150	1.190	1.230	1.290	1.330	1.370	1.410	1.450
4	1.150	1.190	1.230	1.270	1.330	1.370	1.410	1.450	1.490
5	1.190	1.230	1.270	1.310	1.370	1.410	1.450	1.490	1.530
6	1.230	1.270	1.310	1.350	1.410	1.450	1.490	1.530	1.570
7	1.270	1.310	1.350	1.390	1.450	1.490	1.530	1.570	1.610
8	1.310	1.350	1.390	1.430	1.520	1.560	1.600	1.640	1.680
9	1.350	1.390	1.430	1.470	1.560	1.600	1.640	1.680	1.720
10	1.390	1.430	1.470	1.510	1.600	1.640	1.680	1.720	1.760
11			1.510	1.550	1.640	1.680	1.720	1.760	1.800
12				1.590	1.680	1.720	1.760	1.800	1.840
13					1.720	1.760	1.800	1.840	1.880
14							1.840	1.880	1.920

(b) The Bachelor Degree, 0 year experience point on the Index is defined as the base and has an index value of 1.000. A base salary amount shall be recommended each year. This amount shall be the equivalent of seventy (70) percent of a recommended average total competitive starting salary. All other salary amounts shall be determined by multiplying the recommended base salary amount by the index value that corresponds with the appropriate training and experience cell.

(c) The index values assigned in Subsection (a) above are intended to be constant. Future modifications to this index should be linked to specifically stated policy goals.

(d) During the fiscal year beginning July 1, 1987, an interim schedule that reflects the initial phase-in of the index system contained in Subsection (a) shall be utilized. All employees who hold appropriate certificates and whose salaries are paid for ten months per year shall receive annual salaries in accordance with the following schedule.

Years of Exp.	No Degree	Bach. Degree	Bach. Degree Plus 15 Grad. Credits	Bach. Degree Plus 30 Grad. Credits	Mast. Degree	Mast. Degree Plus 15 Grad. Credits	Mast. Degree Plus 30 Grad. Credits	Mast. Degree Plus 45 Grad. Credits	Doctor's Degree
0	\$13,121	\$13,668	\$14,215	\$14,761	\$15,582	\$16,128	\$16,675	\$17,222	\$17,768
1	13,463	14,010	14,556	15,103	15,923	16,470	17,017	17,563	18,110
2	13,805	14,351	14,898	15,445	16,265	16,812	17,358	17,905	18,452
3	15,171	15,718	16,265	16,812	17,632	18,178	18,725	19,272	19,819
4	15,718	16,265	16,812	17,358	18,178	18,725	19,272	19,819	20,365
5	16,265	16,812	17,358	17,905	18,725	19,272	19,819	20,365	20,779
6	16,806	17,358	17,905	18,452	19,189	19,785	20,365	20,779	21,176
7	17,204	17,905	18,452	18,999	19,586	20,182	20,779	21,176	21,574
8	17,600	18,394	18,991	19,545	19,984	20,579	21,176	21,574	21,971
9	17,997	18,792	19,389	19,984	20,381	20,977	21,574	21,971	22,368
10	18,394	19,189	19,785	20,381	20,779	21,374	21,971	22,368	22,765
11	18,792	19,545	20,182	20,779	21,176	21,770	22,368	22,765	23,163
12			20,579	21,176	21,574	22,168	22,765	23,163	23,560
13			20,654	21,574	21,971	22,565	23,163	23,560	23,958
14				21,732	22,368	22,963	23,560	23,958	24,355
15					22,765	23,360	23,958	24,355	24,752
16	19,253	20,048			22,965	23,560	24,158	24,555	24,952

(e) All who are employed under Subsection (d) of this Section for more than ten months per year and paid accordingly shall receive a payment of one tenth of the amount designated in the schedule set forth in said Subsection for such employee for each additional month of employment per year.

(f) Salary derived from Subsection (d) of this Section for ten months' employment shall mean a total of 185 days. The 185 days shall be full work days with 180 days devoted to actual school sessions for pupils and five days devoted to attendance in in-service education programs or other programs approved by the State Board of Education, except that the State Board of Education may reduce the number of days devoted to school sessions or in-service education programs on just cause or upon showing of unusual circumstances. Full work days shall be defined by the State Board of Education."

(2) Amend Title 14, Section 1306(a), Delaware Code, by striking said Section in its entirety and by substituting in lieu thereof the following:

"(a) A superintendent who is the chief school officer of a district and who holds a certificate appropriate for the position shall receive as a salary the amount for which he or she qualifies under Section 1316 of this Title and the schedule set forth in Subsections (d) and (e) of Section 1305 of this Title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined either in accordance with the following schedule, or by multiplying the appropriate index value specified in the second schedule, by the annual salary provided under Subsections (d) and (e) of Section 1305, whichever is greater:

Number of Division I Units of Pupils in the School District			
Less Than			
71	71-149	150-249	250 Plus
\$6,450	\$8,370	\$10,293	\$12,219

Number of Division I Units of Pupils in the School District			
Less Than			
200	200-399	400 Plus	
.30	.40	.50	"

(3) Amend Title 14, Section 1307, Delaware Code, by striking said Section in its entirety and by substituting in lieu thereof the following:

"A principal who is subordinate to a chief school officer in a district shall receive as a salary the amount for which he or she qualifies under Section 1316 of this Title and the schedule set forth in Subsections (d) and (e) of Section 1305 of this Title plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined either in accordance with the following schedule or by multiplying the appropriate index value specified in the second schedule by the amount provided under Subsections (d) and (e) of Section 1305, whichever is greater.

(1) Full-time principals:

Years of Administrative Experience	Number of Division I Units				
	15-19	20-29	30-39	40-59	60 Plus
0	\$ 851	\$1,101	\$1,350	\$1,726	\$2,103
1	1,101	1,350	1,601	1,976	2,352
2	1,350	1,601	1,851	2,228	2,602
3	1,601	1,851	2,103	2,478	2,853
4	1,851	2,103	2,352	2,728	3,103
5	1,969	2,246	2,518	2,930	3,341
6	2,079	2,378	2,671	3,116	3,560
7	2,183	2,502	2,816	3,292	3,767
8	2,373	2,702	3,025	3,516	4,005
9	2,563	2,902	3,234	3,740	4,243

Years of Administrative Experience	Number of Division I Units		
	15-24	25-59	60 Plus
0	.07	.08	.09
1	.08	.09	.10
2	.09	.10	.11
3	.10	.11	.12
4	.11	.12	.13

(2) During the fiscal year beginning July 1, 1987, and annually thereafter, a reorganized school district may employ one full-time principal for each administrative unit in a school building or combination of school buildings having fifteen or more Division I state units of pupils who shall be paid from State funds for twelve months in accordance with this Section, and in accordance with the rules and regulations of the State Board of Education. Division I State units in excess of fifteen in one school building qualifying for a full-time principal shall not be counted toward entitlement for a principal for a combination of buildings.

(3) During the fiscal year beginning July 1, 1987, and annually thereafter, a reorganized school district may employ one full-time assistant principal for each full multiple of twenty Division I units of pupils in a school building beyond the first fifteen Division I units of pupils for which a full-time principal was authorized. This Section and Subsection 1321(e)(4) of this Title notwithstanding, one half the total number of assistant principals in a reorganized school district may be classified as supervisors. Assistant principals shall not be charged against the allotment of classroom teachers or other personnel provided by these units. All assistant principals shall be paid from State funds for twelve months per year the amount for which they are eligible under Subsections (d) and (e) of Section 1305 of this Title plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined either in accordance with the following schedule or by multiplying the amount provided under Subsections (d) and (e) of Section 1305 by the appropriate index value specified in the second schedule, whichever is greater.

Years of Administrative Experience	Amount
0	\$ 725
1	850
2	976
3	1,101
4	1,226
5	1,285
6	1,343
7	1,400
8	1,487
9	1,582

Years of Administrative Experience	Index
0	.03
1	.04
2	.05
3	.06
4	.07 "

(4) Amend Title 14, Section 1308(a), Delaware Code, by striking the salary schedule contained in said Section in its entirety and by substituting in lieu thereof the following:

Years of Exper.	Clerk	Secretary	Senior Secretary	Financial Secretary	Administrative Secretary
0	7,244	8,263	8,839	9,195	9,727
1	7,621	8,640	9,237	9,609	10,152
2	7,998	9,028	9,632	10,002	10,546
3	8,374	9,422	10,025	10,397	10,960
4	8,751	9,816	10,418	10,797	11,388
5	9,144	10,210	10,822	11,225	11,816
6	9,539	10,604	11,249	11,653	12,243
7	9,932	11,024	11,677	12,081	12,671
8	10,327	11,452	12,105	12,508	13,099
9	10,721	11,880	12,534	12,936	13,527
10	11,150	12,307	12,963	13,364	13,953
11	11,577	12,735	13,391	13,791	14,381
12	12,006	13,161	13,818	14,217	14,808

13	12,433	13,589	14,247	14,644	15,237
14	12,861	14,017	14,672	15,071	15,663
15	13,285	14,444	15,101	15,498	16,091
16	13,688	14,856	15,518	15,918	16,519
17					16,944

(5) Amend Title 14, Section 1309(b), Delaware Code, by striking the salary schedule contained in said Section in its entirety and by substituting in lieu thereof the following:

"Bachelor's Degree	\$857
Certified Secretary Degree	\$643
Senior Secretary Certificate	\$426"

(6) Amend Title 14, Section 1311(a), Delaware Code, by striking the salary schedule contained in said Section in its entirety and by substituting in lieu thereof the following:

Years of Exper.	Custodian	Custodian Fireman	Chief Custodian Supervising 5 or Fewer Custodians	Chief Custodian Supervising 6 or More Custodians	Building & Grounds Supervisor
0	\$ 9,636	\$10,030	\$10,230	\$11,021	\$11,712
1	9,932	10,327	10,527	11,318	12,109
2	10,230	10,623	10,824	11,615	12,505
3	10,527	10,921	11,120	11,912	12,901
4	10,824	11,218	11,418	12,209	13,297
5	11,120	11,514	11,713	12,506	13,693
6	11,418	11,813	12,011	12,802	14,089
7	11,713	12,111	12,307	13,100	14,486
8	12,011	12,406	12,604	13,396	14,881
9	12,307	12,704	12,901	13,693	15,278
10	12,604	13,001	13,199	13,990	15,674
11	12,901	13,298	13,496	14,287	16,070

(7) Amend Title 14, Section 1311(b), Delaware Code, by striking the salary schedule contained in said Section in its entirety and by substituting in lieu thereof the following:

"Supervisor and Chief Custodian	\$857
Fireman and Custodian-Fireman	\$643
Custodian	\$426"

(8) Amend Title 14, Section 1321(a), Delaware Code, by striking said Section in its entirety and by substituting in lieu thereof the following:

"(a) A professional employee of the State Board of Education/State Board of Vocational Education having the qualifications required by the certifying board shall receive as an annual salary the amount for which he or she qualifies under Section 1316 of this Title and the schedule set forth in Subsections (d) and (e) of Section 1305 of this Title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined in accordance with either the following schedule or by multiplying the amount provided under Subsections (d) and (e) of Section 1305 by the index value specified in the second schedule that corresponds with the appropriate classification and experience level, whichever is greater.

STATE BOARD OF EDUCATION AND STATE BOARD FOR VOCATIONAL EDUCATION							
Yrs. Exp.	Teacher	Specialist	Supv.	Director	Asst. Supt.	Deputy Supt.	State Supt.
0	To be paid	\$ 750	\$2,628	\$4,380	\$6,966	\$12,040	Total salary
1	as provided	1,126	3,003	4,796	7,454	12,571	shall be as
2	for in Sect.	1,503	3,379	5,207	7,962	13,102	specified in the
3	1305 of this	1,878	3,753	5,624	8,470	13,652	annual Budget
4	Chapter and	2,253	4,129	6,067	8,979	14,229	Act.
5	as shown	2,467	4,521	6,511	9,488	14,807	
6	below.	2,664	4,883	6,967	9,996	15,383	

7	2,850	5,225	7,455	10,504	15,959
8	3,150	5,596	7,894	11,009	16,535
9	3,450	5,967	8,333	11,514	17,114

STATE BOARD OF EDUCATION AND STATE BOARD FOR VOCATIONAL EDUCATION

Yrs. Exp.	Teacher	Specialist	Supv.	Director	Asst. Supt.	Deputy Supt.	State Supt.
0	To be paid	.04	.08	.27	.37	.55	Total salary
1	as provided	.05	.09				shall be as
2	for in Sect.	.06	.10				specified in the
3	1305 of this	.07	.11				annual Budget
4	Chapter and as shown below.	.08	.12				Act.

(9) Amend Title 14, Section 1321(c), Delaware Code, by striking said Section in its entirety and by substituting in lieu thereof the following:

"(c) Each teacher, specialist, supervisor, administrative assistant, director and assistant superintendent employed by a district and having the qualifications required by the certifying board shall receive as an annual salary the amount for which he or she qualifies under Subsections (d) and (e) of Section 1305 of this Title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined, either in accordance with the following schedule or by multiplying the amount provided under Subsections (d) and (e) of Section 1305 by the index value specified in the second schedule that corresponds with the appropriate classification and experience level, whichever is greater.

SCHOOL DISTRICTS

Years of Admin. Experience	Teachers, Specialists	Supervisor	Administrative Assistants	Director	Assistant Superintendent
0		\$1,350	\$1,726	\$1,851	3,103
1	To be paid	1,601	1,976	2,478	3,728
2	as provided	1,851	2,228	3,103	4,353
3	for in Section	2,103	2,478	3,728	4,980
4	1305 of this	2,352	2,728	4,353	5,605
5	Chapter	2,518	2,930	4,710	6,080
6		2,671	3,116	5,039	6,518
7		2,816	3,292	5,350	6,932
8		3,025	3,516	5,850	7,479
9		3,234	3,740	6,350	8,026

SCHOOL DISTRICTS

Years of Admin. Experience	Teachers, Specialists	Supervisor	Administrative Assistants	Director	Assistant Superintendent
0		.07	.08	.22	.27
1	To be paid	.08	.09		
2	as provided	.09	.10		
3	for in Section	.10	.11		
4	1305 of this Chapter	.11	.12		

(10) Amend Title 14, Section 1322(a), Delaware Code, by striking the salary schedule contained in the first paragraph of said Section in its entirety and substituting in lieu thereof the following:

"SCHOOL FOOD SERVICE MANAGERS

Number of Pupils in School Served by Cafeteria

Yrs. of Exp.	Below 351	351-500	501-800	801-1200	1201-1600	1601-2000	2000+
0	\$ 8,686	\$ 9,327	\$ 9,968	\$10,609	\$11,251	\$11,890	\$12,534
1	9,006	9,647	10,289	10,930	11,571	12,213	12,853
2	9,327	9,968	10,609	11,251	11,890	12,534	13,175
3	9,647	10,289	10,930	11,571	12,213	12,853	13,495
4	9,968	10,609	11,251	11,890	12,534	13,175	13,817

5	10,289	10,930	11,571	12,213	12,853	13,495	14,139
6	10,609	11,251	11,890	12,534	13,175	13,817	14,458
7	10,930	11,571	12,213	12,853	13,495	14,139	14,779
8	11,251	11,890	12,534	13,175	13,817	14,458	15,101
9	11,571	12,213	12,853	13,495	14,139	14,779	15,421
10	11,890	12,534	13,175	13,817	14,458	15,101	15,741
11	12,213	12,853	13,495	14,139	14,779	15,421	16,071
12	12,534	13,175	13,817	14,458	15,101	15,741	16,408
13	12,853	13,495	14,139	14,779	15,421	16,071	16,728
14	13,175	13,817	14,458	15,101	15,741	16,408	17,050
15	13,495	14,139	14,779	15,421	16,062	16,731	17,373"

(11) Amend Title 14, Section 1322(a), Delaware Code, by striking the salary schedule contained in the second paragraph of said Section in its entirety and substituting in lieu thereof the following:

"One Year of College	\$426
Two years of College	\$643
Bachelor's Degree	\$1,282"

(12) Amend Title 14, Section 1322(c), Delaware Code, by striking the salary schedule contained in said Section in its entirety and by substituting in lieu thereof the following:

" SCHOOL LUNCH COOKS AND GENERAL WORKERS				
		Years of		
		Experience	General Worker	Cook/Baker
		0	\$5.01	\$5.55
1	5.09	5.63		
2	5.18	5.72		
3	5.26	5.80		
4	5.34	5.88		
5	5.46	5.99		
6	5.54	6.08		
7	5.60	6.15		
8	5.67	6.20		
9	5.74	6.27		
10	5.83	6.38		
11	5.93	6.47		
12	6.02	6.55		
13	6.12	6.65		
14	6.19	6.73		
15	6.27	6.81		
		16	6.39	6.92
		17	6.48	7.01
"				

(13) Amend Title 14, Section 1324(b), Delaware Code, by striking the salary schedule contained in said Section in its entirety and by substituting in lieu thereof the following:

" Years of		
		Bus and Class
		Attendants
		Class Aides
		0
		\$6,897
		\$ 6,841
		1
		7,110
		7,217
		2
		7,323
		7,593
		3
		7,537
		7,969
		4
		7,751
		8,345
		5
		7,965
		8,721
		6
		8,178
		9,113
		7
		8,389
		9,506
		8
		8,603
		9,899
		9
		8,818
		10,292
		10
		9,031
		10,684
		11
		9,244
		11,068
"		

(14) Amend Title 14, Section 1326, Delaware Code, by striking said Section in its entirety and by substituting in lieu thereof the following:

"(a) Each substitute teacher who holds a certificate issued in accordance with Chapter 12 of this Title shall be paid in accordance with the following schedule:

Class A - \$50.32 per day
Class B - \$40.64 per day
Class C - \$30.94 per day"

(15) Amend Title 14, Section 1332(a), Delaware Code, by striking said Section in its entirety and by substituting in lieu thereof the following:

"(a) Director-specialist - whenever the State Board of Education designates a particular school district to serve as administrator for the State-wide program for autistic pupils, that district may employ as a State-wide director-specialist for a period of twelve months per year, a director-specialist for eight or more such units of autistic children. If a director-specialist is assigned responsibility for such a program for fewer than eight units, the support for that assignment shall be in the same ratio as the number of authorized units is to eight units. The director-specialist shall hold a doctorate degree in psychology or exceptional children and shall possess such other qualifications for certification as are required by the State Board of Education. "Years of experience" in determining salary shall be in accordance with rules and regulations adopted by the State Board of Education in this respect. The director-specialist shall be paid the amount for which he or she qualifies under Subsections (d) and (e) of Section 1305 of this Title plus an amount for administrative responsibility determined in accordance with Subsection (c) of Section 1321 of this Title."

(q) Every ten-month employee of the public school system whose salary is computed in whole or in part in accordance with the salary schedule contained in Section 1305, Title 14, Delaware Code, and who was an employee of the school system on June 30, 1987, shall receive a salary for the fiscal year ending June 30, 1988, which at its minimum shall be \$422 more than the salary the employee received for the fiscal year ending June 30, 1987, the provisions of Section 1305, Title 14, Delaware Code, to the contrary notwithstanding. This minimum increase applies only to that portion of the employee's salary otherwise computed under Section 1305 and shall not include salary increases authorized by other sections of the Delaware Code.

(r) The provisions of Subsection (d) of this Section shall not apply to employees of Delaware State College; however, funds have been appropriated in Section 1 of this Act to provide for a 3.0 percent increase in salaries paid from General Funds.

(s) The provisions of Subsection (d) of this Section shall not apply to employees of Delaware Technical and Community College; however, funds have been appropriated in Section 1 of this Act to provide for a 3.0 percent increase in salaries paid from General Funds for non Plan A employees.

(t) Amend Chapter 90, Title 14, Delaware Code, by creating a new Section 9220 to read as follows:

"Basic Salary Schedule, Plan Employees

(A) Salaries paid to Delaware Technical and Community College Salary Plan A employees shall be based on the following Index Schedule:

DELAWARE TECHNICAL AND COMMUNITY COLLEGE INDEX SCHEDULE

Yrs. Of Exp.	No Degree	Assoc. Degree	Bach. Degree	Bach. Degree Plus 15 Grad. Credits	Bach. Degree Plus 30 Grad. Credits	Mast. Degree Plus 15 Grad. Credits	Mast. Degree Plus 30 Grad. Credits	Mast. Degree Plus 45 Grad. Credits	Doctor's Degree
0	0.90	0.96	1.00	1.04	1.08	1.12	1.16	1.20	1.26
1	0.94	1.00	1.04	1.08	1.12	1.16	1.20	1.24	1.30
2	0.98	1.04	1.08	1.12	1.16	1.20	1.24	1.28	1.34
3	1.02	1.08	1.12	1.16	1.20	1.24	1.28	1.32	1.38
4	1.06	1.12	1.16	1.20	1.24	1.28	1.32	1.36	1.42
5	1.10	1.16	1.20	1.24	1.28	1.32	1.36	1.40	1.46
6	1.14	1.20	1.24	1.28	1.32	1.36	1.40	1.44	1.50
7	1.18	1.24	1.28	1.32	1.36	1.40	1.44	1.48	1.54
8	1.22	1.28	1.32	1.36	1.40	1.44	1.48	1.52	1.58
9	1.26	1.32	1.36	1.40	1.44	1.48	1.52	1.56	1.62
10		1.36	1.40	1.44	1.48	1.52	1.56	1.60	1.66

11	1.44	1.48	1.52	1.56	1.60	1.64	1.68	1.70
12		1.52	1.56	1.60	1.64	1.68	1.72	1.74
13			1.60	1.64	1.68	1.72	1.76	1.78
14				1.68	1.72	1.76	1.80	1.82
15	1.50	1.55	1.65	1.72	1.76	1.80	1.84	1.86
16				1.76	1.80	1.84	1.88	1.90
17								
18								
19								
20				1.80	1.85	1.90	1.95	2.00
25+				1.85	1.90	1.95	2.00	2.05"

INDEX DERIVATION

Base = 1.00

The base salary for 10-month employees shall be calculated by taking the salary derived at Bachelor's Degree, 0 years, from Section 1305(a), Title 14 and divided by .7.

(B) Twelve-month salaries shall be determined by multiplying the 10-month salaries by 1.2.

(C) The actual Fiscal Year 1988 salary paid to any Salary Plan A employee shall be determined as follows:

(1) Placement on the index for Fiscal Year 1988 for any one Salary Plan A employee shall be based on that employee's actual degree, additional credits, and years of relevant experience as of July 1, 1987. Advancement in any of these areas subsequent to that date will become effective in Fiscal Year 1989.

(2) The range of salary increases for Fiscal Year 1988 for 10-month employees shall be a minimum of \$450 to a maximum of \$2,355; and the range of salary increases for Fiscal Year 1988 for 12-month employees shall be the range of 10-month employees multiplied by 1.2.

(3) For both 10- and 12-month employees, if the appropriate salary value derived from the index contained in (A) above is higher than the employee's Fiscal Year 1987 salary plus the applicable minimum increase, but less than the employee's Fiscal Year 1987 salary plus the applicable maximum increase, the employee's Fiscal Year 1988 salary shall be the value derived from the index.

(D) The Board of Trustees may declare that certain Instructional positions are in scarce supply and shall report that determination to the Budget Director and Controller General. After that declaration, new hires on the Salary Plan A schedule who are to be engaged in areas where competition makes the salary that can be offered uncompetitive, the Board of Trustees may offer a salary that exceeds the scheduled salary by up to 15%.

(E) During Fiscal Year 1988, new hires in Salary Plan A shall not receive salaries in excess of the lowest paid employee occupying the same index cell."

Section 13. Amend the State Merit Rules by eliminating Rules 5.1450 through 5.1456 in their entirety and by substituting in lieu thereof the following:

5.1450 Hazardous Duty Pay

Pay Supplements for hazardous duty will be paid only to those employees authorized to receive such pay supplement pursuant to 29 Del.C. § 5916(b) and otherwise qualified.

5.1451

Hazardous duty shall be defined as exposure to hazards. The hazards must be uncontrollable circumstances that involve an unusual risk of serious physical injury, impairment to health or death resulting from accidental, negligent or intentional causes. Except as noted, the exposure must be proximate, continuing and not incidental to the job duties or infrequent in nature. The exposure may be occasional if the employee's assigned job duties are to deal with the hazards. Two degrees of exposure are recognized.

5.1452

Two exposure levels of hazardous duty shall be defined as follows:

Exposure Level A: Continuing exposure to hazards where the employee's responsibility is to deal with the hazard as a function of assigned job duties.

Exposure Level B: Proximate exposure to hazards where it is not the employee's stipulated job duty to deal with the hazard, or occasional exposure to hazards where the employee's responsibility is to deal with the hazard as a function of assigned job duties.

5.1453

An employee who is determined to be qualified to receive hazardous duty pay will be compensated, in addition to his/her regular salary/wage, at the rate of \$100.00 per month for Exposure Level A or \$50.00 per month for Exposure Level B.

5.1454

Determination as to the positions and employees eligible for this pay supplement at each of the two exposure levels shall be requested by a State agency and approved or disapproved by the Director after evaluating the positions involved.

5.1455

Criteria for determination of positions and employees, and the work conditions covered, shall be made a matter of formal record.

5.1456

The appointing authority shall immediately notify the Director when a substantive change occurs in the duties or work conditions of any position receiving hazardous duty pay.

5.1457

The following terms and definitions shall be used to determine eligibility for hazardous duty pay for employees identified by 29 Del.C. § 5916(b):

Continuing: frequency of exposure to the hazard is normally more than 50% of the employee's working time.

Occasional: frequency of exposure to the hazard is normally more than 5% but less than 50% of the employee's working time.

Uncontrollable: precautions, such as safety and life support equipment are either impractical to be used continually by the incumbent or are insufficient to assure reasonable safety.

Proximate: the location of employee's work site precludes evacuation as a means of avoiding exposure to serious physical injury, impairment to health, or death resulting from accidental, negligent or intentional cause.

Section 14. (a) For the purpose of this Section, the term "Department" means all State Departments and Agencies receiving appropriations as set forth in Section 1 of this Act.

(b) Where the number of employee positions has been set forth in the salary 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 therefore 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, 1988. No Department shall change the total number of positions without prior approval of the Delaware State Clearinghouse Committee; and no Department shall transfer a position between divisions except with the approval of the Delaware State Clearinghouse Committee. All Job Training Partnership Act funds expended for full-time positions shall be for employment within the State of Delaware.

Section 15. Salaries and wage rates for State employees who are not covered by the Classified System of Personnel Administration or by the provisions of Title 14, Chapter 13, Delaware Code shall have the following:

(a) The salary of employees shall be comparable to salaries and wage rates paid from funds appropriated by the State to employees with similar training and experience who serve in similar positions in the Classified System of Personnel Administration. In the event that there are no similar positions in the Classified System of Personnel Administration, the State Personnel Director shall establish an exempt position classification only for the purpose of assigning a salary or wage rate to said position. On or before July 15, 1987, the State Personnel Director shall publish a list of comparable exempt and Classified System of Personnel Administration positions with their respective salary and wage rates. In addition, such listing shall show the name of the incumbent, if the position is filled, and shall show the statutory citation which authorizes the establishment of the exempt position(s). The State Personnel Director shall provide copies of such listing to members of the Joint Finance Committee and the Controller General. No exempt employee shall be hired until said list is published. No reclassification of exempt employee, otherwise permitted under Delaware law, shall become effective unless and until a new position is placed on the comparability list. In order to permit the development of the comparability list, State Agencies shall provide, to the State Personnel Director, job descriptions of all exempt positions, education and training requirements for those positions and shall identify positions in the Classified System which are comparable, if any, as well as any other relevant information sought by the State Personnel Director. The certification of comparability by the State Personnel Director shall not be withheld unreasonably. Those positions assigned on a list of comparability that are assigned a comparable paygrade in the classified system shall be paid in accordance with Section 12(c), (d), (f), (g), (i) and (j).

(b) The salary of employees whose salary in effect as of June 30, 1987, is below the minimum salary of the assigned paygrade of the pay plan shall be raised to the minimum salary. This adjustment shall be made after the implementation of the general salary increase in Section 12(d)(1).

(c) Notwithstanding any other provision of the Delaware Law or this Act to the contrary, civilian employees of the Delaware National Guard shall be compensated at a salary and wage rate established by the Federal Civil Service Commission.

Section 16. Funds provided in Section 1 of this Act may be expended for purposes in which agencies have specifically entered into agreement with the Federal Government for the reimbursement of such expenses; provided, however, that the Federal Government specifically requires such reimbursement procedures and that the agency has specific authorization in accordance with the provisions of Title 29, Chapter 76, Delaware Code, Federal Aid Coordination, to enter into such programs; and, provided, further, that such reimbursements be accounted for in conformance with the State accounting manual and that such reimbursements be used to fulfill the intent and purposes of Section 1 of this Act.

Section 17. (a) Except as specifically authorized to the contrary by the Delaware Code, no State employee whose title is designated in 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. 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 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. An agency may provide housing for such employee without reduction in the 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.

(b) A State employee whose salary is designated in this Act may perform additional duties for a State agency other than his principal employer, with the consent of his principal employer, and may be paid additional compensation therefor, provided such additional duties are not a part of his regular duties for the principal employer and not rendered during time paid for by the principal employer.

Section 18. Any employee eligible for termination pay, whose regular pay was from Special Funds, shall have termination pay paid from Special Funds. If the employee's regular pay is from both General and Special Funds, termination pay shall be on a pro-rata basis. Exceptions to this method of payment must have approval of the Budget Director and Controller General.

Section 19. Notwithstanding any other provisions of this Act, in the event the appropriation set forth in Section 1 of this Act to any Department or Agency for salaries and other employment costs is excessive or inadequate, the Budget Director, with concurrence of the Controller General, is authorized to transfer funds appropriated for Salaries and Other Employment Costs among the various Departments in order to meet overall State Salary and Other Employment Costs requirements. Such authorizations for transfer can be between Salaries and Other Employment Costs and shall be in writing and shall be fully documented.

Section 20. Notwithstanding any other provisions of this Act, in the event the appropriation set forth in Section 1 of this Act in a memorandum budget of any Department or Agency for salaries is excessive or inadequate, the Budget Director, with concurrence of the Controller General, is authorized to make adjustments by a transfer between the several line item appropriations set forth in the memorandum budget. Such authorization for transfers shall be in writing and shall be fully documented.

Section 21. The abbreviations set forth in Section 1 of this Act for Special Fund authorized positions means funding from the following:

ASF - Appropriated Special Funds

NSF - Non-appropriated Special Funds

Section 22. (a) The Fiscal Year 1988 operating budget contemplates receipt of federal funds and State Special Funds for certain programs or functions administered by departments/agencies. Funds herein appropriated in Section 1 of this Act to match the federal or State Special Funds shall be expended only to the extent that federal or State Special Funds shall have been made available.

(b) Upon being informed that such program or function is terminated or funds therefore are reduced, the head of the department/agency shall immediately notify, in writing, the people identified in this subsection and promptly:

(i) Reduce proportionately the expenditure of funds from the matching General Funds of the State appropriated to match such federal or State Special Funds; and

(ii) Submit, in writing, to the Governor, Chairman and Vice Chairman of the Joint Finance Committee, Controller General, Budget Director, and Secretary of Finance a plan describing how each individual program or function will be accomplished, including General Fund operating budget line item expenditure reductions.

(c) Upon notification that the Federal or State Special Funds are reduced or terminated when the General Assembly is duly convened, the Governor or the Joint Finance Committee may propose legislation for consideration by the General Assembly to continue the program or function. In the event the General Assembly does not authorize continuation of the program or function, the Budget Director is hereby directed to revert the remaining matching General Funds.

(d) Agencies who are recipients of federal funds in support of programs or services, and have indirect costs or any costs identified as a Section II, cost per the Statewide Cost Allocation Plan (SWCAP), shall budget these costs when the application is presented to the State Clearinghouse.

Section 23. Amend Title 29, Section 6313 of the Delaware Code, by adding a new paragraph (7) to read as follows:

(7) Authorize, with the concurrence of the Controller General, special funds that are deemed necessary while the General Assembly is not in session, and until such time as legislation may be introduced at the next session of the General Assembly and acted upon.

Section 24. Section 1 of this Act appropriates Maintenance and Restoration Funds to State agencies and school districts. A quarterly report of projects completed and under construction shall be submitted to the Budget Director and Controller General.

Section 25. Title 29, Chapter 63, Delaware Code, requires the Governor to submit a proposed budget in a zero-based budgeting format. For Fiscal Year 1988, this requirement is waived for those agencies which will be part of a new budgeting format.

Section 26. All agencies or schools receiving "federal funds" must transfer to the Budget Office two tenths of one percent of the federal funds received to a special fund account known as the "Federal Audit Set-Aside Account". Agreement has been signed with the federal government approving this methodology of paying for the single audit concept.

Section 27. All Departments with Internal Programs identified in Section 1 of this Act are hereby authorized to transfer funds, except Energy Funds, within an Internal Program Unit in accordance with the transfer regulations outlined in Title 29, Section 6528, Delaware Code. These transfers shall not require the approval of the Budget Director and Controller General.

LEGISLATIVE

Section 28. For the fiscal year ending June 30, 1988, any remaining sums in the Fiscal Year 1987 Commission on Interstate Cooperation accounts (01-05-01-01-80) and (01-05-01-03-54) shall remain as continuing appropriations and shall not be subject to reversion until June 30, 1988.

Section 29. For the fiscal year ending June 30, 1988, any remaining sums in the Fiscal Year 1987 Commission on Interstate Cooperation account (01-05-01-01-98) shall remain as continuing appropriations and shall not be subject to reversion until June 30, 1988.

Section 30. Of the total positions authorized in Section 1 of this Act for Division of Research (01-08-01), the position of Research Assistant to the House and Senate Sunset Standing Committees shall be an exempt position and shall report to the Director, Division of Research.

Section 31. For the fiscal year ending June 30, 1988, any remaining sums in the Fiscal Year 1987 Office of the Research Director account (01-08-01-01-98) shall remain as continuing appropriations and shall not be subject to reversion until June 30, 1988.

Section 32. Section 1 of this Act provides an appropriation to the Office of the Controller General (01-08-02) for Salaries - Casual and Seasonal for Standing Legislative Committees. Requests from Chairmen of Standing Legislative Committees for professional staff assistance shall be submitted to the Legislative Council for approval or disapproval. Approvals for professional staff assistance shall be allowed within the limits of the appropriation and as provided by guidelines established by the Legislative Council.

Section 33. Section 1 of this Act provides an appropriation to the Office of the Controller General (01-08-02) for Contingency - Legislative Council. Requests from various task forces and committees of either the House of Representatives or the Senate for travel expenses, meeting expenses, Contractual Services and any other expenses shall be submitted to the Legislative Council for consideration.

Section 34. For the fiscal year ending June 30, 1988, any remaining sums in the Fiscal Year 1987, Office of the Controller General account (01-08-02-01-98) shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 1988. These funds may be used to purchase equipment for the Joint Finance Committee Room or the Controller General's Office.

JUDICIAL

Section 35. No funds are appropriated in Section 1 of this Act for Salaries in Judicial (02-00-00) for the purpose of "leveling up" salaries of non-Judiciary positions.

Section 36. For the fiscal year ending June 30, 1988, the remaining balance in the Court of Chancery, Public Guardian (02-02-02-01-97) from Fiscal Year 1987 appropriations

for the purpose of adequately caring for a ward or protected person until their income checks arrive and/or their property is sold (at which time the fund is to be repaid) shall be a continuing appropriation.

The Public Guardian will be held responsible for administering the fund in accordance with Delaware law. A report must be filed with the State Budget Office and the Controller General on January 31, 1988, detailing the use of the funds and the balance of the account as of December 31 of the previous calendar year. Future appropriations to maintain adequate cash flow will depend upon documented proof of recovery or efforts to recover loans.

Section 37. Section 1 of this Act provides an appropriation to the Public Guardian (02-02-02). Of that appropriation, \$24.8 is to be allocated for the employment, on a ten-month basis, of a Coordinator of the Surrogate Parent Program, \$4.9 for Other Employment Costs and \$2.0 for Supplies and Materials.

Section 38. Section 1 of this Act appropriates \$14.0 to Personnel Costs and authorizes (1) position in the Superior Court (02-03-01). The authorized position shall be a secretary who shall be employed in the Judicial Chambers of New Castle County.

Section 39. Amend §4504(b), Title 10 of the Delaware Code by striking the amount "\$1,000" as it appears in subparagraph (1) and inserting in lieu thereof the amount "\$2,500."

Section 40. Section 1 of this Act appropriates \$36.4 in Personnel Costs, \$3.6 in operating costs and authorizes (1) position for the Superior Court that shall be a Master to deal exclusively with court business concerning asbestos related litigation.

Section 41. Section 1 of this Act includes General Fund position authorizations and appropriations for the Superior Court and contained in the following budget units:

- (02-03-50) New Castle County Prothonotary
- (02-03-60) Kent County Prothonotary
- (02-03-70) Sussex County Prothonotary

All appropriations and position authorizations contained in these budget units are for the last nine (9) months of Fiscal Year 1988 and are contingent upon enactment of House Bill No. 282 or similar legislation during the 134th General Assembly. Should House Bill No. 282, or similar legislation not become law before January 31, 1988, all position authorizations shall be rescinded and all appropriations to said budget units will promptly revert to the General Fund.

Further, Section 1 of this Act appropriates \$32.4 to personnel costs and authorizes (2) positions in the Superior Court (02-03-01) contingent upon enactment of House Bill No. 282 or similar legislation. The appropriation and position authorizations shall also revert should the legislation not become law prior to January 31, 1988.

Section 42. Section 1 of this Act authorizes (1) position and associated Personnel Costs of \$13.5 to the Court of Common Pleas (02-06-01) for a Bailiff who shall be employed in New Castle County.

Section 43. The Legislature finds that through a cooperative agreement between the Division of Child Support Enforcement (35-10-01), Department of Health and Social Services, and the Family Court of Delaware (02-08-01), the Federal Government has been reimbursing the Court for General Funds disbursed for certain expenses incurred in the delivery of child support services by the Family Court of Delaware. The Legislature directs that:

- (a) The Family Court of Delaware and the Department of Health and Social Services shall continue such cooperative agreement for the purpose of seeking appropriate reimbursement from the Federal Government for General and Appropriated Special Funds expended for certain expenses incurred in the delivery of child support services by the Court.
- (b) Upon receipt of such reimbursement from the Federal Government, the Family Court of Delaware and the Department of Health and Social Services shall jointly remit such reimbursement into a Special Fund Account in the Office of the State Treasurer as established by the Budget Director.

(c) This Fund shall be utilized for determining the next fiscal year's Appropriated Special Funds appropriation for Family Court and any other Agency receiving Title IVD Funds as the Legislation so directs.

(d) The balance of the Special Fund Account not appropriated for the next fiscal year shall revert to the General Fund prior to December 31.

Section 44. For the fiscal year ending June 30, 1987, any remaining sum in the One-Time appropriation (02-08-01-01-98) for the installation of telephones and cables at the Sussex County Family Court Facility, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 45. Section 1 of this Act authorizes (1) position and appropriates associated salary funding of \$11.0 and Other Employment Costs of \$2.5 to the Family Court (02-08-01). The authorized position and associated appropriation shall be for a Security Officer to be employed in the New Sussex County Family Court Facility.

Section 46. The Administrative Office of the Justice of the Peace Courts shall submit a report to the General Assembly concerning the activity of Justice of the Peace Court #18 with regard to usage of the expanded hours of operation. A report covering activity from July 1 through December 31 of each year shall be submitted to the General Assembly on or before January 31 of the following year. A report covering activity from January 1 through June 30 of each year shall be submitted on or before July 31 of each year.

Section 47. Section 1 of this Act authorizes (3) positions and appropriates \$31.8 in Salaries and \$7.2 in Other Employment Costs to the Justice of the Peace Courts (02-13-01) for clerks. The clerks shall be employed as follows:

- (1) clerk in Dover, Court #7/#16
- (1) clerk in Seaford, Court #4/#19
- (1) clerk in New Castle, Court #13

Section 48. The fiscal year in which bills are received will be the factor in determining the chargeable fiscal year for the Administrative Office of the Courts for payments to court-appointed, non-contract attorneys for billings that span multiple fiscal years.

Section 49. Amend §9003, Title 11 of the Delaware Code by striking the amounts "\$5,000" and "\$4,000" as they appear in the last sentence, and inserting in lieu thereof the amounts "\$6,000" and "\$5,000", respectively.

Section 50. For the fiscal year ending June 30, 1988, the remaining balance in the Administrative Office of the Courts (02-17-04) from Fiscal Year 1987 One-Time Fund appropriations for the purpose of "Civil BSP Implementation" shall be a continuing appropriation and shall not revert until June 30, 1988.

EXECUTIVE

Section 51. For the fiscal year ending June 30, 1987, the remaining balances of the Office of the Budget from Fiscal Year 1986 appropriations (10-02-01-01-80) and of the Fiscal Year 1987 appropriations (10-02-01-01-80) for the Management Improvement Program, shall be continuing appropriations and shall not be subject to reversion until June 30, 1988. The disbursement of these funds are subject to approval by the Budget Director, the Controller General and the Secretary of Finance. These funds shall be used for improving the State's financial management systems.

Section 52. For the fiscal year ending June 30, 1988, the remaining balances of the Office of the Budget from Fiscal Year 1987 appropriations for Budget Automation Program (10-02-01-01-91) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 53. For the fiscal year ending June 30, 1988, the remaining balance of the Office of the Budget from Fiscal Year 1987 appropriations for the Development Fund (10-02-01-01-85) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 54. (a) The appropriation in Section 1 of this Act for Data Processing - Development Projects to the Office of the Budget (10-02-01), contemplates data processing services for State Department/Agencies development projects and feasibility studies:

DEPARTMENT/AGENCY

Legislative
Executive
Budget
Personnel
State
Finance
Revenue
Health and Social Services
Transportation
Department of Public Instruction

SERVICE NEED

Legislative Information System Expansion

New Budget System
Personnel MIS
DCIS Enhancements

Wang Upgrade and BSP Implementation
Patient Accounting/
Client Tracking Project
BSP Implementation
BSP Implementation

Allocation of the funds appropriated for this purpose shall be made by the Budget Director in consultation with the affected Department/Agency head. In the event there are federal funds available for match in support of a project or projects, the Budget Director and the Controller General may transfer such funds as are necessary for matching purposes to the Department/Agency involved.

(b) No computer or computer-programming related systems project identified in Subsection (a) of this Section may be initiated by the Departments/Agencies during Fiscal Year 1988 unless covered by a formalized plan approved by the Department/Agency head and the Budget Director. Such project will be in the form approved by the Budget Director, or the designee, and shall include:

- (i) statement of work to be done;
- (ii) existing work to be modified or displaced;
- (iii) total cost of systems development and conversion effort, including systems analysis and programming cost, establishment of master files, testing, documentation, special equipment costs, including full overhead, savings or added operating costs that will result after development or conversion;
- (iv) other advantages or reasons that justify the work;
- (v) source of funding for the work and whether or not work is within scope of work envisioned under this Section; and
- (vi) estimated costs of such project shall include a three-year projection, i.e., current fiscal year and two succeeding fiscal years.

(c) No project is to be undertaken which is beyond the scope of work approved by the Department/Agency head and the Budget Director. This requirement applies to all computer or computer-programming related systems development performed by Information Systems in the Office of the Budget, Department/Agency itself or an outside consultant or contractor. Further, this requirement applies to new computer programs or systems purchased or otherwise acquired and placed in use.

(d) Status reports, sufficiently descriptive in nature, of each project shall be prepared by each Department/Agency and provided periodically to the Budget Director and the Controller General.

(e) In support of all projects executed between Information Systems in the Office of the Budget and the concerned Department/Agency, Information Systems shall maintain staff support to the benefit of Department/Agency at the projected level of effort (subject to recruitment delays) until the project work has been accomplished.

(f) No funds appropriated in Section 1 of this Act may be used to employ data or word processing professionals in support of current or proposed data or word processing systems without prior written approval of the Budget Director.

Section 55. Appropriations authorized in Section 1 of this Act for computers, telecommunications equipment, and systems development, will be deposited in the Development Fund to be controlled by the Budget Office.

Section 56. Section 1 of this Act provides appropriations in Division II of school districts budgets and in agencies' budgets for Energy, some being part of Contractual Services. For those agencies having Energy as part of Contractual Services, the Budget Director shall promptly allocate the energy funds into a single line titled "Energy". Once

allocated, no funds shall be transferred between the line items except as provided in Title 29, Section 6528, Delaware Code.

Section 57. Any Budget Unit having energy funding (electricity, natural or propane gas and heating oils) for the purpose of reimbursing a host Budget Unit must release the remaining sums to the host Budget Unit in the event that the tenant Budget Unit vacates the premises. It is the responsibility of the host Budget Unit to initiate the transfer request.

Section 58. The continuing analysis of the Statewide energy data has led to adjustments to all heating oil prices and almost all gas and electricity prices. The adjustments have been developed by Agency, the University of Delaware and the School Districts. The new energy total for the University of Delaware is \$1,818.0 and the new School District Division II allowance for energy is \$1,264 per unit. The Budget Office shall make, at the discretion of the Budget Director, the necessary adjustments to accommodate the new energy values while loading the Fiscal Year 1988 budget into the State Accounting System.

Section 59. For the fiscal year ending June 30, 1988, the remaining balances of the Office of the Budget Contingency (10-02-04-01-85) from Fiscal Year 1987 appropriations for Legal Fees shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 60. The amount appropriated to the Budget Office entitled, Contingency - Prior Years' Obligations, shall be used to pay Salaries and Wages, Other Employment Costs, reimbursement of overpayment of fringe benefits, and other obligations which require adjustment of the State's accounts. Any use of the Prior Years' Obligations Fund for Fiscal Year 1987 obligations, by any Agency receiving funds in Section 1 of this Act, in excess of the amount reverted on June 30 from the Fiscal Year 1987 applicable line code will require the requesting Agency or school district to reimburse the Prior Years' Obligation Fund by the amount equal to the excess requested. The reimbursement shall be removed from the current fiscal year's budget. The reimbursement clause shall not apply to legal judgments against the Agency or school district. A reimbursement under this Section shall not be deemed to be prohibited by Title 10, Section 8111, Delaware Code.

Section 61. For the fiscal year ending June 30, 1988, available balances in the Budget Office Contingency for Energy (10-02-04-01-84) from Fiscal Year 1987 energy contingency shall be a continuing appropriation to be utilized for Debt Service - Regular and Debt Service - Local Schools (12-05-02) and shall not be subject to reversion until June 30, 1988.

Section 62. Section 1 of this Act contains \$200.0 for an energy contingency. The following seven sub-sections establish the rules of operation and eligibility for the contingency.

(a) This Section establishes rules for the use of the energy price contingency in the Contingency Budget Unit of the Budget Office, (10-02-04). The contingency will include the following energy types: electricity, natural gas, propane gas and numbers 2, 4, 5 and 6 heating oils.

(b) No Budget Unit may receive funds for electricity before May of the fiscal year nor before March of the fiscal year for gas and/or heating oils. No funds will be transferred from the contingency for an energy type (electricity, gas and heating oils) while surplus funds exist in other type or types of energy used by the requesting Budget Unit.

(c) No request will be allowed unless prices paid exceed 102 percent of the amount budgeted and then only for the amount in excess of 102 percent. The funding allowance for electricity will be limited to a maximum of 110 percent over the budgeted amount. The contingency will only cover the General Fund portion of the energy appropriations. The price paid per unit data will begin with the first billing received for Fiscal Year 1988. Any fine or late payment penalty paid will not be counted as part of an energy cost. No funding will be allowed for any Budget Unit which has supplied incorrect or false data for any energy type.

(d) The University of Delaware does not receive its energy appropriations on the basis of consumption units. Therefore, it is not eligible to receive funding from this contingency.

(e) This contingency will not provide any funding for the consumption of energy units in excess of the amounts agreed to during the annual energy meetings. This includes facilities which were left out of the budgeting process due to lack of information being provided to the Energy Office, functions of the Department of Administrative Services.

(f) The appropriation is based on the data supplied by the Agencies; therefore, it will be the requesting Budget Unit's responsibility to provide all data necessary to substantiate their request.

(g) Any heating oils payment which had a per gallon cost higher than the Division of Purchasing contract prices may not receive contingency funds for the cost over the contract price.

Section 63. The appropriation in Section 1 of this Act to the Budget Office - Contingencies (10-02-04) for Contingency - State Special Funds for \$16,000.0 shall be used to make adjustments in the amount of State Special Fund appropriations in the event additional State Special Funds are received which were not previously anticipated. Such adjustments shall be made in accordance with the approval of the State Budget Director and the Controller General.

Section 64. Section 1 of this Act provides an appropriation to Budget Office - Other Items (10-02-05), Contingency - Other Items of \$21,885.2 for the fiscal year ending June 30, 1987. It is the intent that the appropriations for these Other Items shall be considered as one-time expenditure items. The appropriations as itemized in Section 1 of this Act are subject to transfer to departments affected by the Budget Director. Each receiving department shall identify the line item, object code and, for all practical purposes, complete and separate accountability for each appropriation amount transferred. Also, any appropriation for a computer system, in any agency, is subject to and shall be administered by the State Budget Office through its Data Processing - Development Projects procedure. No appropriation shall be transferred without the State Budget Director and Controller General approvals.

Further, it is the legislative intent that none of the appropriations for Other Items be included, or be considered, as a part of the basic budget request for the Fiscal Year 1988 Appropriation Bill.

Where applicable, the appropriations to Budget Office - Other Items (10-02-005) are subject to the following terms and conditions:

<u>D-D-S</u>	<u>Amount</u>	<u>Purpose</u>
01-01-01	16.0	NCSL Educational Research Grant
01-02-01	54.0	Sound System for Senate
01-05-01	80.5	Delaware will host the Conference of Eastern Regional Council of State Governments for 1987. Of this amount, \$3.5 shall be transferred to (01-08-01), Office of Research, to be used to provide Casual and Seasonal employees to assist the Commission on Interstate Cooperation as necessary.
01-08-01	8.8	Hang Equipment and Printer
02-02-01	5.0	Refurbish Courtroom
	5.0	Furniture and Equipment for New Secretary
	2.0	Hard-cover Legal Books
02-03-01	24.0	Copiers and Microfilm Equipment
	5.0	Equipment and Furniture for New Positions (HB 88)
	74.9	Video Phone Pilot Link
02-08-01	13.0	Metal Detectors
	15.0	Courtroom Recorders
02-13-01	4.4	Firearms for Constables
	10.0	Casual and Seasonal for Dispositional Reporting
02-17-01	25.0	Completion of Uniform Accounting Project for Non-Appropriated Funds

02-17-04	99.0	Word Processing
	1.0	Micro Support and Computer Room Locks
	30.0	Memory Upgrade
	6.0	Disk Drive
10-02-11	75.0	Uninterrupted Power System
10-02-14	100.0	Information Resource Management Program
10-03-01	36.5	State Pins and State Flags for Bicentennial
10-03-03	28.0	Final VS-65 Lease Payment
	60.5	Upgrade Wang VS-65 System
10-04-01	106.0	Contractual Services to Accomplish Non-Professional Public Education Study and Delaware Technical and Community College Study for Plan B Employees with Results Being Made Available to Salary Committee
	60.0	Contractual Services to Accomplish Classification Study
10-07-02	587.4	Project Development - Contractual Services for Technical Support for Offender Status Phase I, Criminal History Conversation, and Offender Status Phase II
10-07-03	8.0	Computer
12-01-01	3.0	Laser Printer
12-02-01	5.0	Development of Audit Techniques for Data Processing
12-05-01	15.1	"In-House" Reconciliation Hardware
	9.8	AT&T Merlin
	4.3	Encoder Repair
15-01-01	98.5	Workstation Network System
15-02-01	55.0	Office Information System Expansion
20-06-01	47.5	Bicentennial Projects
	150.0	Heritage Commission Events
20-06-03	10.0	Survey Catalog - State Match
	3.8	Word Processor Replacement
20-06-04	15.0	Repairs to Homestead House
	10.0	Ten Public Markers - Historical Achievements of Delaware Black Citizens
	2.0	Historical Marker - Southern Campus - Delaware Technical and Community College
	4.0	Repairs to Hale Burns House
20-06-05	7.9	Vehicle
	12.0	Replace Back-Up Microfilm Processor
25-01-01	7.3	Upgrade Data Processing Capability (IBM AT/HP Plotter)
	10.6	Computer/Word Processing Equipment
	17.2	2 Cars
30-01-30	17.0	Date Logger
	1.5	Base Radio
	24.0	Two Cars
	54.5	Supervise Court Security System
30-01-40	2.9	Furniture
	1.5	Micro Computer
	2.3	Telephone Equipment

30-03-10	106.0 10.0	ABCC - Phase III - Information System Design Car
30-04-10	17.0 1.6 2.5	Two 6100 Metering Hardware Replacements Two 60 Slot Sort Bins Moving Cost to New Facility
30-04-20	50.0 25.0	Wiring, Cable and Telephones for Kent County Family Court Facility Wiring, Cable and Telephones for Sussex County Family Court Facility
30-05-10	3,000.0 200.0	Minor Capital Improvement Funds for Schools and State Buildings Family Court/Kent County Facility Office Furniture and Equipment
35-01-01	9.6	Vehicle
35-02-02	100.0	Institutional Systems
35-03-01	6.5	Planning Support
35-04-01	11.5 30.0	Vehicle Matching Funds for Temporary Building
35-05-02	21.3 10.0 8.0 12.0 10.0	2 Month Contract - Cancer Registry Vehicle T.V. Surveillance Equipment Vehicle and Other Items "Right-To-Know" Program Radon Detection
35-05-03	9.5	Service Vehicle
35-05-04	17.0 30.3 60.9 23.1 28.0	Linens and Bed Pads Cook/Chill System Single Trayline Kitchen Equipment Phase Out of Kitchen Staff Van - Young Adult Unit
35-06-01	175.0 135.2	Start-Up for 18-21 Year Old - Residential Program Start-Up for 2 Group Homes - Chronically Mentally Ill
35-06-02	21.7	Phase Out - Cafeteria Workers
35-06-03	15.0 9.2	Office and Educational Equipment Vehicle
35-07-01	5.0	Office Furniture
35-08-01	1.8 13.3 6.7	Project Tracking Training Equipment Vocational Training
35-10-01	3.3	Vehicle
35-11-01	8.3	Vehicle
35-11-02	46.1 100.0 14.0 10.2 .9 50.0	Linens and Blankets Start-Up for 2 Group Homes Institutional Equipment Stand-Alone Word Processing Stockley DFMS Access (Terminal) Start-Up for 1 Additional Neighborhood Home
35-11-03	9.6 49.5 50.0	Vehicle Start-Up for Day Programs Start-Up for Neighborhood Homes
35-12-01	9.6	Vehicle

35-14-01	19.2 20.0	Two (2) Vehicles Patients' Rights Training Package
37-01-00	2.6	Equipment and Office Furniture - Fiscal Operations/Management Services
37-03-00	11.0 50.0	Office Furniture and Vehicle - Adolescent Outpatient Operating Expenses (Non-Public RTCS) - Community Based Adolescent
37-05-00	35.0 4.0	Accreditation - Upgrade Electrical System Stevenson Detention Probation and Aftercare Relocation - Probation and Aftercare
37-08-00	63.7 64.3 50.0 7.9	Increase Access to Client Track/Case Mgr. - Office of the Director Increase Productivity - Case Mgr., Etc. (H&SF) - Office of the Director Enhance CYCIS for Case Mgrs. - Office of the Director Vehicle Replacement - Case Management
38-01-01	28.5	Surveillance Equipment/Cars
38-02-03	26.0	Forklift
38-02-05	21.5	Cars/Vans
38-04-01	5.5	Metal Detectors
38-04-03	20.0 17.5	Mattresses Equipment - 200 Bed Unit at Delaware Correctional Center
38-04-08	32.0	Vans
38-04-09	25.5 16.5	Furniture - Dover Office Phones
38-04-10	67.6	Halfway House Start-Up
40-01-01	15.0 2,500.0	Enhance Data Processing Capability (DWR/SFT/TEL/PRG) Delaware Land and Water Conservation Trust Fund
40-05-04	12.5 4.7	3/4 Ton Pickup Truck Boat, Trailer and Special Motor
40-06-02	17.0	Leshner Pavilion - Bellevue State Park
40-07-02	5.0	Maintenance of Felton Drainage
40-07-05	25.0 25.0 10.0 10.0 50.0 25.0	Dredge Piping Dredge Roy's Creek Town of New Castle Dredge Project Dredge Branch Canal, Delaware City Dredge Derby Pond Dredge Silver Lake, Dover
40-08-03	15.0	Print and Publish the Environmental Legacy Report
40-09-01	60.0	Gas Chromatograph/Mass Spectrometer
40-09-03	125.0	Hazardous Spill Revolving Fund
45-01-01	38.0 10.8	Implement Departmental BSP Car
45-03-01	14.0 6.0 3.0	Mini-Van Shop Tools Furnishings

	5.5	Portable Public Address System
45-04-02	16.6	Cars
45-06-03	2.0	Salary and Wages - Overtime - Services to Eastern States' Regional Conference
45-06-03	32.8 25.0	Radio/Telephone Recorders Bullet-Proof Vests
45-06-05	20.0	Surveillance Equipment
45-06-07	10.0 15.0	Radar Replacements Breathalyzers
45-06-10	35.0	Portable Radios
45-06-11	15.0	Shop Equipment
45-07-01	55.0	Additional Data Processing Devices (32 Ppt GRLS/TS/P Line)
45-07-02	4.0	Cash Machine
50-09-01	3,000.0	Housing Development Fund
55-04-01	15.0	Construction Plan System
55-04-30	90.0 10.7	Salt Storage Recalibrations
55-04-70	40.0 6,000.0	Automated Refueling Secondary Roads
65-01-02	15.0	Install "GIS"/Network Expand/Upgrade Software
65-03-02	5.9	Automated Lab Feasibility Study
75-01-01	20.0	Second Year of Three-Year Radio Replacement
90-01-01	250.0 50.0	Capital Outlay Carvel Scholarships
90-03-01	9.0 65.6 100.0 2.7	Service Vehicle Software Modules Conrad Hall Minor Capital Improvements President's Office Renovations
90-03-02	30.0	Undergraduate Library Books
90-04-01	10.5	Accreditation
95-01-01	500.0 670.1 84.7 63.4 113.0 200.0 10.0 46.0 22.5	Division II - All Other Costs School Buses Stop Arm Retrofit DPI Telephone System Data Processing Modifications and Development Expansion of Vax System Films Computer Equipment - Data Base Project Equipment - Wilmington Skills Center
TOTAL		\$21,885.2

Section 65. Section 1 of this Act appropriates to the Budget Office - Other Items (10-02-05) various funds for computer/word processing hardware and software and contemplates the development of computer-related systems. All such funding shall be transferred into the line Data Processing-Development Projects in Office of the Budget - Administration (10-02-01). The allocation of these funds shall be made by the Budget

Director upon the approval of a formalized plan approved by the Department/Agency head and the Director of the Office of Planning and Data Administration.

Section 66. Section 1 of this Act makes an appropriation to the Budget Office Contingency (10-02-05) for One-Time Items, within this amount \$106.0 is included for the State Office of Personnel. Of this amount, \$70.0 is to be used to conduct classification maintenance reviews for all clerical, custodial and aides positions in the public school districts and \$36.0 is to be used to conduct a similar study for Plan B employees of Delaware Technical and Community College.

Section 67. Section 1 of this Act makes an appropriation to the Budget Office Contingency (10-02-05) for One-Time Items. Within this amount, \$3,000.0 is included for Minor Capital Improvements for Schools and State Buildings. This amount shall be allocated to the following departments/agencies:

- \$500.0 for Public Education
- \$700.0 for Health and Social Services
- \$750.0 for Administrative Services
- \$800.0 for Corrections
- \$250.0 for University of Delaware

Section 68. Upon enactment of this Act, the sum of six-million dollars (\$6,000.0) identified in (10-02-05) Budget Office - Other Items for secondary road improvements shall be transferred to the Revenue Fund (20386-1) of the Delaware Transportation Authority. Monies on deposit in such fund shall then be made available to the Road Improvement Fund established pursuant to Title 2, Section 1310(c)(11) of the Delaware Code and a resolution and indenture of the Delaware Transportation Authority. These funds shall be used for such State-wide secondary road improvement projects as the Secretary of the Department of Transportation shall deem appropriate.

Section 69. Section 1 of this Act makes an appropriation to the Budget Office Contingency (10-02-05) for One-Time Items, within this amount \$500.0 is included for Public Education, School Districts "Division II - Other Costs". This amount shall be allocated to the several school districts in amounts not to exceed each school district's proportion of Division II units to the total number of Division II units in the State as of September 30, 1987. These funds shall be used to supplement the regular "Division II - Other Costs" appropriation and may be expended for any school costs except Salaries, Debt Service, Energy, and transportation of pupil to and from their regular sessions of school. Any expenditure from these funds which is made for computer equipment shall be subject to the technical review and purchase requirements of the Office of Planning and Data Administration of the Office of the Budget.

Section 70. Section 1 of this Act appropriates \$1,089.3 to Postsecondary Education (10-02-07) for Scholarships. Of this amount, \$100.0 shall be used for scholarship loans for the Christa McCauliffe Teacher Incentive Scholarship/Loan Program in accordance with the provisions of House Bill 707 of the 133rd General Assembly.

Section 71. Section 1 of this Act appropriates funds for scholarships to Postsecondary Education (10-02-07). Of this amount, \$50.0 shall be made available for scholarships for Delaware students who pursue degrees in nursing. However, this appropriation of \$50.0 shall revert to the General Fund of the State of Delaware upon failure of the General Assembly to pass legislation implementing a program for nursing scholarships.

Section 72. Prior to this Act, statewide information management responsibilities have been vested with four (4) offices that reported separately to the Budget Director. These offices were: Information Systems, Data Administration, Planning Systems Development, and Telecommunications Management. For the fiscal year ending June 30, 1988, the following structural changes shall apply:

1. The Executive Director, Office of Information Systems, reporting to the Budget Director, shall assume overall management responsibility for the activities of the offices of:
 - A. Planning and Data Administration. The effect of this change reflects a combining of the previously constituted offices of Data Administration and Planning Systems Development.
 - B. Telecommunications Management, as presently constituted.

- C. Information Service Operations and Facilities Management. This accomplishes the following:
- The Office of Information Systems, as previously constituted, is renamed.
 - The Associate Director of OIS is designated Director, Information Service Operations and Facilities Management.
 - The Director of OIS, together with his administrative staff, is removed from the newly constituted office and identified with the overall management functions previously described.
 - Responsibility for facilities management functions, currently confined to the Biggs Data Center within Health and Social Services (as delegated by the Budget Director) and the Carvel Office Building Wang center within the Division of Revenue in the Department of Finance, are assigned to this office.
2. Duties and responsibilities of the reconstituted organizations shall be those already defined by law, modified as follows:
- A. Title 29, Sections 8804 and 8805, Chapter 88, Delaware Code, stipulates that the Director of the Division of Central Data Processing shall exercise certain approval or disapproval authority. For the fiscal year ending June 30, 1989, this power, duty and function shall vest with the Executive Director, Office of Information Systems.
- B. Title 29, Chapter 88, Delaware Code, imbues the Department of Administrative Services with certain powers, duties and functions with regard to information services management. For the fiscal year ending June 30, 1989, such powers, duties and functions shall vest with the Executive Director, Office of Information Systems.
- C. 1) The Office of Planning and Data Administration is hereby established, with the responsibilities to construct an integrated state-wide data base capable of meeting the coordinated management informational needs of the three branches of State government. The duties and responsibilities of this unit, along with those identified in Title 29, Chapter 88, Delaware Code, as vesting in the Office of Planning Systems Development, shall include:
- a) Management control and policy direction over all aspects of computerized data requirements definition, data acquisition, data storage and dissemination, data retention, and data retirement standards.
 - b) The creation and maintenance of a State-wide data dictionary in which each element of data is defined, collection responsibilities are affixed, and data access by legitimate users clearly defined.
- 2) No agency shall:
- a) Claim unreasonable proprietary ownership of public domain information needed by another agency in the performance of its lawful duties except as specifically excluded by the Delaware Code.
 - b) Create a computerized data base without the approval of the Executive Director of OIS or his designee.
- D. Section 1 of this Act provides an appropriation for the Health and Social Information Systems budget unit, hereby renamed the "Biggs Center". Through this appropriation, the Budget Director, or his designated representative, shall exercise management control over all aspects of computerized systems within Health and Social Services. Specifically:
- 1) The Budget Director shall evaluate the status of current system development within Health and Social Services. If the scope of developmental activities is deemed by the Budget Director to be beyond the capabilities of the resources made available herein, alternative courses of action shall be explored.

- 2) (a) All data processing personnel, hardware, software, and other information resources currently under the management control of the Budget Director are to so remain.
 - (b) Wherever such information resources continue to appear in appropriations made to Health and Social Services in Section 1 of this Act, they shall be construed to be under the administrative control of Health and Social Services, but under the management control of the Budget Director.
- E) The Director of the previously established Office of Telecommunications Management, shall:
- 1) Cause a State-wide telecommunications plan to be implemented and maintained;
 - 2) Monitor and control the execution of said plan;
 - 3) Review and approve all agency plans, including budget requests and acquisitions with regard to telecommunications resources and activities;
 - 4) Report on status to an Advisory Committee as it requires;
 - 5) Provide technical assistance and consultation to State agencies with regard to meeting agency needs for telecommunications goods and services;
 - 6) Coordinate telecommunications plans and activities with related State-wide information management functions.
- a) The Advisory Committee on Telecommunications Policy shall be reconstituted as the "Advisory Committee on Information and Technology" under the Chairmanship of the Executive Director, Office of Information Systems. Its members shall include:
- Four members from the Legislature, two of whom shall be appointed by the President Pro Tempore of the Senate and two appointed by the Speaker of the House of Representatives; one member of the Judiciary to be appointed by the Chief Justice; the Secretary of the Department of Administrative Services; the Secretary of the Department of Finance; a representative of the Department of Public Instruction; the Secretary of the Department of Health and Social Services; the Secretary of the Department of Transportation, and the Secretary of Public Safety. In addition, the Governor shall appoint the following persons to the committee: a representative of a major private company not in the information systems business, but who has experience in managing information resources; a member of the tri-county association and a member of the Delaware League of Local Governments.
- b) The duties and responsibilities of the Advisory Committee, meeting at periodic intervals and/or at the call of the chairman shall be as follows:
- (i) Provide overall policy guidance to the Planning, Operation and Control of the State's Information Resources.
 - (ii) Provide guidance in the setting of policies and standards for plan implementation and control.
 - (iii) Assist and consult with the Executive Director, Office of Information Systems, as he requires to discharge his duties and responsibilities.
- F) Section 1 of this Act contains appropriations in support of WANG computing services, previously managed by the Division of Revenue but substantially supporting many residents of the Carvel State Office Building in Wilmington. It is the intent of this paragraph that management control over those resources shall be exercised by the Executive Director, Office of Information Systems. The Budget Director and Secretary of Finance shall resolve the budgetary movement of any applicable resources not accommodated by Section 1 of this Act.

3. It is the intent of this section to bring together the variously described functions within a single organizational head for management purposes. Under Generally Accepted Accounting Principles, however, the following entities are classified as "Enterprise Accounts" and will accordingly retain their prior accounting entity identification - Office of Information Service Operations and Facilities Management (previously OIS) and the resources associated with the Biggs Center. Those associated with the Carvel Center will be established as enterprise accounts. Appropriate accounting entities for the remaining non-enterprise accounts shall be established.
4. To assist the Executive Director, Office of Information Systems, in coordinating the statewide management of information resources, each cabinet level agency shall name an individual to act as that agency's "information resource manager" or "coordinator". It is the intent of this paragraph that such coordinators will act as the primary points of contact for appropriate communications between the Office of Information Systems and the agencies. It is further intended that the Legislature and Judiciary similarly assign such a coordinator. The Executive Director, Office of Information Systems, shall cause the collective body of coordinators to meet regularly for purposes of statewide coordination of Delaware's informational resources.

Section 73. Listed below are the allocations of Data Processing Services for Fiscal Year 1988:

Agency	Fiscal Year 1988 Projections	
	General Funds	Other Funds
Legislative	5.0	
Judicial	100.0	4.0
Executive	626.5	
Other Elective	155.0	80.0
Legal	13.5	
State	990.7	125.0
Finance	3,417.6	3.0
Administrative Services	154.0	
Health and Social Services (Dover)	159.5	30.0
Health and Social Services (Biggs)	670.0	395.3
Children, Youth and Their Families (Dover)	14.0	
Children, Youth and Their Families (Biggs)	235.0	
Correction	40.0	
Natural Resources and Environmental Control	44.2	2.0
Public Safety	1,296.0	26.0
Community Affairs	22.0	
Transportation	536.0	18.0
Labor	20.0	
Agriculture	4.0	
Election	85.0	
Fire Prevention	6.0	2.0
National Guard	2.5	
Higher Education	14.0	
Public Education	225.0	
<u>Total:</u>	<u>\$ 8,835.5</u>	<u>\$ 685.3</u>

Section 74. For the fiscal year ending June 30, 1988, the remaining balance in the amount of \$182.2 in account (10-02-10-01-80) from Fiscal Year 1987 appropriations for Statewide Resource Management shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 75. For the fiscal year ending June 30, 1988, \$100.0 of the Office of the Budget in account (10-02-12-01-81) from Fiscal Year 1987 appropriations for DFMS Network shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 76. Section 1 of this Act appropriates \$160.0 for Other Items to Delaware Economic Development Authority (10-03-03). Of this amount, \$45.0 shall be used in support of the Small Business Development Center and \$30.0 shall be allocated for the Delmarva Advisory Council.

Section 77. For the fiscal year ending June 30, 1987, the remaining balances of the Delaware Economic Development Authority (10-03-03) for General Obligation Bonds in account

(10-03-03-01-79) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 78. Any Department with classified positions filled or unfilled and temporary and/or seasonal personnel paid from funds other than those appropriated from the General Fund of the State shall pay to the Office of State Personnel from the Special Funds a prorated share of the expense of the Office of State Personnel, as approved by the Budget Director and the Controller General. Such payments shall be used by the Office of State Personnel to supplement the funds appropriated to the Office from the General Fund of the State in Section 1 of this Act.

Section 79. During the fiscal year ending June 30, 1988, no Department or Agency shall engage a consultant or authorize expenditure of any General or Special Funds for the purpose of studying personnel policies and/or the wage and salary classification of employees without the written authorization of the Personnel Director and the concurrence of the Controller General.

Section 80. For the fiscal year ending June 30, 1988, the remaining balance of the compensation line in the Office of State Personnel, Administration (10-04-01-01-85) from Fiscal Year 1987 appropriations shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 81. The sums appropriated in Fiscal Year 1988 to Criminal Justice Council (10-07-01) for criminal justice planning grants to State Agencies to provide funds to match grants from the Federal Government, which are not disbursed on June 30, 1988, and shall continue to be available on a matching basis for the life of each criminal justice 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.

OTHER ELECTIVE OFFICES

Section 82. For the fiscal year ending June 30, 1988, any remaining sum in the Hi Tech Account, Fiscal Year 1987 Appropriation (12-01-01-01-91), shall remain a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 83. Of the total positions authorized in Section 1 of this Act for (12-02-01) Auditor of Accounts, the position of Public Information Officer shall be exempt from classified service.

Section 84. Section 1 of this Act reflects for the Auditor of Accounts (12-02-01) sufficient State-match funding for federally-mandated audit services.

Section 85. Section 1 of this Act authorizes three (3) new appropriated Special Fund Positions to the Insurance Commissioner, Bureau of Examination, Rehabilitation and Guaranty (12-03-02) as follows:

- (1) Insurance Investigator 1
- (2) Secretaries

Further, position number 1133 shall be reclassified to an Insurance Investigator I.

Section 86. (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, Health Insurance, Worker's Compensation and Unemployment Compensation are reflected herein within each department or agency budget for the current fiscal year. These Other Employment Costs shall be calculated and charged to the appropriate funds as determined by the covered payroll and credited to the respective payee funds.

(b) The State Treasurer is hereby directed to collect on each pay cycle all the Other Employment Costs from all funds.

Section 87. The State Treasurer's Office, Administration (12-05-01) may request a transfer from the Budget Office prior year's contingency fund for payment of any lost or outdated checks.

Section 88. Section 1 of this Act provides a Special Fund appropriation of \$1,204.1 to the State Treasurer, Administration (12-05-01) Cash Management Policy Board, authorized by Title 29, Chapter 27, Delaware Code, for the purpose of providing staff support and operational expenses, including payment of fees for banking services. The \$1,204.1 in

Interest income on bank deposits shall be coded as Special Fund revenue to provide funds for operation of the Cash Management Policy Board.

Section 89. Three million three-hundred thousand dollars (\$3,300.0) is hereby advanced from the General Fund of the State to the State Treasurer, Administration (12-05-01) in order that monthly advance payments can be paid for Health Insurance. This advance is to be repaid by June 30, 1988.

Section 90. Upon being notified of the death of an individual receiving a pension under the plan for Retired and Disabled Teachers, the Budget Director shall transfer \$3.0 from an existing contingency line item in the Office of the Budget Director to the State Treasurer (12-05-01) Administration, for the purpose of paying a death benefit of \$3.0 to his or her designated beneficiary or in the absence of a designated beneficiary, the amount shall be paid to the deceased pensioner's estate.

Section 91. In the event that the amount authorized in the memorandum budget in Section 1 of this Act for the State Treasurer, Pensions (12-05-02) for Contractual Services (Investment expenses) is insufficient, the memorandum budget may be amended to adjust for such insufficiency upon request of the Board of Pension Trustees and approved by the Budget Director and the Controller General.

Section 92. (a) Whenever the annual valuation of the market value of the assets of the Special Pension Fund exceeds the actuarial value of benefits available to persons entitled to receive special pensions by a factor of at least 20%, the Board of Pension Trustees, in its sole discretion, may transfer the excess over 20% or any part of it to the State Employees Pension Fund for the benefit of that Fund.

(b) During July, 1987, the Board of Pension Trustees will transfer \$663.6, excess funds, from the Special Pension Fund to the Employees Pension Fund.

(c) During July, 1987, the Board of Pension Trustees will transfer \$663.6 to the Budget Office - Contingencies, Contingency - Salaries and Other Employment Costs.

Section 93. Amend Section 5202(a)(3), Chapter 52, Title 29, Delaware Code, by striking said subsection (a)(3) in its entirety and substituting in lieu thereof the following:

"(3) Effective January 1, 1988, for eligible pensioners entitled to services, rights or benefits under the federal medicare program 100% of the cost of a basic contract(s), standard contract(s), or special contract(s) of health insurance coverage selected by such pensioner which coverage may include coverage for such pensioner's eligible dependents."

Section 94. Amend Chapter 83, Title 29 of the Delaware Code, by inserting into Subsection 8307(2) immediately after the word "Treasury", the following:

", under the oversight of the Board of Pension Trustees,".

Further amend Chapter 83, Title 29 of the Delaware Code, by deleting from Subsection 8308(b)(4), the phrase beginning with the word "Except" and ending with the word "have".

Section 95. Section 1 of this Act authorizes \$152.7 for Bond Issuing Expense in the Office of the State Treasurer, Debt Management (12-05-03), for payment of expenses relating to the issuance of State Long Term Debt. Disbursement from the Bond Issuance Expense fund shall not be made without the prior approval of the State Treasurer and the Secretary of Finance.

LEGAL

Section 96. Section 1 of this Act authorizes an appropriation for Contractual Services for the Office of the Attorney General (15-01-01). Of this amount, \$265.5 shall be used for the purpose of providing services covering family violence in New Castle County and \$150.0 shall be used for the purpose of providing services covering family violence in Kent and Sussex Counties.

Section 97. Of the total Deputy Attorneys General authorized in Section 1 of this Act to the Office of Attorney General (15-01-01), two (2.0) shall be assigned to the Family Court for service in Kent and Sussex Counties. Additionally, one (1.0) Special Fund Deputy Attorney General shall be assigned to the Family Court to be used to increase the existing staff assigned to prosecute Child Support Cases.

Section 98. The Industrial Accident Board of the Department of Labor shall be assigned two Deputy Attorneys General on a full-time basis. The two Deputy Attorneys General shall come from the existing complement of Deputy Attorneys General assigned to the Office of the Attorney General (15-01-01), as authorized in Section 1 of this Act.

STATE

Section 99. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Office of the Secretary (20-01-01-80) Bicentennial Commission from Fiscal Year 1987 shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 100. For the fiscal year ending June 30, 1988, from the remaining balances of the Department of State from the Fiscal Year 1987 appropriation in account (20-06-01-01-51), the amount of \$20.0 shall be a continuing appropriation for Contractual Services to contract for a Folklore Program and shall not be subject to reversion until June 30, 1988.

Section 101. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Division of Historical and Cultural Affairs, Office of Administration One-Time Appropriation (20-06-01-01-98) Bicentennial Celebration from Fiscal Year 1987 appropriation shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 102. For the fiscal year ending June 30, 1987, the remaining balances of the Department of State, Division of Historical and Cultural Affairs, Bureau of Museums and Historic Sites (20-06-04-01-90) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 103. The allocation of Fiscal Year 1988 microfilm services listed below is based on approved agency service requests. These allocations are subject to change by the Bureau of Archives and Records Management (B/ARM) in the event of agency defaults in records preparation of other related developments during Fiscal Year 1988. Agencies may be added or deleted from the service authorization list based on the terms of their formal agreement with the B/ARM and subject to the Bureau's standard operating procedures.

Agency	Fiscal Year Projections	
	GF	ASF
Legislative	2.7	
Judicial	137.0	
Executive	3.8	
Other Elective	29.3	
State	72.2	47.6
Finance	103.5	
Administrative Services	2.5	2.0
Health and Social Services	68.5	2.0
Children, Youth and Their Families	12.4	
Correction	26.0	
Natural Resources and Environmental Control	7.0	
Public Safety	51.0	
Transportation	25.4	1.0
Labor	7.0	
Fire Marshal	5.2	
Elections	1.1	
Delaware National Guard	2.5	
Higher Education	1.4	
Public Education	39.4	
<u>Grand Total</u>	<u>592.2</u>	<u>54.6</u>

Section 104. All purchases or rental of hardware and equipment used to create, duplicate, process, read or print microfilm shall require the prior written approval of the Bureau of Archives and Records Management of the Division of Historical and Cultural Affairs. Also, all microfilm supply purchases must meet established standards and receive the Bureau's prior approval. The Department of Finance may not approve for payment any requests for micrographics-related purchases or rentals without such approval.

Section 105. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Microfilm Services One-Time appropriation (20-06-05-01-98) Microfilm - Climate Controlled Storage Room from Fiscal Year 1987 appropriation shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 106. For the fiscal year ending June 30, 1988, the new position added to the Division of State Banking Commission (20-15-01) in Fiscal Year 1987 shall be an exempt position.

FINANCE

Section 107. For the fiscal year ending June 30, 1988, any remaining sum in Contractual Services (25-01-01-01-50) Office of the Secretary on June 30, 1987, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 108. For the fiscal year ending June 30, 1988, any remaining sum in the Fiscal Notebook (25-01-01-01-80) on June 30, 1987, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 109. Section 1 of this Act provides \$12.5 in the Contractual Services line of the Division of Accounting (25-05-01) which shall be paid in support of the Council of State Governments' Governmental Accounting Standards Board Research Activity.

Section 110. In addition to the exempt positions in Title 29, Chapters 59 and 83, Delaware Code, this budget provides authorization for the Accounting Systems Manager in the Division of Accounting, Department of Finance (25-05-01). The Division of Revenue shall have only one position exempt under Title 29, Chapter 59, Section 5903(5) of the Delaware Code.

Section 111. The Division of Revenue, Department of Finance is authorized to establish and maintain a special fund with the State Treasurer for the purposes of contracting for the collection of delinquent State taxes. The contracts will provide for, but not necessarily be limited to, the collection of delinquent accounts from persons and businesses presently located out-of-State and for audits of out-of-State businesses. Deposits to the special fund shall be from the collection of delinquent taxes under such contracts. Deposits which are not required to carry out the purposes described in this Section, which purpose shall be deemed to include recording of Division of Revenue judgments and warrants in the offices of clerks of various courts, shall be transferred by the Director of Revenue to the General Fund within 30 days from the end of each quarter of the calendar year. A detailed report on all expenditures from and collections to this special fund shall be sent bi-annually to the Budget Director and the Controller General.

Section 112. For the fiscal year ending June 30, 1988, any remaining sum in the Department of Finance, Division of Revenue One-Time Appropriation (25-06-01-01-98) on June 30, 1987, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 113. The Division of Revenue is authorized to charge personal income tax "check-off program" recipient agencies an amount equaling 5 percent of each program's gross collections not to exceed \$2.0 per program. On receipt of said remittances, the Division of Revenue shall promptly place an amount equaling 50 percent of each remittance received into the Non-game Fish and Wildlife, Non-game Habitat and Natural Areas Preservation Fund to partially reimburse said fund for initial systems development charges. This is to acknowledge that the systems development effort was on behalf of said fund and the cost should be shared by all participating agencies.

Section 114. The Director of Revenue shall have the authority to enter into agreements according to which contingency fees are provided to finders of property to be escheated to the State. When the Director deems it to be appropriate, he may enter into escrow, custodian, or similar agreements for the purpose of protecting the State's interest in property to be escheated or fees payable pursuant to the aforesaid agreements. The Director may direct that payment for said fees or other costs incident to escheat of property under the aforesaid agreements as well as advertising under escheat laws and travel or litigation expenses incident to escheat administration be made out of such money held in the escrow, custodian, or other account established under this paragraph. No account shall be used to pay for employees of the Division of Revenue. A semi-annual report of amounts in escrow or custodian accounts shall be furnished to the Budget Director and Controller General.

Section 115. (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 Controller General and the Budget Director; provided, the total operating budget for the fiscal year ending June 30, 1988, shall not exceed 20 percent of gross sales as limited by Title 29, Chapter 48, Delaware Code.

(b) The memorandum budget for the State Lottery (25-07-01) provides for the services of a resident auditor under the appropriation for Contractual Services. In addition to his duties as the resident auditor, he shall perform such other duties as assigned by the Secretary of Finance.

ADMINISTRATIVE SERVICES

Section 116. Amend Title 29, Section 6902(1), of the Delaware Code to read as follows:

"Fleet vehicles may not be purchased unless, on a 3-for-2 basis, a vehicle has been turned over to the Division of Purchasing for auction, or identified to be sold at auction or as salvage. This requirement may be waived by the Secretary of Administrative Services, the Budget Director and the Controller General."

Section 117. Amend §6902(a) and (b), Chapter 69, Title 29 of the Delaware Code by striking said subsections and substituting in lieu thereof the following:

"(a) The Secretary of Administrative Services shall develop bid specifications and contracts with the concurrence of the Budget Director and Controller General for passenger vehicles including station wagons, vans, off-road vehicles and trucks rated 10,000 GVW or less, taking into consideration such factors as, but not limited to, economy of operation, gas mileage, maintenance, size, salvage value, life cycle costing and overall cost-effectiveness.

(b) All vehicles cited in subsection (a) purchased for State use must be purchased by contracts administered by the Fleet Management Administrator. All other vehicles purchased for State use must be purchased from bid lists approved by the Division of Purchasing."

Section 118. Amend §6902(h), Chapter 69, Title 29 of the Delaware Code, by striking said subsection and substituting in lieu thereof the following:

"(h) Any agency/school district needing vehicle types cited in subsection (a) must purchase their vehicles by contract or contracts administered by the Fleet Management Administrator."

Section 119. Amend §6902, Chapter 69, Title 29 of the Delaware Code, by adding a new subsection (k) to read as follows:

"(k) The trucks and special purpose vehicles of the Department of Transportation shall be exempt from subsections (a), (b), and (c) of this section."

Section 120. All State agencies are directed to remit payment for Carvel Building Parking to the Department of Administrative Services, Office of Fleet Management, within thirty (30) days after receipt of invoice.

Section 121. Amend §8813(b), Chapter 88, Title 29 of the Delaware Code, by striking said subsection and substituting in lieu thereof the following:

"(b) All State-owned passenger vehicles cited in §6902(a), Chapter 69, Title 29, of the Delaware Code are covered by this section, which vehicles are hereafter referred to as 'the fleet'.

The State Police, having unique vehicle requirements in the law enforcement function, and the Department of Transportation, having unique requirements for trucks and special purpose vehicles, shall be exempt from policy direction by the Fleet Management Administrator."

Section 122. Of the positions in Capitol Police, Administration, Department of Administrative Services (30-01-30), at least one position will be assigned to provide security services to Superior Court in each County.

Section 123. (a) Of the funds appropriated in Section 1 of this Act to the PERB, Administration, Department of Administrative Services (30-01-40), the following amounts

will revert to the General Fund if House Substitute No. 1 for House Bill 100 is not enacted into law:

Personnel Costs (2)	\$58.2
Contractual Services	7.8
Supplies and Materials	2.3

(b) Of the funds appropriated in Section 1 of this Act to the Budget Office - Other Items, Office of the Budget, Executive (10-02-05), the following amounts will revert to the General Fund if House Substitute No. 1 for House Bill 100 is not enacted into law:

(30-10-40) Furniture	\$2.9
Micro Computer	1.5
Telephone Equipment	2.3

Section 124. Amend Title 29, Section 8810, of the Delaware Code by adding a new paragraph (e) to read as follows:

"(e) The Professional Regulations Board in the Division of Regulation and Licensing shall have the following powers, duties and functions relating to the administration of examinations for all Boards and Commissions listed in this subsection:

- (1) to designate, arrange for and contract with the examination site;
- (2) to deposit all fees received for testing into a special account to be used for the sole purpose of covering the costs of the examinations;
- (3) to pay examination services and other expenses directly related to the administration of examinations."

Section 125. For the fiscal year ending June 30, 1988, any remaining sum in the One Time Account, Computer (30-08-01-98) on June 30, 1987, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 126. Of the General Fund positions in Professional Regulations, Regulations and Licensing, Department of Administrative Services (30-03-20), one half (.5) positions will be assigned to the Real Estate Commission.

Section 127. Of the positions in Professional Regulation, Regulation and Licensing, Department of Administrative Services (30-03-20), one position will be an investigator with background in cosmetology or barbering.

Section 128. Section 1 of this Act appropriates Special Funds for the Division of Regulation and Licensing per Chapter 1, Title 26, Delaware Code. Of the amount appropriated for Contractual Services, \$119.4 is available for the Office of Public Advocate to perform studies consistent with the goals and objectives of the Public Utility Revolving Fund, as defined in Chapter 1 referenced herein. The Budget Director with concurrence of the Controller General is authorized to transfer up to \$119.4 to the Office of the Public Advocate.

Section 129. One million three hundred and fifty seven thousand two hundred dollars (\$1,357,200) is hereby advanced from the General Fund of the State to the Division of Support Operations (30-04-00) in order that telephone charges can be paid on a reasonable, timely basis.

Section 130. One hundred and twenty thousand dollars (\$120,000) is hereby advanced from the General Fund of the State to the Division of Support Operations (30-04-00), in order that postage charges can be paid on a reasonable, timely basis.

Section 131. Amend §8806(a), Chapter 88, Title 29 of the Delaware Code, by adding a new paragraph 8806(a)(3) to read as follows:

"(3) No agency of State Government shall procure, purchase or lease any postage meters or equipment for the metering of mail or the affixing of postage without the prior approval of the Division of Support Operations."

Section 132. All State agencies and school districts which provide internal courier services between various facilities and offices are directed to provide the Secretary of Administrative Services with a detailed description and schedule of those services by August 15, 1987. The Secretary of Administrative Services shall develop recommendations to

coordinate courier activities to prevent unnecessary duplication and enhance Statewide courier services. The Secretary may modify routes and schedules of the Division of Support Operations and recommend changes to agency routes and schedules. The Secretary is directed to report to the Joint Finance Committee on these efforts by January 1, 1988.

Section 133. All State Agencies are directed to remit payment for services received by the Division of Support Operations (Messenger Services, Telephone Services, and Graphics and Printing) within thirty (30) days after receipt of invoice. Services may include postal metering, paper supplies, facsimile, printing, telephone, photocopiers, etc.

Section 134. If a timely payments problem exists, the Department of Administrative Services may require all agencies and school districts paying telephone system payments through the Division of Support Operations (30-04-00) to make monthly estimated payments toward their telephone bills. The estimated payment is due within five working days of the beginning of each month. The estimated payment should equal the average of the last three months of actual reconciled payments; or, payments based on a schedule established by the Division of Support Operations. The Division of Support Operations will continue to be responsible for the actual payments to the telephone companies and the reconciliation of accounts with the user agencies and school districts.

Section 135. The purchase of the central automated publishing system in the Division of Support Operations, Graphics and Printing Office is subject to and shall be approved by the State Budget Office through its Data Processing, Development Projects procedures.

Section 136. With the exception of the custodial work associated with Legislative Hall and the Governor's Office, during Fiscal Year 1988, the Department of Administrative Services (30-00-00) may not hire any permanent (full-time) custodial employees without the approval of the Budget Director and the Controller General.

Section 137. The Department of Administrative Services will be responsible for developing standards for office furniture and equipment for the Carvel State 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 that will vacate space in the Carvel State 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 138. For the fiscal year ending June 30, 1988, any remaining sum in the One Time Account, Furniture and Equipment, Sussex Family Court (30-05-05-01-98) on June 30, 1987, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 139. For the fiscal year ending June 30, 1988, any remaining sum in the Asbestos Control Account, Fiscal Year 1987 Appropriation (30-05-01-01-81) on June 30, 1987, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 140. (a) During Fiscal Year 1988, the Division of Purchasing (30-06-00) will distribute the Delaware Code Supplement copies per Title 1, Chapter 1 of the Delaware Code to the extent possible with the number of copies provided by the Code Revisors Budget Unit (01-08-03). Funding for additional copies will be the responsibility of the requesting Agency.

(b) During Fiscal Year 1988, the Division of Purchasing (30-06-00) is required to purchase twenty two complete sets of the Delaware Code at a sum not to exceed \$13.2. Funding for additional copies will be the responsibility of the requesting Agency.

Section 141. Amend Section 6903(h) of Title 29 of the Delaware Code by deleting the words "the Budget Commission and" as they appear in the third line of Section 6903(h).

Section 142. All State agencies are encouraged to determine if the Division of Purchasing, Department of Administrative Services (30-06-00) can meet the needs of the agency prior to ordering equipment from vendors.

HEALTH AND SOCIAL SERVICES

Section 143. Results of investigations conducted by the Welfare Fraud Investigation Unit concerning General Assistance and Aid to Families with Dependent Children cases that indicate possible error or fraud shall be transmitted to the Office of the Attorney General

directly by the Secretary of the Department of Health and Social Services without approval by any other authority, which office shall prosecute those cases deemed actionable and return the rest to the Department of Health and Social Services for collection of overpayment. The Secretary of the Department of Health and Social Services shall file a quarterly report directly with the Budget Director, the Controller General, the Director of Research of Legislative Council, members of the Joint Finance Committee, and the Chairmen of the House and Senate Committees on Health and Social Services by the twentieth day of next month after the end of a quarter, which report shall not be subject to prior review by any other authority.

Section 144. The Secretary of the Department of Health and Social Services (35-01-01), shall submit a report to the Budget Director and the Controller General as to the status of the nursing shortage in the Department. This report shall be made on or before December 15, 1987.

Section 145. If, at any time during the fiscal year ending June 30, 1988, there should be a temporary delay in receiving federal matching funds for the Aid to Families with Dependent Children Program within the Department of Health and Social Services, such funds as may be required to assure the timely distribution of the public assistance checks shall be advanced and shall be paid by the State Treasurer from the General Fund. The Department of Health and Social Services shall promptly reimburse the General Fund upon receipt of the federal matching funds. However, there shall not be an advance of funds for the purpose described above, if all such previous advancements have not been fully reimbursed.

Section 146. One hundred seventy thousand dollars (\$170.0) is hereby advanced from the General Fund of the State to the Department of Health and Social Services (35-02-01), in order that the Public Welfare Revolving Fund emergency checks can be paid on a timely basis and without interruption.

Section 147. For the fiscal year ending June 30, 1988, the remaining balance of line (35-02-01-01-81) in the Division of Business Administration and General Services from Fiscal Year 1987 appropriations shall be a continuing appropriation for the purpose of completing DCIS Part B and shall not be subject to reversion until June 30, 1988.

Section 148. The Secretary of the Department of Health and Social Services shall annually issue a report to the Budget Director and Controller General on what the Health Care Cost Containment Program has accomplished relative to containing health care costs.

Section 149. Section 1 of this Act includes an appropriation for Contractual Services in the Department of Health and Social Services, Division of Planning, Research and Evaluation (35-03-01). Of that amount, \$20.0 shall be used to conduct a study to assess the fiscal impact of increasing the Medicaid Income Eligibility limit for Nursing Home Care at various intervals beginning at 200% of SSI to 220% of SSI. The Secretary of the Department of Health and Social Services shall make available the final results of this study to the Budget Director and the Controller General no later than December 15, 1987.

Section 150. The Division of Public Health currently operates the following nine programs for which a fee for service is charged to cover the cost of the program:

- Handicapped Children
- Maternal and Child Health Services
- Home Health Aides
- Family Planning Services
- Medicare Occupational/Physical Therapy
- Speech Therapy
- Home Health Care/In-house Supplies
- Home Health Care/Outside Supplies
- Home Health Skilled Nursing

Notwithstanding, the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and expend fees from the aforementioned accounts. Corresponding Appropriated Special Fund (ASF) spending authority has been granted in Section 1 of this Act.

Section 151. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) for Contractual Services. Of that amount, \$100.0 shall be made available for the Neo-Natal Infant Transport Program. Third-party reimbursement, when available, shall be sought from users of this service. Such third-party reimbursement, when received by the Department, shall be deposited into the General Fund.

Section 152. Section 1 of this Act provides an appropriation of \$129.9 in Appropriated Special Funds and three (3.0) positions in Community Health (35-05-02) for the purpose of establishing a Delaware Health Statistics Program which would collect, maintain and analyze health-related data in order to assist the health community in planning, administering and evaluating the quality, quantity and appropriate combination of health services.

Revenues for the purpose of funding this program shall be derived from the sale of copies of vital statistics records for birth, death and marriage certificates and shall be deposited in a holding account. In February, 1986 the Board of Health, under a separate provision, raised the fee for such records. Notwithstanding the provisions of Title 29, Section 6102 and Title 16, Section 3137 of the Delaware Code, the Division shall be allowed to retain and expend only the portion of the fee above the amount of \$2.50 per copy up to the appropriation limit. The rest shall continue to be deposited to the General Fund.

Section 153. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) for Contractual Services. Of that amount, \$109.2 shall be used for the purpose of providing school nursing services three (3) days a week to non-public schools in New Castle County. Of the \$109.2, \$24.0 shall be used to add seven (7) schools to this program. Also, included in the \$109.2 is funding to provide a 8% increase for those nurses in the program.

The Secretary of the Department of Health and Social Services will ensure that the contracts with the various schools in this program are executed no later than August 15, 1987. The Secretary will also ensure that timely payments are made to all contractors. This will result in timely payments to the nurses employed in this program.

Section 154. Section 1 provides an appropriation in the Department of Health and Social Services, Division of Public Health, Community Health Section (35-05-02), for Contractual Services. Of that amount, \$73.2 shall be used for inoculations to prevent childhood diseases by using the new vaccine B-Capsa 1. The eligibility requirements for participation in this program shall be developed by the Secretary of the Department to insure that priority will be given to low income families.

Section 155. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) for "Animal Bite Control" in the amount of \$70.0. The amount of \$30.0 shall be used to contract for animal bite investigation/management. The amount of \$12.0 shall be used for an animal bite reporting system. The amounts of \$23.0 for Salaries and \$5.0 for Other Employment Costs shall be used for a 1.0 Program Coordinator position.

Section 156. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Bissell Hospital (35-05-03) for Contractual Services. Of that amount, \$125.0 shall be used to contract for nursing services in the community for Alzheimer's patients.

Section 157. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) of \$130.0 for tuberculosis services. These funds shall be used to provide out-patient and in-patient care for treatment of tuberculosis and shall not be transferred and expended for any other purpose. Funds remaining unencumbered and unexpended as of June 30, 1988, shall revert to the General Fund.

Section 158. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) in Salaries, \$8.4; OEC, \$1.9; Contractual Services, \$1.5; and Capital Outlay, \$12.0 for an Enforcement Officer for the "Right to Know Program".

Section 159. Section 1 of this Act includes an appropriation for Contractual Services to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02). Of that amount, \$43.5 shall be used to increase the base budget of the obstetrical clinic in Kent County.

Section 160. Section 1 of this Act includes an appropriation for Contractual Services to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02). Of that amount, \$30.0 shall be used to contract for an additional midwife for the obstetrical clinic in Kent County.

Section 161. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) for

Supplies and Materials. Of that amount, \$40.0 shall be made available for the Sexually Transmitted Disease Program.

Section 162. Section 1 of this Act provides an ASF appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) in the total amount of \$103.0 ASF. This amount and 4.0 ASF positions shall be used for Health Facilities Licensing only if enabling legislation is enacted into law.

Section 163. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) for Contractual Services. Of that amount, \$10.0 shall be used to supplement the diets of children medically diagnosed with P.K.U.

Section 164. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) for Supplies and Materials. Of that amount, \$20.0 shall be used for the purchase of cyclosporine for eligible recipients of transplanted organs. Criteria shall be established by the Board of Health for medical and financial eligibility.

Section 165. During the course of Fiscal Year 1988, the Delaware Hospital for the Chronically Ill (35-05-04) shall render vacant, either through attrition or reassignment of the employee, 2.0 Cook I positions and 6.0 Food Service Worker I positions. The Fiscal Year 1989 Budget will reflect a reduction of these positions.

Section 166. Section 1 of this Act provides an appropriation of \$650.0 in the Director's Office of the Division of Alcoholism, Drug Abuse and Mental Health (35-06-01) for a residential educational program for seriously emotionally disturbed individuals, age 18 - 20, who are required under P.L. 94-142 to be provided with an education by the State. The Division of Alcoholism, Drug Abuse and Mental Health shall contract with a private or non-profit agency to provide ten residential placements to the aforementioned individuals who shall be referred by the Department of Public Education. The Department of Public Education shall be responsible for certifying the education component of the program and the Department of Public Education and the Division of Alcoholism, Drug Abuse and Mental Health shall jointly monitor this program. In addition to the ten residential placements which this program will provide with its current level of funding, the Department of Public Education may contract separately for other similarly afflicted individuals, in lieu of the current practice of out-of-state placement, if the chosen contractor is willing to expand the number of beds.

Section 167. For the fiscal year ending June 30, 1988, the remaining balance of the Contractual Services line in the Director's Office of the Division of Alcoholism, Drug Abuse and Mental Health (35-06-01-01-80) from Fiscal Year 1987 appropriations shall be a continuing appropriation for the purpose of renovating a suitable facility for the program to educate emotionally-disturbed 18-21 year olds and shall not be subject to reversion until June 30, 1988.

Section 168. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Office of the Director, (35-06-01), for Contractual Services. Of that amount, \$200.0 shall be used to contract for case management services for outpatients. The Director of the Division of Alcoholism, Drug Abuse and Mental Health shall allocate these funds accordingly between New Castle, Kent and Sussex Counties with the approval of the Budget Director and the Controller General.

Section 169. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Office of the Director (35-06-01) for "Operating Costs - Group Homes". That amount shall be used for operating costs of two (2) group homes for the chronically mentally ill for three (3) months in Fiscal Year 1988. One home shall be in New Castle County and the other shall be located in either Kent County or Sussex County.

Section 170. Section 1 of this Act provides an appropriation to the Delaware State Hospital (35-06-02) for Salaries and Wages. Of this amount, \$75.0 has been provided to create a pool of trained, casual seasonal workers who can be called upon to cover shifts when overtime would normally be used. The Secretary of the Department shall report to the Budget Director and the Controller General no later than January 1, 1988 as to the effectiveness of this strategy in reducing overtime at the State Hospital.

Section 171. Section 1 of this Act provides funds to establish a Dietitian I position within the State Hospital (35-06-02). The purpose of this position is to allow the

Hospital to provide services by a registered Dietitian as required for certification. This position shall also provide Dietitian services to the Terry Children's Psychiatric Center.

Section 172. Section 1 of this Act includes funding for a Pharmacist position in the State Hospital (35-06-02). This position shall continue to provide once a month drug inspections to the Terry Children's Psychiatric Center.

Section 173. During the course of Fiscal Year 1988, the State Hospital (35-06-02) shall render vacant, either through attrition or reassignment of the employees, 4.0 positions: 1.0 Cashier I, 2.0 Food Service Worker I's, and 1.0 Cook II. The Fiscal Year 1989 Budget will reflect a reduction of these positions.

Section 174. Delaware State Hospital maintains appropriation accounts 35-06-02-86-06 and 86-08 to receive reimbursement for providing a work study program for local nursing schools and for assigning residents to work at the Medical Center of Delaware on a rotating basis respectively. Notwithstanding, the provisions of Title 29, Section 6102, of the Delaware Code, the Division shall be allowed to collect and expend the proceeds from the aforementioned accounts.

Section 175. Section 1 of this Act provides an appropriation for contractual services to the Bureau of Alcohol and Drug Abuse (35-06-08). Of this amount, \$397.0 shall be used for the purpose of providing contracted alcohol and drug treatment and rehabilitation for individuals under the jurisdiction of the Department of Correction.

Section 176. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Bureau of Alcohol and Drug Abuse (35-06-08), for Contractual Services. Of that amount, \$60.9 shall be used for the Compulsive Gambling Program.

Section 177. (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:

- (1) This appropriation shall be used for the purpose of continuing the program of medical assistance provided for within the State Plan under Title XIX of the Social Security Act and the requirement 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;
- (11) The State Plan of Medical Care to be carried out by the Department of Health and Social Services shall meet the requirement 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) Rural health clinics services
 - (4) Laboratory and X-ray services
 - (5) Skilled nursing facility services
 - (6) Early and periodic screening, diagnosis, and treatment services
 - (7) Family planning services
 - (8) Physician services
 - (9) Home health services
 - (10) Other licensed practitioners with limitations
 - (11) Clinic services
 - (12) Prescribed drugs with limitations
 - (13) Services for individuals, age 65 or older, in institutions for mental disease
 - (14) Intermediate care facility services
 - (15) Emergency hospital services
 - (16) Transportation
 - (17) Co-Insurance and deductibles for Title XVIII/XIX recipients
 - (18) Limited services in the following areas:
 - Prosthetic devices
 - Diagnostic services, as defined in 42 CFR §440, Sub-part A and as limited by the Medicaid State Plan.
 - (19) Private duty nursing services with limitations
 - (20) Nurse-midwife services
 - (21) Services provided to eligible individuals in the home or community offered under a Federal waiver pursuant to Section 2176 of the

Omnibus Budget Reconciliation Act of 1981, as an alternative to institutionalization, including but not limited to:

- (a) Case Management
- (b) Clinical support
- (c) Day Habilitation
- (d) Residential Habilitation
- (e) Respite Care
- (f) Homemaker Services
- (g) Adult and Medical Day Care
- (h) Emergency response systems
- (i) Medical Equipment, supplies and appliances
- (22) Services provided to pregnant women and infants in families with incomes up to 100% of the Federal poverty level shall be eligible to receive Medicaid Services as provided under Title XIX regulations.
- (23) Services to eligible special needs children who are receiving an adoption subsidy from the Department of Services for Children, Youth and Their Families but whose adoptive parents do not have private health insurance.
- (24) Hospice services

(b) The amount appropriated by Section 1 of this Act to the Department of Health and Social Services for Title XIX - State Institutions shall be expended solely in accordance with the following conditions and limitations:

- (i) Such 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; and
- (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.

(c) Patients who reside in skilled care nursing homes, intermediate care nursing homes, or State facilities and who receive services covered by the Medicaid Program shall be eligible for Medicaid if their income is no more than 180 percent of the Federal Supplemental Security Income monthly payment standard and if they meet other eligibility requirements. Funds appropriated to the Department of Health and Social Services for Title XIX are sufficient to pay the State's share of Medicaid costs for such patients.

(d) Certain disabled children, age 18 or under, who are living at home, who would otherwise be eligible, if they were in a medical institution, for SSI or a State supplemental payment under Title XVI of the Social Security Act and, therefore, for Medicaid under the State Plan.

Section 178. Amend Title 31, Section 503, Chapter 5, Delaware Code by striking the second paragraph of Subsection (d) in its entirety and substituting in lieu thereof the following:

"The standard of need for Aid to Families with Dependent Children on and after October 1, 1987, shall be as follows, based on family size:

1-person household	\$169.00 per month
2-person household	\$236.00 per month
3-person household	\$319.00 per month
4-person household	\$374.00 per month
5-person household	\$464.00 per month
6-person household	\$529.00 per month
7-person household	\$594.00 per month

and \$60.00 per month for each additional person beyond seven in the household which qualifies for assistance."

Section 179. Amend Title 31 Chapter 5, of the Delaware Code, by creating a new Section 521 to read as follows:

"Section 521 Emergency and Disaster Assistance

Funds appropriated to the Department of Health and Social Services, Division of Economic Services, 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 \$1,500 for emergency shelter certified by the Department and \$200 for any other cost covered under this Section for any one such household in the Fiscal Year ending June 30. Notwithstanding any other provision of law, the Budget Director is empowered to transfer, advance or allocate emergency funds, within the limits of the funds appropriated, to the Department of Health and Social Services for the purpose of administration of emergency assistance. Such transfer, advance or allocation shall not be apportioned by county and shall be allocated in the following manner:

- (a) 20 percent of the total emergency fund appropriation shall be allocated promptly in the first quarter of the State Fiscal Year;
- (b) 25 percent of the total emergency fund appropriation shall be allocated promptly in the second quarter of the State Fiscal Year;
- (c) 30 percent of the total emergency fund appropriation shall be allocated promptly in the third quarter of the State Fiscal Year; and
- (d) 25 percent of the total emergency fund appropriation shall be allocated promptly in the fourth quarter of the State Fiscal Year."

Section 180. (a) Section 1 of this Act provides an appropriation for Contractual Services to the Division of Economic Services (35-07-01). Of that amount, \$200.0 shall be used to provide medical coverage for AFDC recipients for the first year of employment as specified in Department regulations.

(b) The program will serve persons who are removed from the welfare rolls and lose their Title XIX (Medicaid) coverage because of employment; who are not covered by medical insurance plans offered by their employers or who have to pay for such coverage; who are not eligible for any other medical insurance plans and whose income is too low to enable them to pay for individual health insurance plans. The program shall not pay for health benefit costs that would otherwise be paid by the employer for individuals in a similar work situation.

Medical assistance may be reimbursed in the following ways:

- (1) If the employer has a health insurance plan paid for by the employee, the program may pay all or part of the costs;
- (2) If the employer does not have a health benefits plan, the participant may be enrolled in an HMO; or
- (3) Where there is neither a health plan nor an available HMO, the program is to contract with medical providers to case manage the enrollee under a capitation rate, to assure that covered health care services are delivered efficiently, appropriately and in the most cost effective manner consistent with good care.

(c) The Division of Economic Services is to develop policies and procedures detailing eligibility, covered services, service limitations, administration and other program elements.

(d) Because this pilot program is entirely State funded, the provisions of Title XIX (Medicaid) are not applicable. The Division of Economic Services may assign recipients to providers, establish limitations, request partial payments or develop any other program guidelines which are compatible with cost containment as well as access to health care.

(e) The Secretary of the Department shall provide an evaluation report to the Controller General and the Budget Director on the costs and benefits of this pilot program as well as recommendations for the future, no later than one year after the start of the program.

(f) Eligible persons shall be enrolled in this program to the extent that funds are appropriated and available.

Section 181. Amend Subsection 505, (6) a., Chapter 5, Title 31, Delaware Code, by striking the number "21" as it appears in the last sentence and substituting in lieu thereof the number "18".

Section 182. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Economic Services (35-07-01), for "First Step

Program" in the amount of \$868.3. These funds shall only be expended to the extent that federal funding is either reduced or eliminated for the Win-Welfare Program in the Federal Fiscal Year 1987 and 1988 Budgets. Funds remaining unencumbered or unexpended in this line item as of June 30, 1988, shall revert to the General Fund.

Section 183. For the fiscal year ending June 30, 1988, the Division of Economic Services of the Department of Health and Social Services shall transfer \$25.0 from 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 184. Section 1 of this Act provides an appropriation for Contractual Services to (35-11-02) Division of Mental Retardation, Stockley Center, Department of Health and Social Services. Of this amount, \$10.0 shall be used for services provided by Camp Barnes.

Section 185. For the fiscal year ending June 30, 1988, the remaining balance of the One-Time Line in Stockley Center (35-11-02-01-98) from Fiscal Year 1987 appropriations shall be a continuing appropriation for the purpose of providing start-up costs for two group homes for the mentally retarded and shall not be subject to reversion until June 30, 1988.

Section 186. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Mental Retardation, Community Mental Retardation Program (35-11-03) for "Neighborhood Homes-Operating Costs." This appropriation shall be used to operate one (1) new neighborhood home for two months in Fiscal Year 1988. Should this additional neighborhood home not be operational during Fiscal Year 1988, these funds shall revert to the General Fund on June 30, 1988.

Section 187. For the fiscal year ending June 30, 1988, the remaining balance of the Purchase of Care line in the Community Mental Retardation Program (35-11-03-01-81) from the Fiscal Year 1987 appropriation shall be a continuing appropriation for the purpose of providing start-up costs for two neighborhood homes for the mentally retarded and shall not be subject to reversion until June 30, 1988.

Section 188. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Mental Retardation, Community Mental Retardation Program (35-11-03) for Salaries and Other Employment Costs. Of those amounts, \$21.9 and \$6.1 shall be used to fund a teacher position for the Day Habilitation Centers. This position shall provide services to all Day Habilitation Centers throughout the State on an equal basis.

Section 189. The Division of State Service Centers maintains appropriation accounts (35-12-01-80-00) and (35-12-01-80-02) for the purposes of loaning car seats to families which cannot afford to buy them and to publish a Human Services Directory respectively. A federal grant provided the funds which allowed the original purchase of the car seats and original publishing of the directory with the intent that future replacements of the car seats and printing of the directory should be funded through a fee charged for each. Notwithstanding the provisions of Title 29, Section 6102, of the Delaware Code, the Division shall be allowed to collect and expend the fees from the aforementioned accounts.

Section 190. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of State Service Centers (35-12-01) for Contractual Services. Of that amount, \$50.0 shall be used to contract for Information Services.

Section 191. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of State Service Centers (35-12-01), for Contractual Services. Of that amount, \$205.0 is to be used to contract with Human Service Agencies that offer shelter as part of their human service functions. This amount is to be matched by the Human Service Agencies as specified in Department regulations. The match may be made with in-kind services. The Secretary of the Department of Health and Social Services shall formulate a list of certified shelter facilities in this State for this program.

The Division of State Service Centers and The Division of Economic Services shall work together to amend the Emergency Assistance State Plan to include the provision of emergency shelter as an allowable cost eligible for Federal matching funds. These funds shall be eligible for Federal match when used to provide emergency shelter to families with children receiving public assistance as required under Federal Regulations. The Divisions shall develop a plan for spending any additional Federal funds generated by this change in the

State Plan and shall present such plan to the Budget Director and the Controller General no later than August 31, 1987.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 192. The Secretary of the Department of Services for Children, Youth and Their Families shall keep the General Assembly informed about any and all developments relating to the possible sale of any portion of the Ferris School property and any and all developments relating to the possible new use or sale of any portion of the Woods Haven-Kruse property.

Section 193. For the fiscal year ending June 30, 1988, the remaining balances of account (37-01-01-01-81) Murphy Retrofit and account (37-01-01-01-88) Energy Projects - Murphy, from Fiscal Year 1987 appropriations shall be continuing appropriations and shall not be subject to reversion until June 30, 1988.

Section 194. For the fiscal year ending June 30, 1988, the Department of Services for Children, Youth and Their Families may use their General Fund appropriations to support the initial start-up costs including 6 positions associated with the Fair Share Collections Revolving Fund. The Fair Share Collections Revolving Fund shall reimburse the General Fund appropriations on or before June 30, 1988. This shall in no way hinder General Fund program performances.

Section 195. Section 1 of this Act provides an appropriation for Personnel Costs in the Department of Services for Children, Youth and Their Families, Division of Administration, Fiscal Operations/Management (37-01-00). Of that amount, \$20.0 shall be used for an Internal Auditor I position. This position shall be used to audit contractor costs. The results of those audits shall be used as a basis for future contracting considerations.

Section 196. Amend Chapter 59, Section 5916(b)(3), Title 29, Delaware Code, by adding the following at the end of said subsection:

"and Division of Administration - Education (or its successor agency)"

Section 197. Funds which are appropriated for foster care of children in Section 1 of this Act in the Department of Services for Children, Youth and Their Families, Division of Child Protective Services (37-02-00), are made available with the goal of limiting the number of children who remain in foster care for more than two years. For the year beginning October 1, 1987, the goal will be 175 children. This goal-setting statement is required by the Federal Adoption Assistance and Child Welfare Act (P.L. 96-272).

Section 198. Section 1 of this Act contains an appropriation of \$58.0 in (37-03-00) for Contractual Services which shall be used to provide alcohol and drug services to children and youth.

Section 199. For the fiscal year ending June 30, 1988, the remaining balance of account (37-03-04-03-80) from Fiscal Year 1987 appropriations for a Gymnasium shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 200. The appropriation in Section 1 of this Act to the Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitation Services (37-05-00), proposes the phase out of Moulds Cottage at the Ferris Campus, and the development and implementation of alternative community programs to offset the institutional services.

CORRECTION

Section 201. Not later than January 28, 1988, the Commissioner of Corrections shall submit to the Governor and the General Assembly a proposed plan of reorganization of the Department of Corrections.

Section 202. Amend Chapter 65, Title 11 of the Delaware Code by adding to §6561 a new subsection (c) as follows:

"(c) In addition to the police powers set forth in subsection (a) of this section, any Internal Affairs Investigator in the Department who has been sworn in by the Commissioner in accordance with subsection (b) of this section shall:

(1) Exercise the full power of a State Police officer when acting in the course and scope of his duties as an Internal Affairs Investigator on or off the premises of a correctional institution; provided, however, that before an Internal Affairs Investigator executes a search warrant or makes an arrest off the premises of a correctional institution, the Commissioner shall notify the Superintendent of the Delaware State Police or the Attorney General or both;

(2) Have the right of access at all times to the books, papers, records and other documents of the Department or any of its bureaus, divisions, units or other administrative subdivisions; and

(3) Have the power to summon employees of the Department as witnesses pursuant to a lawful Internal Affairs investigation."

Section 203. Section 1 of this Act includes funding for 5.0 positions for an Internal Affairs Unit in the Department of Correction (38-01-01). The Internal Affairs Investigator positions must have at least 10 years of investigative experience.

Section 204. Section 1 of this Act provides an appropriation to the Department of Correction, Bureau Chief - Administration and Operational Support (38-02-01) for Medical Services. Administration of the Medical Services contract shall be the responsibility of the Bureau Chief - Administration and Operational Support under the supervision of the Commissioner of Correction.

Section 205. Section 1 of this Act provides an appropriation to the Department of Correction (38-00-00), Bureau Chief - Administration and Operational Support (38-02-01) for Medical Services. None of these funds may be transferred and any funds remaining unexpended or unencumbered on June 30, 1988, shall revert to the General Fund of the State of Delaware.

Section 206. The Department of Correction shall contract with the Department of Public Safety, Administration (45-01-01) for the purchase and installation in the Town of Smyrna, Delaware, of an early alarm system warning the citizens of greater Smyrna, Delaware, of any prison break at the Delaware Correctional Center. Funding for this alarm system shall be paid from the Fiscal Year 1988 appropriation to the Division of Facilities, Maintenance and Construction (38-02-05) Maintenance/Restoration line item.

Section 207. In addition to the positions authorized in Section 1 of this Act for the Department of Correction (38-00-00), additional positions are authorized for Personnel and Staff Training (38-02-06) for the purpose of training classes. During the training sessions, up to 30 positions will be made available to accommodate the class being trained. At the end of the training sessions, these 30 positions shall be discontinued. These positions shall be used no more than three (3) times.

Funding is authorized to seed the first-time use of these 30 positions. In order to utilize these positions for the second and third classes, the Department will use salary savings realized throughout the year.

Section 208. Section 1 of this Act includes funding for relief positions in the Personnel and Staff Training Division of the Department of Correction (38-02-06). These positions shall be used for training relief only.

Section 209. Section 1 of this Act appropriates the sum of \$10.0 in "gate money" or "release money" to the Department of Correction, Adult Bureau Chief (38-04-01), for prisoners being released from an adult correctional facility. The funds thus appropriated shall be used for the express purpose of providing cash payments to eligible inmates being released from an adult correctional facility and shall be expended as follows:

(a) Except as restricted by Subsections (b), (c), and (d) of this Section, any resident of Delaware who has been incarcerated in an adult correctional institution for a period of not less than 90 days shall be paid in cash the sum of at least \$32 from their account and/or the release account, upon release from such institution, said money to be used for necessities during the transition to an open society.

(b) Upon release, a prisoner who within 30 days prior to release has \$32 or more in his inmate account or accounts shall not be eligible for such payment, but shall be paid in cash the amount in his inmate account or accounts.

(c) Upon release, a prisoner who has less than \$32 in his inmate account or accounts shall be paid in cash the amount remaining in his account or accounts plus an additional sum sufficient to make the total cash payment at release \$32.

(d) Any prisoner who is a non-resident of Delaware and who has served a term of incarceration of not less than 90 days, shall have the option between (c) above or a one-way bus ticket to his or her place of residence.

Section 210. (a) Of the total positions authorized in Section 1 of this Act for (38-04-07) Morris Correctional Institution, two (2) positions shall be used to continue the existing highway beautification project in the Central District.

(b) Of the total positions authorized in Section 1 of this Act for (38-04-03) Delaware Correctional Center, two (2) positions shall be used to continue the existing highway beautification project in the Northern District.

Section 211. Section 1 of this Act makes an appropriation for Contractual Services to the Department of Correction, Morris Correctional Institution (38-04-07). Of this amount, \$4.0 shall be used for "tipping" fees.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 212. For the fiscal year ending June 30, 1988, any remaining sum in the Superfund Contingency, FY 1985 Appropriation (40-01-01-97), shall remain a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 213. For the fiscal year ending June 30, 1987, any remaining balance in the one-time appropriation for Superfund (40-01-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 214. For the fiscal year ending June 30, 1988, any remaining balance in the Hazardous Spill Fiscal Year 1987 appropriation (40-01-01-81) shall remain a continuing appropriation and shall not be subject to reversion until June 30, 1988.

Section 215. Of the positions in Section 1 of this Act for Operations and Maintenance, Division of Parks and Recreation, Department of Natural Resources and Environmental Control (40-06-02), one position shall be assigned to Bellevue State Park to assist in general administration duties of the park.

PUBLIC SAFETY

Section 216. Of the funds appropriated in Section 1 of this Act to the Self-Insurance Contingency Fund in the Budget Office, an amount not to exceed \$20.0 may be used to reimburse Volunteer Fire Companies which incur extraordinary expenses. These funds may be disbursed to Volunteer Fire Companies only for extraordinary expenses at the discretion of the Secretary of the Department of Public Safety upon the request of the State Fire Prevention Commission. An extraordinary expense under the provisions of this Act includes reimbursement to a volunteer fire service for expenses incurred in providing food, lodging, clothing, transportation, medical assistance, protection from the elements and other citizen needs during disasters.

Section 217. Section 1 of this Act provides an appropriation for Contractual Services to Aviation, Division of State Police, Department of Public Safety (45-06-06). Of that amount, \$35.0 shall be used to expand helicopter services in Kent County. If expansion cannot be accomplished via Contractual Services, one additional General Fund position is authorized. Up to \$35.0 for this position shall be transferred to Salaries and Wages and Other Employment Costs from Contractual Services.

COMMUNITY AFFAIRS

Section 218. The Division of Community Services (50-02-01) is charged with the support of the Council on Hispanic Affairs. Members of the Council on Hispanic Affairs shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties.

Section 219. (a) Section 1 of this Act appropriates to the Delaware State Housing Authority (the "Authority") as the operating arm of the Division of Housing \$2,909.1 for its Fiscal Year 1988 Discretionary Operating Expenses. Discretionary Operating Expenses include salaries, other employment costs, travel, contractual services, supplies and materials and other normal business expenses of the Authority which are not required to be

made pursuant to bond resolutions, trust indentures, agreements with the Federal Department of Housing and Urban Development, or otherwise required by operating agreements of the Authority. Notwithstanding any other provision of this Act, all parts or portions of the several sums appropriated by this Act which, on the first day of July, 1988, shall not have been paid out of the State Treasury, shall not revert to the General Fund, but shall revert to the Authority to be expended for any lawful purpose of the Authority.

(b) Nothing herein shall be construed to require any prior approval for the Authority to meet its previously contracted obligations including debt service requirements under bond resolution or trust indenture of the Authority nor shall anything contained herein require any such prior approval for any expenditure by the Authority under any such bond resolution or trust indenture or under any agreement with the Federal Department of Housing and Urban Development.

(c) Further, nothing contained herein shall authorize the General Assembly to approve an amount for Discretionary Operating Expenses for the Authority in any subsequent years in an amount less than the amount actually incurred as Discretionary Operation Expenses by the Authority in its last prior Fiscal Year plus an inflation factor equal to the United States Consumer Price Index (CPI) or successor indices, annualized at November of the year prior to the year for which such budget is prepared, unless the budget prepared by the Authority, with the approval of the Secretary of Community Affairs, requests a lesser amount.

Section 220. For the fiscal year ending June 30, 1988, any remaining balance in the Division of Housing's One-Time Account (50-09-01-98) on June 30, 1987 from Fiscal Year 1987 shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

TRANSPORTATION

Section 221. All State Agencies are directed to remit payment for services rendered by the Department of Transportation within thirty (30) days after receipt of invoice. Services may include fuel billing, sign manufacturing, photocopies, etc. partial payments or estimated payments will not be permitted.

Section 222. The salary appropriation for the Department of Transportation contains sufficient funds to replace their Engineering and Contingency Funded Salary costs. It is intended that the portion of salaries of their Bond funded positions normally charged to the Engineering and Contingency Bond fund be charged to the General Fund Salary Appropriation.

Section 223. Any funds appropriated in Fiscal Year 1987 for Safety Projects to the Department of Transportation, Bureau of Traffic (55-04-50) shall be considered a continuing appropriation and shall not revert until June 30, 1988.

Section 224. All monies received by the Division of Highways during the fiscal year as reimbursement for motor fuel and oil supplied to other departments and agencies shall be credited to a unique Special Fund and associated GAAP Fund revenue account as so designated by the Budget Office and all monies shall be credited to said account regardless of the year in which the motor fuels were supplied. All billings shall be at State purchase price only.

Section 225. Any funds appropriated for Fiscal Year 1986, for Speed Reduction to the Department of Transportation, Bureau of Traffic (55-04-50) shall be considered a continuing appropriation and shall not revert until June 30, 1988.

Section 226. The Delaware Transportation Authority budget, as set forth in memorandum form in Section 1 of this Act for the Fiscal Year ending June 30, 1988, shall be expended in accordance with the following conditions and limitations:

- (a) Debt Service estimates are for current project financing as authorized by Title 2, Chapter 13, Delaware Code.
- (b) Funds provided for "Newark Transportation" and any carry-over funds available are intended to cover the expenses of the public transportation system operated by the City of Newark.
- (c) Funds provided for "Kent/Sussex Transportation" are intended to be provided for continuation of specialized transportation service for the elderly and handicapped in Kent and Sussex Counties. It is intended that management and direction of the service will reside with the Delaware Transportation Authority who may contract for

services as they see fit, and that Kent and Sussex County Governments will review and approve allocation of the service levels within each County.

- (d) Funds provided for "Dover Capital" are intended to be provided as aid to elderly and handicapped transportation systems operated by the City of Dover. The funds may be used to provide up to 100 percent of the cost of capital needs of the system.
- (e) Funds provided for "Dover Transportation" and any carry-over funds available are intended to be provided as aid to the elderly and handicapped transportation system operated by the City of Dover.
- (f) It is intended that funds for "Taxi Service Support", along with any carry-over funds available for the Taxi Services Support Program will be maintained at least at the same service level as Fiscal Year 1987. It is intended that management direction of these services shall reside with the Delaware Transportation Authority.
- (g) Funds of the Delaware Transportation Authority may not be provided as aids to local governments for transportation systems which restrict passengers because of residential requirements. Nothing in this Section is meant to require that governments must operate these transportation systems outside their political boundaries.

Section 227. For the fiscal year ending June 30, 1988, any balance in the Fiscal Year 1987 Department of Transportation, Delaware Transportation Authority for Commuter Rail shall remain a continuing appropriation and shall not be subject to reversion until June 30, 1988.

LABOR

Section 228. (a) The \$145.7 appropriated to the Department of Labor is to be used for the Delaware State-wide Summer Youth Employment Program for a period of ten weeks commencing July 1, 1987 and is to be allocated in the following manner:

\$ 43.4	New Castle County (outside the City of Wilmington)
43.5	City of Wilmington
29.4	Kent County
29.4	Sussex County
<u>\$145.7</u>	TOTAL

(b) Notwithstanding any other provision of the Delaware Code to the contrary, youth chosen for work under this program shall not be less than 14 years of age nor more than 20 years of age (except that work leaders may be 21 years of age) and shall be required to provide evidence of same before becoming eligible. All youth participating in the State-assisted program shall be required to present a letter from their parents or guardian indicating their consent to work and also releasing the State of Delaware and the sponsoring agency from any liability for assignments in the low risk jobs that will be available.

Preference shall be given to those youth who are members of single parent households whose parent income do not exceed \$15.0 and applicants who qualify based upon parental income guidelines of two parent family household of \$26.0. Notwithstanding income limits provided for participation in the statewide summer youth program, consideration may be given to other applicants at a ratio of at least eight applicants qualified on income to three persons considered beyond the income limits.

Any non-profit or tax exempt organization certified by the Department of Labor may be authorized to be a sponsoring agent for the State-assisted youth work program.

Sponsoring agents shall be required to submit a plan or project of activity of meaningful and productive work experience providing such details as the Department shall deem necessary before becoming eligible as a sponsoring agent.

The sponsoring agent shall provide one work leader for each 20 youth employed in the program to supervise and monitor the attendance and work performance of the youth selected for the program. Work leaders shall be paid no more than \$4.50 per hour and shall work no longer than 8 hours per day and 5 days per week.

In each of the political subdivisions wherein funds have been appropriated no more than \$2.0 shall be expended for administrative purposes and no more than \$1.0 shall be expended for equipment, supplies and mileage.

A record of all equipment and supplies purchased with funds herein appropriated shall be kept by the sponsoring agent and at the conclusion of the two-month program such supplies and equipment shall be turned over to the Department of Labor.

Section 229. The funds appropriated for the Delaware State-wide Summer Youth Employment Program shall not be commingled with funds appropriated from any other source. The guidelines for youth employment and administrative cost for all persons employed in the State-wide Summer Youth Employment Program shall be based in accordance with prior years' practice of payment for services. The program management shall be directed by the Urban Affairs Specialist as provided for in prior years at no additional expense to the citizens of Delaware.

AGRICULTURE

Section 230. (a) Section 1 of this Act provides an appropriation for Contractual Services to the Department of Agriculture, Office of the Secretary (65-01-01). Of the amount appropriated for Contractual Services, \$82.0 shall be used for the "First State Trotting and Pacing Series". This will consist of special harness horse races to be contested at Delaware's pari-mutuel harness tracks for six-year-old or younger horses that are owned in whole by a Delaware resident.

(b) The Department of Agriculture in consultation with the Cloverleaf Standardbred Owners Association shall establish the rules and regulations for this program to include, but not be limited to the following:

(1) There must be at least five horses declared to start in each race.

(2) Purses shall be divided as follows:

50% for 1st Place
25% for 2nd Place
12% for 3rd Place
8% for 4th Place
5% for 5th Place

(3) Participating harness tracks will add no less than 25% to the total funding made available by the Department of Agriculture for this program.

Section 231. For the fiscal year ending June 30, 1988, the remaining balance of the Office of the Secretary, Space Study Needs Fund (65-01-01-01-90) on June 30, 1987, for the determination of physical space needs at the Camden Agricultural complex from the Fiscal Year 1987 appropriation shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

FIRE PREVENTION

Section 232. Section 1 of this Act provides an appropriation of \$50.0 to the Department of Fire Prevention, Fire Prevention Commission (75-03-01) in the line item "Statewide Fire Safety Education". These funds are to be matched by members of the Delaware Association of Volunteer Firemen for a State-wide Fire Safety Education Program.

NATIONAL GUARD

Section 233. Section 1 of this Act provides an appropriation for Contractual Services to Delaware National Guard (76-01-01). Of this appropriation, \$37.1 is included for Laura Little School building energy; within that sum, \$18.4 is specifically included to defray energy expenses of the Laura Little School building that are not directly attributable to occupancy by the National Guard.

Section 234. For the fiscal year ending June 30, 1988, any remaining sum in the Maintenance/Restoration (76-01-01-01-83) on June 30, 1987, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1988.

HIGHER EDUCATION

Section 235. (a) Section 1 of this Act provides \$53,029.2 for "Operations" of the University of Delaware (90-01-01) and \$668.4 for "Operations" of the Delaware Geological Survey (90-01-02). This figure includes total State assistance for college operations costs as well as funds required to be appropriated by Title 29, Section 5505 (6), Delaware

Code. The figure of \$53,029.2 for "Operations" of the University of Delaware, includes \$1,818.8 for energy.

(b) The University of Delaware shall pay, on a regularly scheduled basis, as determined by the Secretary of Finance, to the State Treasurer at a rate determined under Title 29, Section 6340, Delaware Code, or otherwise by the Secretary of Finance, the amount of all fringe benefits applicable to salaries and wages paid to employees of the University of Delaware as the term employee is defined in Title 29, Sections 5501 (a) and 5505 of Delaware Code or any other fringe benefit costs applicable to the University of Delaware.

Section 236. Section 1 of this Act makes an appropriation to the University of Delaware (90-01-01) for Operations. Of that appropriation, \$135.0 shall be used for three new baccalaureate programs on site in Sussex County. The programs shall be offered as part of a cooperative effort with the other public higher educational institutions.

Section 237. Section 1 of this Act makes an appropriation to the University of Delaware (90-01-01) for Physical Therapy. This appropriation shall be used for two new faculty members in the master's level Physical Therapy Program.

Section 238. Section 1 of this Act appropriates \$1,000.0 for the "Research Partnership Fund" at the University of Delaware, subject to the following:

(a) This appropriation shall be used to match, on a dollar-for-dollar basis, grants or contracts from private industry to conduct cooperative research with the University. The objective of the cooperative research efforts shall be to attract new high-technology research facilities and industries to locate within the State of Delaware.

(b) This appropriation shall be used to match "new" money and cannot be allocated to any projects in progress.

(c) The University President shall submit to the Governor, members of the General Assembly and the Controller General, within 120 days after the close of each Fiscal Year, a report containing an account of how these funds were expended, what new industrial research organizations were attracted to the State, and plans for the ensuing Fiscal Year.

Section 239. For the fiscal year ending June 30, 1987, any balances in the State Boundary Commission (90-01-02) shall be a continuing appropriation and shall not be reverted until June 30, 1988.

Section 240. Section 1 of this Act makes an appropriation of \$1,708.7 to the Delaware Institute of Medical Educational Research (90-02-01). Of this amount, the amounts allocated to the University of Delaware and the Medical Center of Delaware shall be the same as in Fiscal Year 1987.

Section 241. Section 1 of this Act provides funds to the University of Delaware (90-01-01) and Delaware State College (90-03-03) developed in accordance with the Title VI Compliance Plan for Higher Education in the State of Delaware. These funds shall be utilized expressly for that purpose.

Section 242. The line item, Subvention, in Section 1 of this Act, Delaware Institute of Dental Education and Research (90-08-01), as provided by Title 14, Chapter 88, of the Delaware Code, provides for three dental internships and sufficient funds to contract with Delaware State Hospital to continue the Dental Internship Program.

PUBLIC EDUCATION

Section 243. Section 1 of this Act provides appropriations in the School Districts for Formula Salaries and Other Employment Costs. These amounts provide Salaries and Other Employment Costs for the following categories as determined by the unit entitlement of each School District: Title 14, Section 1305, Section 1306, Section 1307, Section 1308, Section 1309, Section 1310, Section 1311, Section 1321, Section 1324, Section 1331 and Section 1332, Delaware Code. These appropriations also contain Salaries and Other Employment Costs funds for the Americanization Programs at the Caesar Rodney (\$5.1) and Red Clay Consolidated (\$101.7) School Districts.

Section 244. (a) Each School District shall continue to use salary schedules not less than those in Title 14, Section 1322, Delaware Code, for all school lunch employees.

(b) Effective July 1, 1987, the State shall continue to pay 30% of the salary rate for school lunch employees as set forth in the salary schedules in Title 14, Section 1322 (a) and (b), Delaware Code and 26 percent of the salary rate for school lunch employees as set for in the salary schedule in Title 14, Section 1322(c), Delaware Code. The remaining percentage of the salary rate for school lunch employees shall be paid from local funds. The State shall pay Other Employment Costs for school lunch employees at the ratio of State supported salaries to total salaries, provided for by this Section, for school lunch employees.

(c) No provision in this Act shall be construed as affecting the eligibility of school lunch employees as an employee under Title 29, Section 5501, Delaware Code.

Section 245. The Chairman and Vice-Chairman of the Joint Finance Committee are authorized to continue the committee to review long-range changes in the pay plans for para-professional employees of the public school system and Plan B employees of the Delaware Technical and Community College. The committee shall provide the Joint Finance Committee with a report of its considerations by December, 1987 for review. Any salary adjustment recommended to and approved by the Budget Director and the Controller General shall be retroactive to January 1, 1988. Funds to pay the costs associated with any salary adjustment shall be paid from funds appropriated to the Office of the Budget, Contingency - Salaries and Other Employment Costs.

Section 246. Section 1 of this Act provides an appropriation of \$10.0 to Public Education, State Board of Education and Superintendent (95-01-01) for a Teacher Incentive Program. The funds appropriated shall be used to refine the recommendations contained in the Christina Career Enhancement Committee report pertaining to teacher incentives and career development issues.

Section 247. During the fiscal year ending June 30, 1988, the State Board of Education is directed to prepare a plan for certifying vocational teachers at the masters degree level for the purpose of salary compensation. This plan shall be limited in scope to teachers in subject areas where traditional graduate school masters programs are not available. The plan should be specific to individual vocational areas and should take into account current training, licensing and testing requirements required by either governments or professional associations. The plan should also include any recommended prerequisites such as completion of prescribed undergraduate education courses. Copies of the plan, which should include implementation costs, should be provided to the Budget Director and the Controller General by December 1, 1987.

Section 248. Section 1 of this Act makes an appropriation of \$50.0 to Public Education, State Board of Education and Superintendent (95-01-01) for a School Improvement Demonstration Fund. The funds appropriated shall be used for building level grants based on proposals for demonstration projects aimed at improving the effective and efficient use of personnel and capital resources. Upon the satisfaction of the State Board that a selected proposal has the potential to demonstrate such effectiveness or efficiency, the State Board is authorized to waive any relevant statute for the period of the demonstration project.

Section 249. Section 1 of this Act provides an appropriation of \$460.0 to Public Education, Office of Educational Computing Services (95-01-03). These funds are to be used for grants to local school districts and shall be subject to technical review and purchase requirements of the Office of Planning and Data Administration of the Office of the Budget.

Section 250. General Contingency line item funds appropriated to Public Education, Educational Contingency (95-01-05) in Section 1 of this Act are to cover adjustments in the budget units of the State Board of Education, the State Board for Vocational Education, or the local school districts. Examples of such use are: salary line transfers and adjustments; unit adjustments; tuition payment for private placement of handicapped pupils; for Delaware residents of the Delmar School District attending Maryland schools; expenditures for Americanization classes; expenditures for salaries and travel for homebound teachers; pupil transportation costs; non-public and summer driver education programs; and unused sick pay for retirees.

Section 251. Section 1 of this Act provides certain appropriations to Public Education, Educational Contingency (95-01-05) for School Districts in the State for the Fiscal Year ending June 30, 1988. Title 14, Section 1704, Chapter 17, Delaware Code, provides the method of determining the appropriate number of pupil units for each school district, based on the September 30, 1987, enrollment. Sufficient funds will be placed in the School District accounts to operate for a partial year. Based on the approved State Board Unit Count for September 30, 1987, adjustments will be made to the district accounts. These

adjustments will be accomplished through the transfer process and therefore approved by the Budget Director and the Controller General.

Section 252. Section 1 of this Act provides certain appropriations to Public Education, Educational Contingency (95-01-05) for School Districts in the State. These amounts are not based on the unit system. Allocation of these funds shall conform to the following:

(a) Debt Service amounts are predicated upon the amortization schedule as provided by the State Treasurer.

(b) The line item entitled "Support - Local Fund Employment Costs" shall be allocated to the named School Districts or Schools as follows:

1. Caesar Rodney	\$ 93.8
2. John S. Charlton	6.0
3. Capital	201.8
4. Lake Forest	77.1
5. Laurel	38.7
6. Cape Henlopen	198.8
7. Milford	93.5
8. Seaford	71.1
9. Smyrna	66.2
10. Appoquinimink	61.3
11. Brandywine	725.4
12. Charles W. Bush	11.9
13. Brandywine Int. Ln. Center	39.9
14. Red Clay	901.3
15. Meadowood	21.8
16. Red Clay Int. Ln. Center	49.0
17. Christina	979.5
18. Margaret S. Sterck	28.8
19. Joseph E. Douglass	12.0
20. Christina Int. Ln. Center	71.1
21. Colonial	630.1
22. John G. Leach	24.8
23. Wallace Wallin	29.9
24. Woodbridge	49.1
25. Indian River	154.5
26. Howard T. Ennis	16.5
27. Delmar	15.3
28. New Castle County Vo Tech	226.9
29. Kent County Vo Tech	12.3
30. Sussex County Vo Tech	13.3

(c) The line item "Other" shall be allocated as follows:

1. Caesar Rodney - Americanization	5.9
2. Red Clay - Americanization	9.0
3. Margaret S. Sterck - Residence - Other Costs	85.4
Consultant Services	11.0
4. Christina Autistic - Residence - Other Costs	82.0

Section 253. Section 1 of this Act makes appropriations to Public Education, Educational Contingency (95-01-05) for Division II - Other Costs and Energy. During Fiscal Year 1988, a school district, upon approval of the Budget Director and the Controller General, may transfer part of its allocated appropriation from Division II-Energy to Division II - Other Costs. A school district may use Division II - Energy funds to obtain engineering studies required for Exxon or stripper well funds.

Section 254. Any provisions of the Delaware Code to the contrary notwithstanding, the State Board of Education is authorized and directed to provide an aide for the purpose of providing mainstreaming services to elementary deaf students in the Lake Forest School District and the Caesar Rodney School District.

Section 255. Amend Section 1707(b)(3), Chapter 17, Title 14, Delaware Code by striking the words "and as established in the annual State Budget Act thereafter." in their entirety and by substituting in lieu thereof the following:

"\$15,800 per unit for Fiscal Year 1988 and as established in the annual State Budget Act thereafter."

Section 256. Section 1 of this Act provides an appropriation of \$92.5 to Public Education, Pass-Through/K-12 Programs (95-01-06) for the READ-ALOUD Program. READ-ALOUD Delaware is to continue to develop and foster programs for the purpose of encouraging regular reading to pre-school aged children as the most effective way to prepare them for learning. The monies passed through to READ-ALOUD Delaware shall be used to provide programs in each county, focused on the more disadvantaged part of the population of pre-school aged children. The State Board of Education will report annually on the number of children participating and the effectiveness of the program.

Section 257. Section 1 of this Act provides an appropriation of \$57.8 to Public Education, Pass Through/K-12 Programs (95-01-06) for Parent Early Education Center. This appropriation shall be allocated for the continuation of the services of the Parent Early Education Center in the Christina School District.

Section 258. (a) The total amount of \$1,522.1 appropriated for substitute teachers shall be allocated to the several School Districts in amounts not to exceed each School District's proportion of Division I units to the total number of Division I units in the State as of September 30, 1987. Any funds not used for the purpose herein referred to by the School District may be transferred to a District's Division II - All Other Costs appropriation.

(b) General Fund appropriations to Public Education in Budget Units (95-01-06) through (95-01-09) and the Delmar Tuition, General Contingency, Teacher of the Year, Desegregation Monitoring, Support for Local Other Employment Costs and Debt Service Appropriations in Budget Unit (95-01-05) shall not be subject to the limitations as defined for Division I and Division II in Title 14, Sections 1706 and 1709, Chapter 17, Delaware Code.

(c) Section 1 of this Act provides an appropriation to Public Education, Pass-Through/K-12 Programs (95-01-06) for the homeland Instruction Program. From these funds, 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.

(d) In order that the children for whom the learning disability and socially or emotionally maladjusted units were devised shall be the sole beneficiaries of all funds available for such children, the State Board of Education shall require strict adherence to approved guidelines before release of any funds designated for such children. The State Board of Education shall particularly ascertain that no educable mentally retarded are being classified as learning disabled; and that strict guidelines are developed to determine 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, except psychological evaluation shall be made at least every three years.

Section 259. Section 1 of this act provides an appropriation of \$552.9 to Public Education, Pass Through/K-12 Programs (95-01-06) for Exceptional Student Vocational Units. This appropriation shall be used to continue the program of vocational education for handicapped students in New Castle and Kent Counties and to begin a program in Sussex County. The funds appropriated shall provide for Divisions I, II, and III funding for a maximum of six units in a single program. The unit shall be based upon 13,500 pupil minutes per week of instruction or major fraction thereof after the first full unit and shall be in addition to the funding otherwise provided under Title 14, Section 1703, Delaware Code. The deduct contained in Title 14, Section 1703(1), Delaware Code shall not apply to the units authorized by this Section.

Section 260. Section 1 of this Act provides an appropriation to Public Education, Pass Through/K-12 Programs (95-01-06) for Private Placement of the Handicapped. The provisions of Title 14, Delaware Code notwithstanding, those autistic pupils who are eligible for services under the Private Placement of the Handicapped during the 1985-86 and 1986-87 school years and who attain their twenty-first birthday during those school years shall

continue to be eligible for educational services contained in Title 14 of the Delaware Code, until June 30, 1988.

The Department of Health and Social Services and the State Board of Education shall develop a recommended program to meet the needs of autistic students over 21 years of age and submit a proposal to the Budget Director and the Controller General by November 1, 1987.

Section 261. Section 1 of this Act provides an appropriation to Public Education, Pass Through/K-12 Programs (95-01-06) for Private Placement of the Handicapped. From the funds appropriated, the State Board of Education is authorized and directed to provide an interpreter/tutor for any deaf-blind pupil who is a resident of the State and who is mainstreamed in a private school in the State. The funding to be provided by the State Board of Education to the local school district designated as the administrative agency for the State-wide program for the deaf-blind shall include: the salary specified in Title 14, Section 1305(d), Delaware Code; the local salary supplement paid by such district; and all other employment costs incurred by the school district in employing such personnel. The funding authorized shall be a percentage of the total cost of salary and other employment costs for a full-time interpreter/tutor equal to the portion of the deaf-blind student's regular school day that is spent in a mainstream program.

Section 262. Section 1 of this Act provides an appropriation of \$100.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for Advanced Studies. The State Board of Education shall transfer this appropriation to the University of Delaware to help fund a summer school program for college credit for gifted and talented students.

Section 263. Section 1 of this Act provides an appropriation of \$82.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for Articulation. This amount shall be allocated to the Articulation and Career Guidance Counselor Program operated by the Delaware Advisory Council for Career and Vocational Education (DACCVE).

Section 264. Section 1 of this Act provides an appropriation of \$590.0 to the State Board of Education, Pass Through/K-12 Program (95-01-06) for Summer School - Occupational and Vocational Education. Of that amount, at least \$110.2 shall be reserved for programs in school districts in Kent County, and \$135.8 shall be reserved for programs in Sussex County, and \$220.0 shall be reserved for programs in the New Castle County Vocational and Technical School District. Allocation of the remaining funds shall go to State Board approved projects.

Section 265. The remaining balance of Fiscal Year 1987 funds appropriated to Mastery Testing (95-01-06) that would otherwise revert on June 30, 1987 shall continue until June 30, 1988.

Section 266. Section 1 of this Act provides an appropriation of \$189.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for the 4-Year Old Development Pilot Program. The State Board of Education shall continue to support the three pilot projects begun in Fiscal Year 1987. Each participating district site shall continue to receive funding for one teacher, one aide and transportation expenses. The Department of Public Instruction shall provide the General Assembly with an evaluation of the four-year Development Pilot Program by May 1, 1988.

Section 267. Section 1 of this Act makes an appropriation of \$40.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for 2 + 2 Pre-Technical Curriculum. It is the intent that this money be utilized to match other available funds to support at least one program for curriculum development in each county.

Section 268. Section 1 of this Act makes an appropriation of \$12.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for Olympics of the Mind. This appropriation shall be made available to school students to assist in defraying Out-of-State Travel expenses associated with this program.

Section 269. Section 1 of this Act makes an appropriation of \$760.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for Career Placement Counselors. This appropriation shall be used to hire one certified Career Placement Counselor in each comprehensive and vocational public high school in the State.

Section 270. Section 1 of this Act provides an appropriation of \$6.0 to Public Education, Pass Through/K-12 Program (95-01-06) for the Delaware Nature Education Society. It is the intent of the General Assembly that this money be used to provide summer programs.

Section 271. Section 1 of this Act makes an appropriation to (95-01-07) Pass Through/Adult Program. Of that amount \$218.0 shall be transferred to New Castle County Vocational-Technical School District, Wilmington Skills Center, for Adult Education.

Section 272. Section 1 of this Act provides an appropriation to Public Education, Pass Through/Adult Programs (95-01-07) for James H. Groves High School. Of that amount and in addition to any entitlement, \$19.6 shall be allocated to the Appoquinimink School District.

Section 273. Section 1 of this Act provides an appropriation of \$140.5 to Public Education, Pass Through/Adult Programs (95-01-07) for New Castle County Learning Center. The State Board of Education shall transfer this appropriation to the Christina School District for the purpose of continuing the services provided by the New Castle County Learning Center.

Section 274. Section 1 of this Act provides an appropriation of \$167.6 to Public Education, Pass Through/Adult Programs (95-01-07). The State Board of Education shall allocate these funds for the continuation of the Skills Training Employment Program at Women's Correctional Institution. The appropriation shall be transferred to the New Castle County Vocational Technical School District which shall continue to administer this program.

Section 275. (a) The sums appropriated in Section 1 of this Act as "Division II-All Other Costs" shall be used for all school costs except salaries, debt service, energy, and transportation of pupils to and from their regular sessions of school. The purchase of computer equipment with Division II-All Other Costs funds shall be subject to the technical review and purchase requirements of the Office of Planning and Data Administration of the Office of the Budget.

(b) Section 1 of this Act provides an appropriation of \$2,748.2 to Public Education, Pupil Transportation (95-01-08) for non-public school transportation reimbursements. This appropriation shall be allocated for qualifying non-public, non-profit schools, based on the procedure adopted by the Joint Finance Committee on April 16, 1981.

(c) Transportation funds for public school districts during the Fiscal Year ending June 30, 1988 shall be allocated and shall not exceed \$26,047.1, according to bus contract or district transportation formula as adopted by the State Board of Education on July 17, 1986 subject to the following amendments and procedural modifications:

- (1) The per gallon price used to calculate the gasoline allowance shall be based on the State contract bid price for leaded gasoline plus \$.07 per gallon for districts and plus \$.23 per gallon for contractors. For districts and contractors North of the Canal, the per gallon price shall be based on delivery to a large sized tank (5,000 or more gallons). In the case of contractors located South of the Canal, the per gallon price shall be based on delivery to a small sized tank (275 - 1,900 gallons). Upon determination by the State Board of Education that a contractor located North of the Canal and operating five or fewer buses does not have existing storage capacity in the large tank range, the per gallon price shall be based on the smaller tank size.
- (2) The Fiscal Year 1988 operating allowance adjustment for inflation shall be 3.8 percent.
- (3) For the fiscal year ending June 30, 1988, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 1987 State bid price for new buses minus 3% for salvage value, plus 4% for inflation and plus 10% to account for dealer charges and profits not reflected in the State bid price due to the higher number of buses being purchased and the lag time between the ordering and delivery. The State Board of Education shall develop a procedure to establish the allowable cost for any size bus that it does not bid in Fiscal Year 1987. In establishing the allowable cost for non-bid buses, the State Board shall utilize the average percentage increase from Fiscal Year 1986 to Fiscal Year 1987 for those size buses bid and purchased in both years and take into consideration the price of any required special options. In addition to the procedure for establishing the allowable cost of a new bus specified above in this paragraph, the State Board of Education is requested to structure its bids for buses in the fiscal year ending June 30, 1988, in such a manner that public school bus contractors will be permitted to purchase buses from the successful lower bidder at the same price as the State of Delaware. If a

contractor elects to purchase a bus at the bid price, that bid price minus 3% for salvage value will be the allowable cost in subsequent reimbursements to the contractor.

- (4) The formula rate for reimbursing public school bus contractors for the cost of liability insurance shall be determined by the State Board of Education in consultation with the Insurance Commissioner based on the date available on April 30th of the previous fiscal year.

(d) The State Board of Education shall amend its transportation formula to permit replacement of a vehicle which as operated 100,000 school-related miles and is seven model-years old or a vehicle which has operated 150,000 school-related miles regardless of the age of the vehicle.

(e) Except as specified in the Section, or for changes in the price of gasoline, or for the adjustments of those items changed by State or Federal laws, the State Board of Education shall not change the transportation formula unless the change has been authorized by the General Assembly and an appropriation therefore has been made by the General Assembly.

Section 276. (a) During the fiscal year ending June 30, 1988, the Department of Public Instruction is hereby directed to provide bus transportation of public school students previously declared ineligible by the Unique Hazards Committee, including the following:

- (1) Students attending the Stanton Junior High School, who are now forced to walk along Telegraph Road with a constant threat of injury.
- (2) Students attending Mt. Pleasant High School who are now forced to walk along Marsh Road with a constant threat of injury.
- (3) Students in the town of Seaford living west of Conrail and north of the Nanticoke River who attend the Seaford schools, grades K-6.
- (4) Students attending Seaford Central Elementary who live in the area east of Conrail, north of the Nanticoke River, and west of Williams Pond, within the Seaford city limits.
- (5) Students attending the Wilmington High School on Lancaster Avenue to Delaware Avenue in the north-south grid and on Jackson Street to duPont Street on the east-west grid.
- (6) Students attending Newark High School who live in Windy Hills and are forced to walk along Kirkwood Highway with a constant threat of injury.
- (7) Students attending schools in Laurel living in the areas of Lakeside Manor, Route 24 east of Laurel town limits, Route 13A South of Laurel town limits and Dogwood Acres.
- (8) Students attending Delcastle Technical High School who live in Newport and are forced to walk along Centerville Road (Rt. 141) with a constant threat of injury.
- (9) Students attending Woodbridge Junior-Senior High School who must travel along Route 13A south of Bridgeville and students living west of Bridgeville who must travel along Route 404 or Route 18.
- (10) Students attending Smyrna Middle School who reside in the Sunnyside Acres area between Sunnyside Road and U.S. 13 and who would otherwise be required to walk along U.S. 13 in order to reach school.
- (11) Students attending the Concord High School who live south of Naamans Road in the Talleybrook-Chalfonte, Brandywood, Brandon and Beacon Hill areas who must walk along Grubb and/or Naamans Road with a constant threat of injury.
- (12) Students attending Richardson Park School and Conrad Junior High School who live on Brookside Drive
- (13) Students attending the Laurel Elementary Schools in Grades K-6 who live in the Town of Laurel and the surrounding areas

- (14) Students attending Dover High School who live in Old Sherwood, south of Maples Avenue.
- (15) Students attending the Mt. Pleasant Elementary School, who would be forced to walk along Bellevue Road.
- (16) Students attending the Mt. Pleasant Elementary School, who would be forced to walk along River Road between Lore and Marion and between Cragmere and Bellevue.

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 277. During the fiscal year ending June 30, 1988, the State Board of Education is hereby directed that students attending the Woodbridge School District who live in the Canterbury Apartments in Bridgeville will embark and disembark in the parking lot of the apartment in lieu of the bus stop area along the heavily traveled U.S. Route 13 Highway.

Section 278. The State Board of Education is hereby authorized, with the written consent of the Controller General and the Budget Director, to develop agreements with up to three school districts to provide for pupil transportation under a pilot program. Under such agreements, the State Board of Education would be permitted to waive existing rules, regulations, and reimbursement formulas. Districts would be required to comply with the eligibility and safety regulations and the terms of the agreement. Funding would be on a flat grant basis with escalator factors for changes in the number of eligible pupils and for changes in the cost of living. Agreements would be for a minimum period of two years with contingency provisions covering the availability of funds.

Section 279. Section 1 of this Act makes an appropriation to Public Education, Teacher Development Services (95-01-09) for the Career Enhancement Program. This amount shall be used for the continued implementation and development of the Delaware Teacher and Administrator Evaluation Instruments and the training of district personnel in their use.

Section 280. Section 1 of this Act provides an appropriation of \$300.0 to Public Education, Teacher Development Services (95-01-09) for the purpose of reimbursing public school employees and teachers employed by State agencies for tuition payments for graduate college courses they successfully complete. In the case of Vocational School Districts, these funds may be used for undergraduate education courses provided that the individual does not already hold a Bachelor Degree. Funds may only be used to reimburse certificated non-administrative employees. No payment shall be made unless the course taken relates to the employee's job assignment and is taken with the prior approval of the employing district board, superintendent or State agency. Reimbursement for tuition may be made for courses taken during summer school or during the academic year for which a passing grade of C or better is obtained. No reimbursement shall be in excess of the tuition charged a Delaware resident taking a course with an equal number of credit hours at the University of Delaware. Of the total appropriation of \$300.0, a minimum of \$3.4 shall be allocated to State agencies and the balance shall be allocated to the several school districts in amounts equal to each school district's proportion of Division I units to the total number of Division I units State-wide on September 30, 1987. Any funds not expended by a school district or a State agency shall be transferred to other districts or agencies.

Section 281. Section 1 of this Act provides an appropriation of \$55.0 to Public Education, Teacher Development Services (95-01-09) for the Delaware Institute for the Arts in Education. The State Board of Education shall transfer this appropriation to the University of Delaware which acts as the fiscal agent for this State-wide program.

Section 282. Section 1 of this Act provides an appropriation of \$30.0 to Public Education, Teacher Development Services (95-01-09) for Teacher Competency and Certification. This appropriation shall be allocated by the State Board of Education to provide in-service educational programs for local school district personnel.

Section 283. Section 1 of this Act provides an appropriation of \$257.5 to Public Education, Teacher Development Services (95-01-09) for the Delaware Teacher Center. The State Board of Education shall transfer this appropriation to the Capital School District for the purpose of continuing the services provided at the Kent and Sussex and New Castle County Centers.

Section 284. Amend Section 6519, Chapter 65, Title 29 by deleting the current section in its entirety and substituting in lieu thereof the following:

"No order or requisition shall be made, nor any engagement entered into, nor shall any expense be incurred by any agency which will result in an expenditure of money in excess of the appropriation made to such agency. No obligation incurred by any officer or employee in violation of this section shall impose any liability upon the State.

Notwithstanding the first paragraph of this section, school districts and colleges may requisition, on or after March 1, school supplies or capital outlay items for the following school year with the provision that the obligations thus incurred shall not be due and payable until after June 30 of the next fiscal year. In the case of capital outlay items, the purchasing agency must demonstrate that the item is needed at the outset of the school year and that it cannot be obtained in time unless it is ordered before the close of the fiscal year prior to the year in which it is actually needed. This exception to the first paragraph of this section shall be permitted under the rules and regulations of the Budget Director."

Approved July 2, 1987.

CHAPTER 86

FORMERLY

HOUSE BILL NO. 370

AN ACT TO AMEND CHAPTER 11, TITLE 30 OF THE DELAWARE CODE RELATING TO THE PERSONAL INCOME TAX.

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

Section 1. Amend §1102(a), Chapter 11, Title 30 of the Delaware Code by striking the phrase "For taxable years beginning after December 31, 1986" as it appears in paragraph (4) of said subsection and substitute in lieu thereof the phrase "For taxable years beginning after December 31, 1986, and before January 1, 1988."

Section 2. Amend §1102(a), Chapter 11, Title 30 of the Delaware Code by adding thereto a new paragraph (5) to read as follows:

"(5) For taxable years beginning after December 31, 1987, the amount of tax shall be determined as follows:

3.2% of taxable income in excess of \$2,000, but not in excess of \$5,000; 5.0% of taxable income in excess of \$5,000, but not in excess of \$10,000; 6.0% of taxable income in excess of \$10,000, but not in excess of \$20,000; 6.6% of taxable income in excess of \$20,000, but not in excess of \$25,000; 7.0% of taxable income in excess of \$25,000, but not in excess of \$30,000; 7.6% of taxable income in excess of \$30,000, but not in excess of \$40,000; 7.7% of taxable income in excess of \$40,000."

Section 3. Amend §1107, Chapter 11, Title 30 of the Delaware Code by striking subsection (b) of said Section and by designating existing subsection (a) of said Section as §1107.

Section 4. Amend §1109(a), Chapter 11, Title 30 of the Delaware Code by adding to paragraph (2) of said subsection a new subparagraph c. to read as follows:

"c. An amount equal to twelve percent of itemized deductions determined under this Section without regard to this subparagraph."

Section 5. Amend §1123, Chapter 11, Title 30 of the Delaware Code by striking said Section in its entirety and substitute in lieu thereof a new §1123 to read as follows:

"A non-resident taxpayer shall be allowed the same standard deduction allowed to resident taxpayers under §1108 of this Title, subject to the limitations in §1126 of this Title."

Section 6. Amend §1126, Chapter 11, Title 30 of the Delaware Code by striking the phrase "itemized deductions" as it appears in said Section and substitute in lieu thereof the phrase "itemized deductions, standard deductions,".

Section 7. Amend §1127, Chapter 11, Title 30 of the Delaware Code by striking said Section in its entirety.

Section 8. Section 4 of this Act shall be effective for taxable years beginning after December 31, 1986, and before January 1, 1988. All other provisions of this Act shall be effective for taxable years beginning after December 31, 1987.

Approved July 2, 1987.

CHAPTER 87

FORMERLY

HOUSE BILL NO. 371
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 2, TITLE 29 AND TITLE 30 OF THE DELAWARE CODE RELATING TO THE CREATION OF A TRANSPORTATION TRUST FUND IN THE DELAWARE TRANSPORTATION AUTHORITY, AUTHORIZING THE ISSUANCE OF BONDS SUPPORTED BY AND THE EXPENDITURE OF RECEIPTS IN THE TRANSPORTATION TRUST FUND, GRANTING CERTAIN OTHER POWERS TO THE DELAWARE TRANSPORTATION AUTHORITY, AUTHORIZING AN INCREASE IN THE MOTOR FUEL TAX, TRANSFERRING MONEY TO THE TRANSPORTATION TRUST FUND, AUTHORIZING TRANSFERS FROM THE TRANSPORTATION TRUST FUND INCLUDING MONEY FOR MUNICIPAL STREET AID AND MAKING RELATED AMENDMENTS.

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

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

"Chapter 14. Transportation Trust Fund Act.

Section 1401. Title.

This Act shall be known as the "Transportation Trust Fund Act". The word "Act", as used herein, means this Transportation Trust Fund Act. The phrase "transportation system", as used herein, shall mean all modes and methods of transporting people and goods on land, in the air or on water; provided, however, that no facility of the Greater Wilmington Airport owned by New Castle County, the Sussex County Airport owned by Sussex County, the Port of Wilmington owned by the city of Wilmington or any facility of the Wilmington Parking Authority may be acquired by the Authority unless specifically authorized to do so by an act of the General Assembly;".

Section 1402. Legislative findings and determinations.

(a) The General Assembly hereby reaffirms all the findings made by the General Assembly in Section 1302 (a), Part II, Chapter 13, Title 2, Delaware Code Annotated.

(b) The General Assembly further finds, that, in addition to the creation of the Delaware Transportation Authority and the grant of powers to the Authority by the Delaware Transportation Authority Act, there is a growing urgency to provide additional means to finance the maintenance and development of the integrated highway and air and water transportation system in the State for the economic benefit of the State and for the welfare and safety of the users of this transportation system.

(c) The General Assembly hereby determines that in order to provide additional means to finance this transportation system for the benefit of the State and the users of this transportation system, there shall be created a transportation trust fund in the Authority and the Authority shall be granted the following powers, duties and functions relating to the management and disposition of receipts in the transportation trust fund; and that the powers, duties and functions conferred on the Authority by this Act constitute a valid public purpose and are necessary and proper for the purposes to be achieved by the Authority under this Act; and that the expenditure of funds authorized by this Act are for a valid public purpose and public use.

Section 1403. Additional powers of the Authority.

In addition to the powers granted to the Authority by the Delaware Transportation Authority Act, the Authority shall have the following powers in addition to those powers granted elsewhere in this Act:

(a) To issue subordinated indebtedness and to enter into bank loan agreements, lines of credit, letter of credit and other security agreement for the purposes of the Authority;

(b) In its own name or in the name of the State, with the approval of the State, to apply for and receive and accept appropriations or grants of property, money, services or reimbursements for money previously spent and other assistance

offered or made available to it by or from any person for any lawful corporate purpose of the Authority including, without limitation, grants, appropriations or reimbursements from the State or federal government with respect to their respective shares under federal aid transportation laws of the costs of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways or the costs of planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the public transportation systems and other projects, within the transportation system, in the State and the Authority's operating expenses and to apply and negotiate for the same upon such terms and conditions as may be required by any person, government, agency, authority or entity or as the Authority may determine to be necessary, convenient or desirable;

(c) To accept and use any funds appropriated and paid by the State to the Authority, for the purposes for which the appropriations and payments are made;

(d) To impose tolls at such places and at such times as it determines on a toll facility system comprised of the Delaware Turnpike and U.S. 13 Relief Route subject to the provisions of Section 1320(h) of the Delaware Transportation Authority Act relating to the imposition of tolls on the Delaware Turnpike; and to impose tolls on such other highways with the prior approval of the General Assembly;

(e) To do any and all things necessary, or appropriate to carry out the purposes of this Act and the exercise of the powers, functions and duties granted to the Authority by this Act.

Section 1404. Establishment of Transportation Trust Fund.

There is hereby established in the Authority a fund to be known as the "Transportation Trust Fund". Except as otherwise provided by contract between the Authority and the holders of Bonds of the Authority and excluding the receipts and revenues of subsidiary corporations of the Authority, all taxes, fees, charges, tolls, reimbursements and revenues collected or received by or paid or appropriated to the Authority and any amounts received from the Corps of Engineers in connection with the construction or reconstruction of a bridge in the area of the St. Georges Bridge, shall be credited to the Transportation Trust Fund. In addition, the proceeds of Bonds issued by the Authority and supported by a pledge or other interest in the money in the Transportation Trust Fund shall be held in or for the Transportation Trust Fund. The Transportation Trust Fund shall be deemed to be a special fund. There may be established in the Transportation Trust Fund one or more accounts to which shall be credited and from which there shall be paid the taxes, fees, charges, tolls and revenues credited to the Transportation Trust Fund. The Authority may transfer money from the Transportation Trust Fund to a special fund of the State to meet obligations of the State payable from the Transportation Trust Fund. No such money credited to the Transportation Trust Fund, or any account in the Transportation Trust Fund, shall be available to pay any Bonds issued by the Authority pursuant to any trust agreement or other contract entered into by the Authority prior to the creation of the Transportation Trust Fund unless the Authority specifically agrees to the contrary after the adoption of this Act. Nothing in this Act shall adversely affect the security of any Bonds issued by the Authority pursuant to a trust agreement dated as of September 1, 1979, as amended, between the Authority and the trustee for holders of Bonds issued September 1, 1981 between the Authority and the trustee for holders of Bonds issued thereunder.

Section 1405. Bonds secured by Transportation Trust Fund revenues.

(a) The Authority shall have the power and is hereby authorized after July 15, 1987 and from time to time thereafter to issue its Bonds, in principal amounts as in the opinion of the Authority shall be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any Bonds, issued by the Authority whether the Bonds, or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the Bonds, or interest thereon and all other reserves and all costs or expenses of the Authority incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its Bonds, the Authority shall have the power to issue subordinated indebtedness which shall be subordinate in lien to the lien of any or all of its Bonds. No resolution or other action of the Authority providing for the issuance of Bonds, refunding bonds or other obligations shall be adopted or otherwise made effective by the

Authority without the prior approval in writing of the Bond Issuing Officers of the State.

(b) Except as may be otherwise expressly provided by the Authority, issues of Bonds of the Authority may be general obligations payable out of any revenues or funds of the Authority, or may be limited obligations, subject to any agreements with the holders of particular Bonds and payable out of particular revenues or funds of the Authority. The Authority may provide the security and payment provisions for its Bonds as it may determine, including (without limiting the generality of the foregoing) Bonds as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the Authority and other moneys or funds as the Authority shall determine. In addition, the Authority may, in anticipation of the issuance of the Bonds or the receipts of appropriations, grants, reimbursements or other funds, including without limitation grants from the federal government for federal aid highways or public transportation systems, issue notes the principal of or interest on which or both shall be payable out of the proceeds of notes, Bonds or other obligations of the Authority or appropriations, grants, reimbursements or other funds or revenues of the Authority. The Authority may also enter into bank loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit in each case for the purpose of securing its Bonds or to provide direct payment of any costs which the Authority is authorized to pay by this Act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its Bonds or the proceeds thereof or by any or all of the revenues of and payments to the Authority or by any appropriation, grant or reimbursement to be received by the Authority and other moneys or funds as the Authority shall determine.

(c) Whether or not the Bonds are of the form and character as to be negotiable instruments under the terms of the Delaware Uniform Commercial Code, the Bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the Delaware Uniform Commercial Code.

(d) Bonds of the Authority shall be authorized by a Resolution or Resolutions of the Authority and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or without the State, and be subject to the terms of redemption (with or without premium) as the Resolution or Resolutions may provide. Bonds may be further secured by a trust indenture between the Authority and a corporate trustee within or without the State. All other obligations of the Authority shall be authorized by Resolution containing terms and conditions as the Authority shall determine.

(e) Bonds of the Authority may be sold at a price or prices and in a manner as provided in Section 1311 of the Delaware Transportation Authority Act.

(f) Bonds may be issued and other obligations incurred under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceeding or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this Act.

(g) Bonds of the Authority issued or incurred under the provisions of this Act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the Authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all Bonds unless funded or refunded by Bonds of the Authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this Act. Each Bond, shall contain on its face a statement to the effect that the Authority is obligated to pay the principal thereof, premium, if any, or the interest thereon only from revenues or funds of the Authority made available for that purpose and that neither the State nor any political subdivision is obligated to pay the principal, premium, if any, or interest thereon and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or interest in the Bonds. For the purposes of this subsection, political subdivision does not include the Authority.

(h) All expenses incurred in carrying out the provisions of this Act shall be payable solely from revenues or funds provided or to be provided under or pursuant to the provisions of this Act and nothing in this Act shall be construed to authorize the Authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

(i) The provisions of Section 1312 of the Delaware Transportation Authority Act shall not apply to Bonds of the Authority issued pursuant to this Act. However, the Authority shall issue no Bonds for any purpose (other than for the reconstruction or improvement of the Delaware Turnpike or the refunding of any or all Bonds of the Authority including the issuance of such Bonds in amounts to cover reserves and costs of issuance) unless the General Assembly shall approve the purpose for which the Bonds are issued and after receiving a written statement of the Secretary advising the General Assembly of the approximate amount of Bonds to be issued and the purposes to be financed.

(j) Bonds may be issued with interest thereon free from or subject to federal income taxation.

Section 1406. Covenants with holders of Bonds.

In any Resolution of the Authority authorizing or relating to the issuance of any Bonds, or in any trust agreement securing the Bonds, the Authority, in order to secure the payment of the Bonds, and in addition to its other powers, shall have the power by provisions therein which shall constitute covenants by the Authority and contracts with the holders of the Bonds;

(a) To pledge all or any part of its revenues or receipts to which its right then exists or may thereafter come into existence and other moneys, funds or contracts as the Authority shall determine and the moneys derived therefrom, and the proceeds of any Bonds;

(b) To covenant against pledging all or any part of its revenues or receipts or its agreements and the revenues derived thereunder or the proceeds thereof and other moneys or funds as the Authority shall determine and the moneys derived therefrom or against permitting or suffering any lien on any of the foregoing;

(c) To covenant with respect to limitations on any right to sell, lease or otherwise dispose of any property of any kind;

(d) To covenant as to any Bonds, to be issued and the limitations thereof and the terms and conditions thereof and as to the custody, application, investment, and disposition of the proceeds thereof;

(e) To covenant as to the issuance of additional Bonds or as to limitations on the issuance of additional Bonds, and on the incurring of other debts by it;

(f) To covenant as to the payment of the principal of premium, if any, or interest on the Bonds, as to the sources and methods of payment, as to the rank or priority of any Bonds, with respect to any lien or security or as to the acceleration of the maturity of any Bonds;

(g) To provide for the replacement of lost, stolen, destroyed or mutilated Bonds;

(h) To covenant against extending the time for the payment of Bonds or interest thereon;

(i) To covenant as to the redemption of Bonds and privileges of exchange thereof for other Bonds of the Authority;

(j) Subject to the rights and security interests of the holders from time to time of Bonds theretofore or hereafter issued by the Authority to covenant as to the enforcement of any term in any agreement, entered into pursuant to this Act, to which the Authority is a party or an assignee, fixing amounts of funds to be paid over to and received by the Authority in each year or other period of time, including any term concerning the fixing of tolls and other charges on Turnpikes as shall be necessary to provide the amounts of funds;

(k) To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for payment or redemption of Bonds reserves or

other purposes and as to the use, investment, and disposition of the moneys held in the funds;

(l) To establish the procedure, if any, by which the terms of any contract or covenant 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 the consent may be given;

(m) To provide for the release of property, agreements, or revenues and receipts from any pledge and to reserve rights and owners in, or the right to dispose of, property which is subject to a pledge;

(n) To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the Bonds of the Authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any declaration and its consequences may be waived;

(o) To vest in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine, and to limit the rights, duties and powers of such trustee;

(p) To execute all bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of its power or in the performance of its covenants or duties;

(q) To pay the costs or expenses incident to the enforcement of the Bonds or of the provisions of the Resolution or of any covenant or agreement of the Authority with the holders of its Bonds;

(r) To limit the rights of the holders of any Bonds to enforce any pledge or covenant securing the Bonds; and

(s) To make covenants, in addition to the covenants herein expressly authorized, of like or different character, and to make covenants to do or refrain from doing acts and things as may be necessary, or convenient and desirable, in order to better secure Bonds or which in the absolute discretion of the Authority will tend to make Bonds more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

Section 1407. Pledge of revenues.

In addition to the provisions of the second paragraph of Section 1317 of the Delaware Transportation Authority Act, which paragraph shall apply to Bonds issued by the Authority under this Act, it is hereby declared that neither the Resolution nor any other instrument by which a pledge of revenues, moneys or funds is created need be filed or recorded except in the records of the Authority.

Section 1408. Personal immunity.

Neither the Secretary nor any person executing Bonds issued pursuant to this Act shall be liable personally on the Bonds, by reason of the issuance thereof.

Section 1409. No alteration of rights.

The State does hereby pledge to and covenant and agree with the holders of any Bonds issued or incurred pursuant to the authorization of this Act that the State will not limit or alter the rights or powers hereby vested in the Authority in any way that would jeopardize the interest of the holders or inhibit or prevent performance or fulfillment by the Authority of the terms of any agreement made with the holders of the Bonds or prevent the Authority from obtaining sufficient revenues which, together with other available funds, shall be sufficient to meet all expenses of the Authority and fulfill the terms of any agreement made with the holders of the Bonds together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, or from receiving payment of funds as provided in any agreement, until the Bonds together with interest and premium, if any, thereon, are fully met and discharged or provided for. The failure of the State to appropriate moneys for any purpose of this Act shall not be deemed or construed to be a violation of this Section. However, the laws authorizing the imposition of taxes or fees, the pledge of those taxes and fees to the Authority and the transfer of those taxes and fees to the Authority shall not be repealed or

diminished until Bonds secured by such taxes or fees are paid or provisions for their payment is made. The State shall have no obligation to increase such taxes or fees to meet payments of principal, premium, if any, or interest on any Bonds.

Section 1410. Bonds as legal investments.

The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any Bonds issued pursuant to this Act, and the Bonds shall be authorized security for any and all public deposits.

Section 1411. Property exempt from taxation.

All property of the authority is declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any political subdivision. All Bonds issued pursuant to this Act are hereby declared to be issued by a body corporate and politic of the State and for an essential public and governmental purpose and the Bonds, and the interest thereon and the income therefrom, whether or not the interest on the Bonds is subject to federal income taxation, and all funds, revenues, income and other moneys received or to be received by the Authority and pledged or available to pay or secure the payment of the Bonds, or interest thereon, shall at all times be exempt from taxation by the State, or any political subdivision, except for transfer, inheritance and estate taxes.

Section 1412. Applicable provisions of Delaware Transportation Authority Act.

All provisions of the Delaware Transportation Act, not inconsistent with the provisions of this Act, unless excepted herein, shall be applicable to the Authority and its Bonds issued pursuant to this Act, including, without limitation, the provisions of Sections 1303, 1305, 1309 and Sections 1320 through 1328, inclusive.

Section 1413. Transfers from Road Improvement Fund.

Notwithstanding the provisions of Section 1310(c)(11) of the Delaware Transportation Authority Act, available money in the Road Improvement Fund shall be transferred periodically to the Transportation Trust Fund at the times and in the manner such money was previously transferred to a special fund of the State.

Section 1414. Repeal of Sections 1310 and 1312.

(a) At such time as all Bonds issued by the Authority subject to the provisions of Section 1310 of the Delaware Transportation Authority Act (including any "junior obligations" as defined in Article 1 of the trust agreement dated as of September 10 1979, as amended, between the Authority and the trustee for holders of obligations issued pursuant to the trust agreement) are paid or adequate provision for the payment of principal, premium if any, and interest on such Bonds are made, the provisions of Section 1310 shall no longer be of any force or effect, and, without any further act of the General Assembly all motor fuel taxes imposed pursuant to Chapter 51 of Title 30, of the Delaware Code Annotated, as amended, and all motor carrier registration fees imposed pursuant to Section 5211(a), Chapter 52 of Title 30 of the Delaware Code Annotated, as amended, collected by the state (less, in the case of motor fuel taxes, amounts necessary to make refunds pursuant to Section 5120, Chapter 51 of Title 30, Delaware Code Annotated) shall thereupon be irrevocably and automatically pledged and assigned to the Transportation Trust Fund; and (b) all tolls collected by the Authority on any Turnpike facility, including but not limited to, the Delaware Turnpike, shall be credited directly to the Transportation Trust Fund;

(b) At the time Section 1310 is repealed and is no longer of any force or effect, Section 1312 of the Delaware Transportation Authority shall be automatically repealed without any further act of the General Assembly;

(c) Notwithstanding the repeal of said Section 1310, the Authority shall retain the power, granted in said Section 1310, in addition to the general grant of powers contained in Section 1309 of the Delaware Transportation Authority Act to make and

enforce such rules and regulations and establish, fix and revise from time to time, and charge and collect (or authorize by contract, franchise, lease or otherwise, the establishment, fixing, revising, charging and collecting of) such charges, fares, fees, rates, rentals and tolls for the use of any transportation facility, or parts or Sections thereof, operated by the Authority, as the Authority may deem necessary, proper, desirable or reasonable, subject to this Chapter. The Authority may contract with any person desiring the use of any part of such transportation facilities, including rights-of-way for placing thereon, telephone, telegraph, electric light or power lines, gas stations, garages, restaurants and advertisements or for any other purposes, and fix the terms, conditions, charges, fares, fees, rates, rentals and tolls for such use.

Section 1415. Transfers of motor fuel tax revenues.

Notwithstanding the provisions of Section 1310(c)(8) of the Delaware Transportation Authority Act, the Authority shall transfer monthly available money in the motor fuel tax reimbursement fund to the General Fund of the State in an aggregate amount equal to (i) 6 cents per gallon of motor fuel taxes collected by the State and deposited with the Authority plus (ii) an amount equal to the product of "y" - the refunds payable on motor fuel taxes - and "z" - a fraction, the denominator of which is the applicable motor fuel tax rate and the numerator of which is a number equaling the difference between the applicable motor fuel tax rate and 6 cents per gallon, which amount shall be deemed sufficient to pay refunds by the State pursuant to Section 5120, Title 30, Delaware Code Annotated, as amended, attributable to the amount of motor fuel taxes levied in excess of 6 cents per gallon. Notwithstanding any other provision of this Act to the contrary, upon the repeal of Section 1310 of the Delaware Transportation Authority Act, the Authority shall continue to make payments monthly, from available money, to the General Fund of the State in an aggregate amount, equal to 6 cents per gallon of motor fuel taxes collected by the State and transferred to the Authority.

Section 1416. Transfer of motor carrier registration fees.

Notwithstanding the provisions of Section 1310(c)(9) of the Delaware Transportation Authority Act, the Authority shall transfer monthly available money in the motor carrier registration reimbursement fund to the Transportation Trust Fund in an aggregate amount equal to \$3 of each \$10 fee imposed by the State and transferred to the Authority on each vehicle registered during the preceding month, pursuant to Section 5211(a), Chapter 52, Title 30, Delaware Code Annotated.

Section 1417. Budget of authority.

The expenditures of the Authority from the Transportation Trust Fund, other than expenditures required to be made by resolutions or trust agreements made or to be made by the Authority and the holders of its Bonds, shall be approved by the General Assembly. The budget for capital and operating expenditures of the Authority payable from the Transportation Trust Fund shall be presented annually by the Authority to the General Assembly. If the General Assembly does not approve the operating budget of the Authority prior to July 1 for the year such budget is submitted, the operating budget, as submitted to the General Assembly, shall be deemed adopted by the Authority until such time as the budget is approved by the General Assembly, provided that the operating expenditures of the Authority shall not exceed similar expenditures of the Authority for the year prior to the budget year by more than a factor equal to the CPI as defined in Section 1320(f) of the Delaware Transportation Authority Act. Any obligations incurred by the Authority pursuant to an operating budget deemed adopted by the Authority shall be binding on the Authority. Failure by the General Assembly to approve the capital budget of the Authority shall not affect or impair the obligation of the Authority to meet its obligations to holders of outstanding bonds. The provisions of Chapter 84, Title 29, Delaware Code Annotated, including the establishment of priorities for spending State funds, shall apply to available money and bonding capacity in the Transportation Trust Fund for highway projects. The Authority's annual budget as prepared and approved shall reflect that a significant objective of this Act is to achieve adequate funding and predictable implementation of the Department of Transportation's Capital Improvement Program and other needs of the transportation system.

Section 2. AMEND Section 5110, Chapter 51, Title 30, Delaware Code as amended by 65 Delaware Law, Chapter 385 by striking subsection (c) in its entirety and substituting a new subsection (c) to read as follows:"

"(c) Notwithstanding the foregoing provisions of paragraph (a) of this Section, the tax levied and imposed in paragraph (a) of this Section shall be 13 cents per gallon through August 31, 1987. Thereafter, the tax shall be 16 cents per gallon. After August 31, 1987, the tax shall be no more or no less than 16 cents per gallon until increased or decreased by the State. By virtue of the pledge and assignment of motor fuel tax revenues by the State of the Delaware Transportation Authority, said tax shall not be decreased during the period any bonds of that authority are outstanding and unpaid."

Section 3. Amend Section 5162, Chapter 51, Title 30 of the Delaware Code Annotated effective as of July 1, 1988 by striking said Section in its entirety and substituting in lieu thereof the following:

There shall be appropriated annually to municipalities within the State beginning in the State's 1989 Fiscal Year and each subsequent year thereafter in conjunction with pursuant to and as a portion of the annual grants in-aid appropriation, a sum not in excess of \$3,000,000. The sum so appropriated shall be transferred to the Municipal Street Aid Fund by the State Treasurer and distributed to municipalities as provided in this subchapter. Upon receipt of notification from the State Treasurer that such funds have been transferred in accordance with this Section, the Delaware Transportation Authority shall reimburse the State Treasurer from the Transportation Trust Fund from funds available for that purpose.

Section 4. Amend Section 6533(f), Chapter 65, Title 29 of the Delaware Code, effective as of July 1, 1988, by inserting before the words "; and (2) cause the aggregate" new wording to read "minus \$2,500,000" and further amend Section 6533 by adding a new subsection (g) to read:

"(g) Any appropriations for Municipal Street Aid in the annual grants-in-aid bill shall not be subject to the limitations in subsection (f) of 6533."

Section 5. Interpretation.

The provisions of this Act shall be liberally interpreted and construed to effect the purposes of this act.

Section 6. Inconsistency.

This Act grants powers to the Authority in addition to powers retained by or conferred on other persons and is meant to supplement those powers. However, insofar as the provisions of this Act are inconsistent with the provisions of any general, special or local laws, or parts thereof, the provisions of this Act shall be controlling.

Section 7. Severability.

If any Section, part, phrase, or provision of this Act or the application thereof shall be held invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the Section, part, phrase, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof.

Section 8. Effective date.

All provisions of this Act with the exception of Section 3 and 4 shall take effect September 1, 1987. Section 3 and 4 shall take effect July 1, 1988.

Approved July 2, 1987.

CHAPTER 88
FORMERLY
HOUSE BILL NO. 373

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION FOR CERTAIN GRANTS-IN-AID.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (THREE-FOURTHS OF ALL THE MEMBERS ELECTED TO EACH HOUSE THEREOF CONCURRING THEREIN):

Section 1. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(10-07-02)	<u>Delaware Justice Information System</u>	
	Local Police Coordination	\$ 32,500
	Aid to Local Law Enforcement	300,000
(12-05-01)	<u>State Treasurer - Administration</u>	
	Municipal Street Aid	\$2,040,000
(20-06-16)	<u>Office of Arts Council</u>	
	Delaware Arts Council	\$ 525,000
(35-01-01)	<u>Dept. of Health & Social Services - Secretary</u>	
	Adolescent Program	\$ 390,000
<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(35-14-01)	<u>Division of Aging</u>	
	<u>Senior Centers</u>	
	Absalom Jones Senior Center	\$ 81,920
	Brandywine Senior Center	56,225
	Bridgeville Senior Center	65,851
	Cape Henlopen Senior Center	108,810
	Chesapeake and Delaware Senior Center	31,625
	Clarence Fraim Senior Center	97,069
	DeLaWarr Senior Center	60,225
	Frederica Adult Center	52,173
	Harrington Senior Center	48,564
	Harvest Years Senior Center	26,546
	Howard Weston Senior Center	171,953
	Indian River Senior Center	47,944
	Jewish Community Center	49,623
	Jimmy Jenkins Senior Center	53,921
	Julia Tallman Golden Age Center	55,581
	Kirkwood United Methodist Church Senior Center	17,988
	Laurel Senior Center	105,577
	Lewes Senior Citizens Center	27,102
	M.O.T. Senior Center	55,625
	Mid-County Senior Center	106,188
	Milford Senior Center	60,564
	Modern Maturity Center	141,943
	Nanticoke Senior Center	94,914
	New Castle Senior Center	44,570
	Newark Senior Center	88,213
	Northeast Senior Center	60,034
	Oak Grove Senior Center, Inc.	110,848

Peoples Settlement - Senior Citizens Program	45,781
St. Ann's Neighborhood Services	72,448
St. Anthony's Senior Center	75,128
St. Hedwig's Senior Center	150,369
St. Patrick's Senior Center	95,988
St. Peter's Adult Center	72,788
St. Thomas Senior Center	89,502
Sellers Senior Center	63,225
Smyrna-Clayton Senior Center	18,006
West Center City Senior Activity Center	67,781
Wilmington Senior Center	134,502

TOTAL - Section 1 \$ 6,094,614

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Category/Description</u>	<u>Amount</u>
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One-Time Appropriations

Blackbird Community Center, Inc.	\$	20,000
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Arts/Historical/Cultural/Tourism

Afro-American Historical Society of Delaware, Inc.	\$	5,000
Associated Community Talents, Inc.-The Everett Theater		8,000
Delaware Agriculture Museum		26,000
Delaware City Day Committee		7,000
Delaware State Fair		30,000
Harrington Historical Society		8,000
Historic Red Clay Valley, Inc.		
Wilmington & Western Railroad		3,000
Historical Society of Delaware		39,000
Miss Delaware Pageant		4,500
Mohawk Foundation, Inc.		34,000
Namaan's Kill Questors		3,000
New Castle - Separation Day		8,500
WHYY		290,000

Aging - Other

Boys Club of Wilmington	\$	12,000
Delaware Senior Citizen, Inc. Newspaper		11,500
Geriatric Services of Delaware, Inc.		59,000
Meals on Wheels - Lewes and Rehoboth		24,000
Rehabilitative Opportunities for Homebound Residents		18,000
Sussex County Home Services (HOPE Program)		25,000
West Center City Community Center		
- Physical Fitness Program		6,000

Handicapped/Health/Labor

AHEDD, Inc. - Kent/Sussex	\$	17,335
AHEDD, Inc. - Wilmington		12,000
Adult Educable Mentally Retarded		38,000
Alliance for the Mentally Ill		25,000
Arthritis Foundation		6,000
Career Exploration Program, Inc.		20,000
Delaware Association for Blind Athletes		6,000
Delaware Association for the Blind		37,000
Delaware Elwyn Institute		10,000
Delaware Hospice, Inc.		112,000
Delaware Paralyzed Veterans Association, Inc.		10,000
Delaware Vietnam Veterans Leadership Program		8,000
Easter Seal Society for Crippled Children		
& Adults of Delaware		60,000
Institute for Development of Human Resources		20,000

Jobs for Delaware Graduates	115,000
Kent/Sussex Industries	25,000
Mancus Foundation	25,000
Mary Campbell Center, Inc.	100,000
Mental Health Association in Delaware	12,000
National Multiple Sclerosis Society	5,000

Family and Youth Services

Residential Treatment

Aid-In-Over, Inc. (Eight-O-One)	\$ 35,000
Childhood Village	22,000
Children's Home, Inc.	38,000
Diamond State Youth, Inc.	90,000
Independent Living	49,000

Education

Beechwood Individualized Parent/Child Program	\$ 60,000
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Other

Big Brothers/Big Sisters of Delaware, Inc.	\$ 33,500
Child, Inc.	53,000
Children's Bureau of Delaware	93,000
Delaware Assn. of Chiefs of Police - Camp Barnes	20,000
Del. Guidance Services for Children & Youth, Inc.	110,000
Family Services of Delaware	22,000
Juvenile Education Awareness Program	12,000
Parents Anonymous of Delaware	14,000
Peoples Place II	67,000
Turnabout Counseling Center/Seaford Action Committee	130,000
United Cerebral Palsy of Delaware, Inc.,	27,500
YMCA of Southern Delaware - Mini-Bike	22,000
Youth Guidance Program	10,000

Adult Day Care

Total Living Care, Inc.	\$ 18,000
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Alcohol/Drug Abuse

ANKH, Inc.	\$ 15,000
1212 Program	10,000
Center for Pastoral Care	15,000
Limen House	30,000
Open Door, Inc.	63,000
Resource Center, Inc.	30,000

Neighborhood/Community Services

Casa San Francisco	\$ 15,000
Chesapeake Bay Girl Scout Council, Inc.	12,000
Civil Air Patrol - Cadet Program	8,000
Claymont Community Center	185,000
Community Legal Aid - Social Security Advocacy	80,000
CONTACT Wilmington	35,000
Delaware Crime Stoppers	10,000
Delaware Crop Improvement Association	2,000
Delaware Safety Council, Inc.	36,000
Delaware Volunteer Legal Services, Inc.	10,000
Eastlawn Area Human Services, Inc.	70,000
Eastside Citizens, Inc.	37,000
Edgemoor Educational and Recreational Community Center	123,000
Food Conservers	60,000
Girls Club of Delaware	22,000
Greater Elsmere Recreation & Education Center	94,000
Hilltop Lutheran Neighborhood Center	24,000
Hockessin Community Center	40,000
Home of Divine Providence, Inc.	25,000

Latin American Community Center, Inc.	25,000
M.O.T. Community Action	35,000
Mary Mother of Hope - House of Joseph	20,000
Mary Mother of Hope House - Phase I	38,000
Mary Mother of Hope House - Phase II	42,000
Mary Mother of Hope House - Emmanuel Dining Room	43,000
Mary Mother of Hope House - Job Placement Center	13,000
Methodist Mission and Church Extension Society, Inc. - Methodist Action Program	10,000
Neighborhood House, Inc.	40,000
New Castle County Crisis Pregnancy Center	20,000
Newark Housing Ministries	22,000
Richardson Park Community Action	15,000
Rosehill Community Center, Inc.	90,000
Salvation Army Emergency Housing	60,000
Salvation Army - Kent County Crisis Alleviation	20,000
Slaughter Neck Community Action Committee	28,000
South Wilmington Medical Center	63,000
Southwest Wilmington Community Center	85,000
St. Helena's Church - Social Ministry	5,000
Sussex Community Crisis Housing Services, Inc.	8,000
Sussex County Community Action	40,000
Tri-State Bird Rescue and Research	10,000
Union Baptist Services	45,000
West End Neighborhood House, Inc.	25,000
Whatcoat Social Service Agency	40,000
YMCA of Delaware Eastern Sussex Family Branch	10,000
YMCA of New Castle County	40,000

TOTAL - Section 2 \$ 4,173,835

Section 3. (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	\$ 10,633
Belevedere Volunteer Fire Company	Belevedere	10,633
Brandywine Hundred Fire Co. No. 1	Bellefonte	10,633
Christiana Fire Co.	Christiana	10,633
Claymont Fire Co.	Claymont	10,633
Cranston Heights Fire Co.	Cranston Heights	10,633
Delaware City Fire Co.	Delaware City	10,633
Elsmere Fire Co.	Elsmere	10,633
Five Points Fire Co. No. 1	Richardson Park	10,633
Goodwill Fire Co. No. 1	New Castle	10,633
Hockessin Fire Co.	Hockessin	10,633
Holloway Terrace Fire Co.	Holloway Terrace	10,633
Mill Creek Fire Co.	Marshallton	10,633
Minquadale Fire Co.	Minquadale	10,633
Minquas Fire Co. No. 1	Newport	10,633
Odessa Fire Co., Inc.	Odessa	10,633
Port Penn Volunteer Fire Co., Inc.	Port Penn	10,633
Talleyville Fire Co., Inc.	Talleyville	10,633
Townsend Fire Co., Inc.	Townsend	10,633
Volunteer Hose Co., Inc.	Middletown	10,633
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	10,633

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	\$ 10,633
Camden-Wyoming Fire Co.	Camden	10,633
Carlisle Fire Co.	Milford	10,633
Cheswold Volunteer Fire Co.	Cheswold	10,633
Citizens' Hose Co. No. 1, Inc.	Smyrna	10,633
Clayton Fire Co.	Clayton	10,633

Robbins Hose Co. (Dover Fire Dept.)	Dover	10,633
Farmington Volunteer Fire Co.	Farmington	10,633
Felton Community Fire Co.	Felton	10,633
Frederica Volunteer Fire Co.	Frederica	10,633
Harrington Fire Co.	Harrington	10,633
Hartly Volunteer Fire Co.	Hartly	10,633
Houston Volunteer Fire Co.	Houston	10,633
Leipsic Volunteer Fire Co.	Leipsic	10,633
Little Creek Volunteer Fire Co.	Little Creek	10,633
Magnolia Volunteer Fire Co.	Magnolia	10,633
Marydel Volunteer Fire Co., Inc.	Marydel	10,633
South Bowers Fire Co.	South Bowers	10,633

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 10,633
Blades Volunteer Fire Co., Inc.	Blades	10,633
Bridgeville Volunteer Fire Co.	Bridgeville	10,633
Dagsboro Volunteer Fire Co.	Dagsboro	10,633
Delmar Fire Department	Delmar	10,633
Ellendale Volunteer Fire Co.	Ellendale	10,633
Frankford Volunteer Fire Co.	Frankford	10,633
Georgetown Fire Co., Inc.	Georgetown	10,633
Greenwood Volunteer Fire Co.	Greenwood	10,633
Gumboro Volunteer Fire Co., Inc.	Gumboro	10,633
Indian River Volunteer Fire Co.	Indian River	10,633
Laurel Fire Department, Inc.	Laurel	10,633
Lewes Fire Department, Inc.	Lewes	10,633
Millsboro Fire Co.	Millsboro	10,633
Milton Volunteer Fire Co.	Milton	10,633
Millville Volunteer Fire Co.	Millville	10,633
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	10,633
Roxanna Volunteer Fire Co.	Roxanna	10,633
Seaford Volunteer Fire Dept., Inc.	Seaford	10,633
Selbyville Volunteer Fire Co., Inc.	Selbyville	10,633
Slaughter Beach Memorial Fire Co.	Slaughter Beach	10,633

TOTAL \$ 637,980

(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	\$ 1,531
Blades Volunteer Fire Co., Inc.	Blades	1,531
Bridgeville Volunteer Fire Co.	Bridgeville	1,531
Bowers Volunteer Fire Co., Inc.	Bowers	1,531
Brandywine Hundred Fire Co., No. 1	Bellefonte	1,531
Camden-Wyoming Fire Co.	Camden	1,531
Carlisle Fire Co.	Milford	1,531
Cheswold Volunteer Fire Co.	Cheswold	1,531
Christiana Fire Co.	Christiana	1,531
Claymont Fire Co.	Claymont	1,531
Cranston Heights Fire Co.	Cranston Heights	1,531
Dagsboro Volunteer Fire Co.	Dagsboro	1,531
Delaware City Fire Co.	Delaware City	1,531
Delmar Fire Department	Delmar	1,531
Ellendale Volunteer Fire Co.	Ellendale	1,531
Elsmere Fire Co.	Elsmere	1,531
Felton Community Fire Co.	Felton	1,531
Five Points Fire Co. No. 1	Richardson Park	1,531
Frankford Volunteer Fire Co. No. 1	Frankford	1,531
Frederica Volunteer Fire Co.	Frederica	1,531
Goodwill Fire Co. No. 1	New Castle	1,531
Greenwood Volunteer Fire Co.	Greenwood	1,531
Gumboro Volunteer Fire Co., Inc.	Gumboro	1,531
Harrington Fire Co.	Harrington	1,531
Hartly Volunteer Fire Co., Inc.	Hartly	1,531

Holloway Terrace Fire Co.	Holloway Terrace	1,531
Hockessin Fire Co.	Hockessin	1,531
Laurel Fire Department, Inc.	Laurel	1,531
Leipsic Volunteer Fire Co.	Leipsic	1,531
Lewes Fire Department, Inc.	Lewes	1,531
Magnolia Volunteer Fire Co.	Magnolia	1,531
Mill Creek Fire Co.	Marshallton	1,531
Millville Volunteer Fire Co., Inc.	Millville	1,531
Milton Volunteer Fire Co.	Milton	1,531
Minquadales Fire Co.	Minquadales	1,531
Minquas Fire Co. No. 1	Newport	1,531
Port Penn Volunteer Fire Co.	Port Penn	1,531
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	1,531
Roxanna Volunteer Fire Co.	Roxanna	1,531
Seaford Volunteer Fire Co., Inc.	Seaford	1,531
Selbyville Volunteer Fire Co., Inc.	Selbyville	1,531
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,531
Talleyville Fire Co., Inc.	Talleyville	1,531
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	1,531

TOTAL \$ 67,364

(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	\$ 1,531
Bethany Beach Volunteer Fire Co.	Bethany Beach	1,531
Blades Volunteer Fire Co.	Blades	1,531
Bowers Volunteer Fire Co., Inc.	Bowers	1,531
Brandywine Hundred Fire Co. No. 1	Bellefonte	1,531
Bridgeville Volunteer Fire Co.	Bridgeville	1,531
Camden-Wyoming Fire Co.	Camden	1,531
Carlisle Fire Co.	Milford	1,531
Cheswold Volunteer Fire Co.	Cheswold	1,531
Christiana Fire Co.	Christiana	1,531
Citizens' Hose Co. No. 1, Inc.	Smyrna	1,531
Claymont Fire Co.	Claymont	1,531
Clayton Fire Co.	Clayton	1,531
Cranston Heights Fire Co.	Cranston Heights	1,531
Dagsboro Volunteer Fire Co.	Dagsboro	1,531
Delaware City Fire Co.	Delaware City	1,531
Delmar Fire Department	Delmar	1,531
Robbins Hose Co. (Dover Fire Dept.)	Dover	1,531
Elsmere Fire Co.	Elsmere	1,531
Farmington Volunteer Fire Co.	Farmington	1,531
Felton Community Fire Co.	Felton	1,531
Five Points Fire Co. No. 1	Richardson Park	1,531
Frederica Volunteer Fire Co.	Frederica	1,531
Georgetown Fire Co.	Georgetown	1,531
Greenwood Fire Co. No. 1	Greenwood	1,531
Goodwill Fire Co. No. 1	New Castle	1,531
Harrington Fire Co.	Harrington	1,531
Hartly Volunteer Fire Co., Inc.	Hartly	1,531
Hockessin Fire Co.	Hockessin	1,531
Holloway Terrace Fire Co.	Holloway Terrace	1,531
Indian River Volunteer Fire Co.	Indian River	1,531
Laurel Fire Dept., Inc.	Laurel	1,531
Leipsic Volunteer Fire Co.	Leipsic	1,531
Lewes Fire Department, Inc.	Lewes	1,531
Little Creek Volunteer Fire Co.	Little Creek	1,531
Magnolia Volunteer Fire Co.	Magnolia	1,531
Marydel Volunteer Fire Co.	Marydel	1,531
Mill Creek Fire Co.	Marshallton	1,531
Millsboro Fire Co.	Millsboro	1,531
Millville Volunteer Fire Co., Inc.	Millville	1,531
Milton Volunteer Fire Co.	Milton	1,531
Minquadales Fire Co.	Minquadales	1,531

Minquas Fire Co. No. 1	Newport	1,531
Odessa Fire Co., Inc.	Odessa	1,531
Port Penn Volunteer Fire Co., Inc.	Port Penn	1,531
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	1,531
Roxanna Volunteer Fire Co.	Roxanna	1,531
Seaford Volunteer Fire Department, Inc.	Seaford	1,531
Selbyville Fire Co., Inc.	Selbyville	1,531
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,531
South Bowers Fire Co.	South Bowers	1,531
Ellendale Volunteer Fire Co.	Ellendale	1,531
Houston Volunteer Fire Co.	Houston	1,531
Talleyville Fire Co., Inc.	Talleyville	1,531
Townsend Fire Co., Inc.	Townsend	1,531
Volunteer Hose Co., Inc.	Middletown	1,531
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	1,531

TOTAL \$ 87,267

(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	\$ 2,332
Brandywine Hundred Fire Co., No. 1	Bellefonte	2,332
Christiana Fire Co.	Christiana	2,332
Claymont Fire Co.	Claymont	2,332
Delaware City Fire Co.	Delaware City	2,332
Elsmere Fire Co.	Elsmere	2,332
Five Points Fire Co. No. 1	Richardson Park	2,332
Goodwill Fire Co. No. 1	New Castle	2,332
Mill Creek Fire Co.	Marshallton	2,332
Talleyville Fire Co., Inc.	Talleyville	2,332
Volunteer Hose Co., Inc.	Middletown	2,332
Wilmington Manor Volunteer Fire Co.	Wilmington Manor	2,332

Kent County

Camden-Wyoming Fire Company	Camden	\$ 2,332
Carlisle Fire Co.	Milford	2,332
Citizens' Hose Co., No. 1, Inc.	Smyrna	2,332
Hartly Volunteer Fire Co., Inc.	Hartly	2,332
Robbins Hose Co., (Dover Fire Dept.)	Dover	2,332

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 2,332
Lewes Fire Department, Inc.	Lewes	2,332
Millsboro Fire Co.	Millsboro	2,332
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,332
Seaford Volunteer Fire Co., Inc.	Seaford	2,332

TOTAL \$ 51,304

(e) There is appropriated to the Mayor and Council of Wilmington the following sums to be used for:

- (1) The prevention and extinguishment of fires throughout the City of Wilmington and for the

maintenance of the apparatus and equipment of
the 8 fire companies organized and equipped

in the City. \$ 85,064

(11) 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.

\$ 6,996

TOTAL \$ 92,060

(f) There is appropriated to the listed fire companies the following
sums to help level up the insurance premium tax revenues to be used for the
maintenance of apparatus and equipment:

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 15,618
Blades Volunteer Fire Co., Inc.	Blades	15,618
Bowers Volunteer Fire Co., Inc.	Bowers	15,618
Bridgeville Volunteer Fire Co.	Bridgeville	15,618
Camden-Wyoming Fire Co.	Camden	15,618
Carlisle Fire Co.	Milford	15,618
Cheswold Volunteer Fire Co.	Cheswold	15,618
Citizens' Hose Co. No. 1, Inc.	Smyrna	15,618
Clayton Fire Co.	Clayton	15,618
Dagsboro Volunteer Fire Co.	Dagsboro	15,618
Delmar Fire Department	Delmar	15,618
Robbins Hose Co., (Dover Fire Dept.)	Dover	15,618
Ellendale Volunteer Fire Co.	Ellendale	15,618
Farmington Volunteer Fire Co.	Farmington	15,618
Felton Community Fire Co.	Felton	15,618
Frankford Volunteer Fire Co.	Frankford	15,618
Frederica Volunteer Fire Co.	Frederica	15,618
Georgetown Fire Co., Inc.	Georgetown	15,618
Greenwood Volunteer Fire Co.	Greenwood	15,618
Gumboro Volunteer Fire Co., Inc.	Gumboro	15,618
Harrington Fire Co.	Harrington	15,618
Hartly Volunteer Fire Co.	Hartly	15,618
Houston Volunteer Fire Co.	Houston	15,618
Indian River Volunteer Fire Co.	Indian River	15,618
Laurel Fire Department, Inc.	Laurel	15,618
Leipsic Volunteer Fire Co.	Leipsic	15,618
Lewes Fire Department, Inc.	Lewes	15,618
Little Creek Volunteer Fire Co.	Little Creek	15,618
Magnolia Volunteer Fire Co.	Magnolia	15,618
Marydel Volunteer Fire Co., Inc.	Marydel	15,618
Millsboro Fire Co.	Millsboro	15,618
Milton Volunteer Fire Co.	Milton	15,618
Millville Volunteer Fire Co.	Millville	15,618
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	15,618
Roxanna Volunteer Fire Co.	Roxanna	15,618
Seaford Volunteer Fire Dept., Inc.	Seaford	15,618
Selbyville Volunteer Fire Co., Inc.	Selbyville	15,618
Slaughter Beach Memorial Fire Co.	Slaughter Beach	15,618
South Bowers Fire Co.	South Bowers	15,618

TOTAL \$ 609,102

(g) 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	\$ 1,531
American Legion, Sussex Post #8	Georgetown	1,531
American Legion, Kent Post #14	Smyrna	1,531
Sussex Memorial Post #7422, V.F.W.	Millsboro	1,531

TOTAL	\$ 6,124
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Total - Section 3	\$ 1,551,201
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Section 4. (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	\$ 20,364
Veterans of Foreign Wars, Department of Delaware	20,364
Disabled American Veterans, Department of Delaware	16,968
Vietnam Veterans of America, Department of Delaware	16,968
Paralyzed Veterans of America, Department of Delaware	16,968

(b) Funds are hereby appropriated to the following grants-in-aid in the amounts listed for operations expenses:

Veterans of Foreign Wars, Department of Delaware	\$ 4,951
American Legion, Department of Delaware	4,951
Disabled American Veterans, Department of Delaware	4,951
Vietnam Veterans of America	4,951
Jewish War Veterans of the U.S., Department of Delaware	2,834
Delaware Veterans of World War I	2,117
Paralyzed Veterans of America, Department of Delaware	4,245

(c) Expenses for Memorial Day programs incurred by local Posts in Sussex, Kent and New Castle Counties shall 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 \$4,003 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 \$4,003 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 \$1,599 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 4	\$ <u>130,237</u>
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Section 5. 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 6. 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 7. 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 ninety (90) days after the close of the fiscal year of the receiving agency, covering the operation for the preceding fiscal year.

Section 8. 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. Those senior centers receiving funds under the Older Americans Act of 1965, as amended, shall present to the Division of Aging a proposal for expenditure of State 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, the Budget Director, and the Controller General for the State of Delaware.

Section 9. The provisions of House Joint Resolution No. 2, as amended by House Amendment No. 1, of the 132nd General Assembly shall continue in effect for the term of this Act.

Section 10. No funds appropriated in this Act shall be expended in a political campaign or for partisan political purposes.

Section 11. The Controller General may from time to time conduct performance audits of any non-state agency for which funds are appropriated in this Act.

Section 12. Section 1 of this Act provides an appropriation to the Delaware State Arts Council. It is the legislative intent of this appropriation to provide, under the leadership of the Delaware State Arts Council, a unified process for allocating matching funds to the numerous cultural and arts organizations requesting assistance. Furthermore, the funds from State government are intended to match funds from the federal, county and municipal governments and the private sector in the support of arts and cultural programs.

Section 13. Funds appropriated in this Act shall not be used by any agency to provide child day care. It is the intent of the General Assembly that no funds will be appropriated in Fiscal Year 1989 in grants-in-aid to agencies for the purpose of relocation, purchasing buildings or rehabilitation or renovation of buildings.

Section 14. This Act is a supplementary appropriation and the monies appropriated shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended or unencumbered as of June 30, 1988, shall revert to the General Fund of the State of Delaware.

Section 15.(a) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation in Section 2 of this Act at the beginning of the first quarter of Fiscal Year 1988 for the agencies as follows:

- Afro American Historical Society
- Blackbird Community Services
- Delaware Association for Blind Athletes
- Delaware Association of Police Chiefs - Camp Barnes
- Delaware City Day Committee
- Delaware State Fair
- Miss Delaware Pageant
- New Castle - Separation Day
- National Multiple Sclerosis Society

(b) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation in Section 1 of this Act at the beginning of the first quarter of Fiscal Year 1988 for the municipalities which receive \$4,000 or less from the line item Aid to Local Law Enforcement.

(c) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation to fire companies listed in Section 3 of this Act at the beginning of the first quarter of Fiscal Year 1988.

(d) The State Treasurer is authorized to take the necessary steps to make a full payment in July, 1987, to all recipients of municipal street aid whose total for Fiscal Year 1988 is less than \$50,000; for recipients of municipal street aid whose total is between \$50,001 and \$200,000 payments shall be made in two equal installments, one in July, 1987, and the other in January, 1988; for recipients of municipal street aid whose total is over \$200,000, payments shall be made quarterly.

Section 16. Section 1 of this Act provides an appropriation for Municipal Street Aid which amount is distributed by the State Treasurer to municipalities in accordance with the provisions of Sections 5161 through and including Section 5166, Subchapter III, Part IV, Title 30, Delaware Code. For fiscal year ending June 30, 1988, the State Treasurer shall submit to the Controller General of the State of Delaware a copy of the annual report from each municipality showing the annual expenditures of municipal street aid funds.

Section 17. Paragraph (d), Chapter 65, Title 29, Delaware Code, provides that monies appropriated for grants-in-aid shall be paid in installments of twenty-five percent each quarter of the fiscal year. An installment payment may be delayed or withheld if the grant-in-aid recipient because of, but not limited to, the following:

- (a) Has not submitted a quarterly statement of expenditures if required to do so;
- (b) Expended funds from the grant-in-aid for purposes not intended by the General Assembly; and
- (c) Expended funds for day care, relocation, purchasing buildings or rehabilitation or renovation of buildings.

Upon notification by the Chairman of the Joint Finance Committee, the State Treasurer shall be directed to withhold such installment payment(s).

Section 18. (a) It is the intent of the General Assembly that each Grant-in-Aid recipient shall submit one of the following with its application for a grant award in Fiscal Year 1988:

- (i) An audit prepared by a Certified Public Accountant covering the prior full fiscal year of the receiving agency, or
- (ii) A Balance Sheet reflecting total Assets, Liabilities, and Fund Balances covering the prior fiscal year of the receiving agency; Statements of Support, Revenue and Expenses and Changes in Fund Balances covering the prior fiscal year of the receiving agency; and Statements of Functional Expenses covering the prior fiscal year of the receiving agency.

(b) Fire companies listed in this Act shall submit financial information on the form approved by the State Treasurer, the Budget Director and the Controller General. Consequently, the listed fire companies are exempt from the provisions of Subsection (a) of this Section.

(c) Veterans' organizations in Subsection (4) of this Act are exempt from the provisions of this Section.

(d) Recipients of the appropriation for Municipal Street Aid and recipients of the appropriation for Aid to Local Law Enforcement shall be exempt from the provisions of this Section.

(e) Non-compliance by a Grant-in-Aid recipient with the provisions of this Section shall automatically disqualify the applicant for consideration of a Grant-in-Aid award in Fiscal Year 1988.

(f)(1) For Fiscal Year 1987, it is the legislative intent that a Grant-in-Aid recipient listed in Sections 1 or 2 of this Act shall not be entitled to receive any of the funds appropriated by this Act unless certain financial information has been received by the Office of the Controller General on or before July 25, 1986. Such financial information shall be in the form as defined in Subsection (a)(1) or Subsection (a)(11) of this Section covering full fiscal year of the receiving agency. If any Grant-in-Aid recipient fails to comply with this Subsection (f) the funds appropriated by this Act to that recipient shall revert to the General Fund of the State.

(2) Section 2 of this Act appropriates \$11,500 to the Delaware Senior Citizen, Inc. This appropriation will be made in quarterly installments beginning upon a completed application and a recent audit being filed with the Office of Controller General. If the completed application and audit are not received by the Office of Controller General by October 1, 1987, this appropriation will revert to the General Fund of the State of Delaware.

Approved July 2, 1987.

CHAPTER 89

FORMERLY

HOUSE BILL NO. 383

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND TITLE 2, TITLE 29 AND TITLE 30 OF THE DELAWARE CODE RELATING TO THE CREATION OF A TRANSPORTATION TRUST FUND IN THE DELAWARE TRANSPORTATION AUTHORITY, AUTHORIZING THE ISSUANCE OF BONDS SUPPORTED BY AND THE EXPENDITURE OF RECEIPTS IN THE TRANSPORTATION TRUST FUND, GRANTING CERTAIN OTHER POWERS TO THE DELAWARE TRANSPORTATION AUTHORITY, AUTHORIZING AN INCREASE IN THE MOTOR FUEL TAX, TRANSFERRING MONEY TO THE TRANSPORTATION TRUST FUND, AUTHORIZING TRANSFERS FROM THE TRANSPORTATION TRUST FUND INCLUDING MONEY FOR MUNICIPAL STREET AID AND MAKING RELATED AMENDMENTS." ALSO BEING KNOWN AS HOUSE BILL NO. 371 AS AMENDED BY HOUSE AMENDMENT NO. 1 AND PASSED BY THE 134TH GENERAL ASSEMBLY TO CLARIFY THE EFFECTIVE DATE THEREOF.

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

"Section 1. Amend Section 8 of House Bill No. 371 as amended by striking lines 6 through 8 inclusive on page 16 of 16 and substitute in lieu thereof the words "All provisions of this Act with the exception of Sections 2, 3 and 4 shall take effect immediately. Section 2 shall take effect September 1, 1987. Sections 3 and 4 shall take effect July 1, 1988."

Approved July 2, 1987.

CHAPTER 90

FORMERLY

SENATE BILL NO. 132
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 93, TITLE 16, RELATING TO EQUITABLE HEALTH PLANNING AND REVIEW.

WHEREAS, effective health planning promotes access and availability to high quality health care at an affordable cost, while controlling excessive health care expenditures; and

WHEREAS, health planning and review in Delaware has resulted in improved health services and lower per capita costs for Delawareans as compared to neighboring States and the national average; and

WHEREAS, health planning is particularly important in view of rapid changes and rising expenditures in the health care fields; and

WHEREAS, the Governor's Commission on health Care Cost Management has recommended a dynamic health planning process for Delaware which builds on the strengths of the previous system, with greater focus on the needs of this State.

NOW, THEREFORE:

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

Section 1. Amend Part VIII, Title 16 of the Delaware Code by deleting Chapter 93 in its entirety and substituting the following:

"CHAPTER 93. HEALTH PLANNING AND RESOURCES MANAGEMENT

§9301. Purpose

It is the purpose of this Chapter to provide a rational framework for promoting the cost effective and efficient use of health care resources while striving to ensure the availability of and access to high quality and appropriate health care services.

§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:

(1) 'Certificate of need' shall mean the written approval of the state agency as defined in this section, of an application to undertake an activity subject to review as described in §9304 of this title.

(2) '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, community mental health and retardation facility, and blood bank, whether or not licensed or required to be licensed by the State, whether operated for profit or nonprofit 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 sanatoriums 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 nonacute 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. Further:

a. '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.

b. '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.

c. '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.

d. '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.

e. '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).

f. '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.

g. 'Ambulatory health care facility' shall mean a facility other than a physician's private office, incorporated or unincorporated, 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 and charges a distinct fee for use of the facility.

h. 'Community mental health and retardation facility' shall mean a facility which provides such comprehensive services and continuity of care as emergency, outpatient, partial hospitalization, inpatient and consultation and education for individuals with mental illness, mental retardation or drug or alcohol addiction.

i. 'Blood bank' shall mean an independent organization collecting or storing human blood or plasma.

(3) 'Health Resources Management Council' shall mean the body established pursuant to §9303 of this title.

(4) 'Health services' shall mean clinically related (i.e., diagnostic curative or rehabilitative) services provided in or through health care facilities.

(5) 'Person' shall mean an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state or political subdivision or instrumentality (including a municipal corporation) of a state.

(6) 'State Agency' shall mean the Bureau of Health Planning and Resources Management (formerly Bureau of Health Planning and Resources Development) within the Department of Health and Social Services.

§9303. Health Resources Management Council

(1) There is hereby established a Health Resources Management Council, to consider matters relating to health planning for Delaware which will help ensure access and availability of appropriate high quality health care services and promote cost effective and efficient use of health care resources.

(2) The Health Resources Management Council shall consist of 15 members to be appointed by the Governor. Of the initial appointments, 5 shall be for 3 year terms, 5 shall be for 2 year terms and 5 shall be for 1 year terms. Thereafter, all appointments shall be for 3 year terms. Members shall serve no more than 2 consecutive terms. The membership shall be representative of all counties in the State and shall include consumer, provider, business, government and insurer representation. A majority of members shall be other than health care providers. The Governor shall appoint 1 member to serve as Chairman and 1 member to serve as Vice-Chairman. The terms of office shall be for three years except that the initial terms may be for a lesser period. Any vacancy shall be filled by the Governor for the balance of the unexpired term. Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties, to the extent that funds are available and the expenditures are in accordance with State laws.

(3) Staff support for the Council shall be provided by the State agency, which shall be fully dedicated to health planning, data and regulatory functions as encompassed by this Chapter. The Director of the State Agency shall serve as Secretary to the Council.

(4) The duties and responsibilities of the Council shall include, but not be limited to, the following:

(a) Submit to the Secretary, Department of Health and Social Services, and the Director, Division of Planning, Research and Evaluation a State Health Plan, which shall conform to a statement of basic principles, goals and priorities that set forth an overall direction in which health care in Delaware should be proceeding. The underpinning for the plan and the other activities of the Council shall be the pursuit of an appropriate balance among factors such as the availability, access, quality and cost of health care services and the prevention of avoidable health problems. The State Health Plan shall be comprised of the statement of basic principles, goals and priorities along with analyses, guidance and criteria related to health status and health service issues, and other plans or parts of plans adopted by the Council;

(b) Review health-related plans from the various divisions and agencies of State government for consistency with these basic principles and goals;

(c) Ensure an opportunity for public review and comment of all components of the State Health Plan;

(d) Address specific health care issues in a timely and focused fashion so as to provide guidance to health care decision makers in both the private and public sectors;

(e) Develop specific criteria and other guidance for use in reviewing certificate of need applications;

(f) Review Certificate of Need applications filed pursuant to this Chapter and make recommendations thereon to the State agency, except that providers of health care shall abstain from making recommendations involving their field of health care; and

(g) Gather and analyse data and information needed to carry out its responsibilities. Identify the kinds of data which are not available so that efforts can be made to assure that legitimate data needs can be met in the future;

(h) Adopt by-laws and operating procedures as necessary for conducting its affairs.

§9304. Activities subject to review

Any person must obtain a Certificate of Need prior to undertaking any of the following activities:

(1) The construction, development or other establishment of a new health care facility;

(2) Any expenditure by or on behalf of a health care facility in excess of \$750,000 which, under generally accepted accounting principles consistently applied, is a capital expenditure. When a person makes an acquisition by or on

behalf of a health care facility 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. With the concurrence of the Health Resources Management Council, the State agency may exempt from review capital expenditures in excess of \$750,000 when determined to be necessary for maintaining the physical structure of a facility and not related to direct patient care. A notice of intent filed pursuant to §9305 of this title along with any other information deemed necessary by the Health Resources Management Council or the State agency shall provide the basis for exempting such capital expenditures from review;

(3) A change in bed capacity of a health care facility which increases or decreases the total number of beds (or distributes beds among various categories, or relocates such beds from 1 physical facility or site to another) by more than 10 beds or more than 10 percent of total licensed bed capacity, whichever is less, over a 2-year period;

(4) Health services which are offered in or through a health care facility and which were not offered on a regular basis in or through such health care facility within the 12-month period prior to the time such services would be offered, and for which the annual operating expenses exceed \$250,000 during the first or second years of operation.

§9305. Procedures for review

Reviews under this Chapter shall be conducted in accordance with the following procedures:

(1) Notices of intent. - At least 30 days prior to submitting an application for review under this Chapter, applicants shall submit to the State agency a notice of intent in such form as may be determined by the State agency to cover the scope and nature of the project. An application may be submitted less than 30 days from submitting the notice of intent only with the written approval of the State agency.

(2) Applications for review. - Application forms will be developed by the State agency after consultation with the Health Resources Management Council and may vary according to the nature of the application.

(3) Deadlines and time limitations. - Upon receipt of an application under this Chapter, the State agency shall have a maximum of 15 days to notify the applicant as to whether the application is considered complete. If complete, written notification in accordance with subdivision (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 the additional information is received, the State agency again has a maximum of 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 as provided below, the review of an application shall take no longer than 90 days from the date of notification as covered under subdivision (4) of this section. If a public hearing is requested under subdivision (6) of this section, the maximum review period will be extended to 120 days from the date of notification. Within 30 days from the date of notification (60 days if a public hearing is requested) the State agency may, with the concurrence of the Health Resources Management Council, extend the maximum review period up to 180 days from the date of notification. Such extensions shall be invoked only as necessary to allow the development of appropriate review criteria or other guidance when these are lacking or to facilitate the simultaneous review of similar applications. The maximum review period can also be extended as mutually agreed to in writing by the State agency and the applicant.

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 to remain in operation, an abbreviated application shall be submitted in such format as the State agency prescribes. As quickly as possible, but within 72 hours after receipt, the State agency after consultation with the Chairman or Vice-Chairman of the Health Resources Management 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 5 working days of determining that an application under this Chapter is complete, the State agency shall provide written notification of the beginning of a review. Such notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The date of notification is the date on which such notice appears in the newspaper. The notification shall identify the applicant, indicate the nature of the application, specify the period during which a public hearing in the course of the review as covered in subdivision (6) of this section may be requested, and indicate the manner in which notice will be provided of the time and place of any hearing so requested.

(5) Findings and recommendations. - Upon completion of a review under this Chapter, and within the time frames outlined in subdivision (3) of this section, the State agency shall notify in writing the applicant and any one 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.

(6) Public hearing in the course of review. - Within 10 days after the date of notification as described in subdivision (4) of this section, a public hearing in the course of review may be requested by any person. Such request shall be in writing and made to the State agency. The State 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. The public hearing shall be held not less than 14 days after such notice appears in the newspaper. The State 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 subdivision, a request for a public hearing shall be deemed by the State agency to have shown good cause if it:

(a) Presents significant, relevant information not previously considered by the State agency;

(b) Demonstrates that there have been significant changes in factors or circumstances relied upon by the State agency in reaching its decision;

(c) Demonstrates that the State agency has materially failed to follow its adopted procedures in reaching its decision; or

(d) 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. The hearing shall commence within 45 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 and the applicant 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 subdivision shall be considered a decision of the State agency for purposes of subdivisions (5), (8), and (9) of this section.

(8) Same - Procedure for Health Resources Management Council. - If the State agency makes a decision regarding a Certificate of Need application which is inconsistent with the recommendation from the Health Resources Management Council, the State agency shall submit to the Council within 15 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 Resources Management Council, be reviewed by a 5 person Appeals Board appointed by the Secretary, Department of Health and Social Services. A request for review under this subdivision must be received by the Secretary, Department of Health and Social Services within 30 days of the State agency decision. The hearing shall commence within 45 days of receipt of the

request. The decision of the Board shall be made in writing within 45 days after the conclusion of such hearing. These written findings shall be sent to the applicant, the Health Resources Management Council, and the State agency.

The decision of the Appeals Board shall be considered the final decision of the State agency; however, the Appeals Board may remand the matter to the State agency for further action or consideration.

(9) Same - Applicant. - Any decision of the State agency under this Chapter (and the record upon which it was made) shall, upon request of the applicant, be reviewed by a 5 person Appeals Board appointed by the Secretary, Department of Health and Social Services. A request for review under this subdivision must be received by the Secretary, Department of Health and Social Services within 30 days of the State Agency decision. The hearing shall commence within 45 days of receipt of the request. The decision of the Appeals Board shall be made in writing within 45 days after the conclusion of such hearing. These written findings shall be sent to the applicant, the Health Resources Management Council, and the State agency.

The decision of the Appeals Board shall be considered the final decision of the State agency; however, the Appeals Board may remand the matter to the State agency for further action or consideration. The decision of the Appeals Board may be appealed by the applicant within 30 days to the Superior Court. Such appeal shall be on the record of the proceedings before the Appeals Board.

(10) Access to public. - The State 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.

(11) Filing fees. - Within 5 working days of determining that an application under this Chapter is complete, the State agency shall notify the applicant of any filing fee due.

Filing fees shall be determined from the following table:

<u>Capital Expenditure</u>	<u>Filing Fee</u>
Less than \$500,000	\$100
\$500,000 to \$999,999	\$750
\$1,000,000 to \$4,999,999	\$3,000
\$5,000,000 to \$9,999,999	\$7,500
\$10,000,000 and over	\$10,000

Filing fees shall be due 30 days after the date of notification of the beginning of review as covered under subdivision (4) of this section. This due date may be extended up to 10 additional days at the discretion of the State agency. Applications for which filing fees have not been paid within this time frame shall be considered to be withdrawn. All filing fees shall be deposited in the general fund.

§9306. Review considerations

In conducting reviews under this Chapter, the Health Resources Management Council and the State agency shall consider as appropriate at least the following:

(1) The relationship of the proposal to the State Health Plan adopted by the Health Resources Management Council pursuant to §9303 of this title.

(2) The need of the population for the proposed project.

(3) The availability of less costly and/or more effective alternatives to the proposal.

(4) The relationship of the proposal to the existing health care delivery system.

(5) The immediate and long term viability of the proposal in terms of the applicant's access to financial, management and other necessary resources.

(6) The anticipated effect of the proposal on the costs of and charges for health care.

(7) The anticipated effect of the proposal on the quality of health care.

§9307. Period of Effectiveness of Certificate of Need

(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 1 year from the date such approval was granted.

(b) At least 30 days prior to the expiration of the Certificate of Need, the applicant shall inform the State agency in writing of the project's status. 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 6-month extension be granted. After consultation with the Health Resources Management Council, the State agency shall either allow the certificate to expire or grant such extension. A decision by the State agency to deny an extension may be appealed pursuant to §9305(9) of this title.

§9308. Sanctions

(a) Any person undertaking an activity subject to review as described in §9304 of this title, without first being issued a Certificate of Need for that activity, 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 subsection (a) of this section, the State 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 undertaking an activity subject to review as described in §9304 of this title without first being issued a Certificate of Need.

(c) A person who willfully undertakes an activity subject to review as described in §9304 of this title and who has not received a Certificate of Need for that activity 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) A 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 undertake the activity for which the Certificate of Need was granted in a timely manner or loss of license or other authority to operate. Prior to revoking a Certificate of Need, the State agency shall provide written notice to the holder of the certificate stating its intent to revoke the certificate and providing the holder at least 30 days to voluntarily surrender the certificate or to show good cause why the certificate should not be revoked. No certificate of need shall be revoked by the State agency without first consulting with the Health Resources Management Council and providing the holder of the certificate an opportunity for a hearing. The State agency's decision to revoke a Certificate of Need may be appealed pursuant to §9305(9) of this title.

(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.

§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 become effective 90 days after its passage.

Approved July 2, 1987.

CHAPTER 91

FORMERLY

SENATE BILL NO. 163

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING TO 3-YEAR TAGS ON SMALL TRAILERS.

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

Section 1. Amend subsection (c) Section 2109, Chapter 21, Title 21, Delaware Code by adding the words "or trailer" after the words "motor vehicle" as they appear in the first sentence of said Section.

Section 2. Amend Section 2110, Chapter 21, Title 21, Delaware Code by adding a new subsection to read as follows:

"(d) Notwithstanding the provisions of subsections (a), (b) and (c) of this Section, the registration of any trailer with a gross registered weight of 4,000 pounds or less and for which the annual safety inspection is waived may be renewed for 3 years, at the option of the owner. If this option is selected, the registration fee shall be 3 times the annual registration fee."

Approved July 2, 1987.

CHAPTER 92

FORMERLY

SENATE BILL NO. 294

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE AND HIGHWAY REVENUE BONDS OF THE DELAWARE TRANSPORTATION AUTHORITY; APPROPRIATING FUNDS FROM THE FIRST STATE IMPROVEMENT FUND; DEAUTHORIZING CERTAIN GENERAL OBLIGATION BONDS OF THE STATE AND CERTAIN AUTHORITY FOR GUARANTEED INDUSTRIAL REVENUE BONDS; REVERTING AND REPROGRAMMING CERTAIN SURPLUS FUNDS OF THE STATE AND THE DELAWARE TRANSPORTATION AUTHORITY; APPROPRIATING CERTAIN GENERAL AND SPECIAL FUNDS OF THE STATE AND THE DELAWARE TRANSPORTATION AUTHORITY; AUTHORIZING THE DEPARTMENT OF ADMINISTRATIVE SERVICES TO ALLOCATE STRIPPER WELL FUNDS TO CERTAIN ELIGIBLE CAPITAL IMPROVEMENTS AUTHORIZED IN THIS ACT; TO AMEND SUBCHAPTER VII OF CHAPTER 50 OF TITLE 29 OF THE DELAWARE CODE, RELATING TO ALLOCATION OF STATE PRIVATE ACTIVITY BOND CEILING TO GOVERNMENTAL UNITS, ESTABLISHMENT OF INDUSTRIAL REVENUE BOND COMMITTEE AND REPORTING REQUIREMENTS AND TO AMEND SUBCHAPTER IV OF CHAPTER 50 OF TITLE 20 OF THE DELAWARE CODE TO CLARIFY THE POWER OF THE DELAWARE ECONOMIC DEVELOPMENT AUTHORITY TO ISSUE AND REFUND BONDS AND TO MAKE CERTAIN TECHNICAL CORRECTIONS THERETO; AMENDS THE DELAWARE HEALTH AUTHORITY STATUTES; ALLOWS FOR THE ISSUANCE OF VARIOUS DEBT INSTRUMENTS REGARDLESS OF THE TREATMENT OF INTEREST THEREON FOR FEDERAL TAX PURPOSES; ALLOWS FOR THE ADVANCE FUNDING OF CAPITAL PROJECTS; OTHER RELATED CHANGES; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS.

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

Section 1. Authorization of Twenty-Year Bonds. The State hereby authorizes the issuance of Twenty-Four Million One Hundred Fifty-Four Thousand Five Hundred Thirty-Two Dollars (\$24,154,532) bonds to which the State shall pledge its full faith and credit. Bonds authorized to be used by this Section shall mature not later than twenty (20) years from their date of issuance. The proceeds of such bonds are hereby appropriated for a portion of the purposes set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services	\$4,360,806
Department of Health & Social Services	1,500,000
Department of Services for Children, Youth & Their Families	1,600,000
Department of Natural Resources & Environmental Control	125,000
Department of Transportation	6,086,500
Department of Agriculture	100,000
State Fire Prevention Commission	570,000
Delaware Technical & Community College	1,700,000
State Board of Education	7,887,226

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Maximum Total Cost</u>
Colonial School District	\$1,173,400	\$ -0-	\$1,173,400

Seaford School District	1,025,260	683,506	1,708,766
Capital School District	414,172	276,114	690,286
Indian River School District - Frankford	180,000	120,000	300,000
Indian River School District - Ennis School	250,000	-0-	250,000
Christina School District - Sterk	115,000	-0-	115,000
Christina School District - Autistic School	743,562	-0-	743,562
Sussex Vo-Tech	233,000	-0-	233,000
Hodgson Vo-Tech	750,000	-0-	750,000
Brandywine School District	22,800	15,200	38,000
Christina School District - Four Seasons, Parkway School and Palmer School	<u>2,980,032</u>	<u>1,986,688</u>	<u>4,966,720</u>
Subtotal	\$7,887,226	\$3,081,508	\$10,968,734

Judicial			<u>225,000</u>
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<u>TOTAL</u>			<u>\$24,154,532</u>
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Section 2. Authorization of Ten-Year Bonds. The State hereby authorizes the issuance of Nineteen Million Nine Hundred Forty-Seven Thousand Two Hundred Twenty-Six Dollars (\$19,947,226) bonds to which the State shall pledge its full faith and credit. Bonds authorized to be issued by this Section shall mature not later than ten (10) years from their date of issuance. The proceeds of such bonds are hereby appropriated for a portion of the purposes set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of State	\$ 550,000
Department of Administrative Services	350,000
Department of Health & Social Services	1,225,000
Department of Services for Children, Youth & Their Families	33,786
Department of Correction	500,000
Department of Natural Resources & Environmental Control	175,000
Department of Public Safety	558,900
Department of Community Affairs	50,000
Department of Transportation	15,537,500
Delaware Technical & Community College	<u>967,040</u>

TOTAL\$19,947,226

Section 3. Appropriation of First State Improvement Fund. The State hereby authorizes the appropriation of Thirteen Million Six Hundred Forty-Seven Thousand Six Hundred Sixty-Seven Dollars (\$13,647,667) from the First State Improvement Fund for a portion of the purposes set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Delaware Development Office	\$3,138,565
Department of State	175,000
Department of Administrative Services	1,749,894
Department of Health & Social Services	1,527,300
<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Services for Children, Youth & Their Families	\$ 200,000
Department of Correction	100,000
Department of Natural Resources & Environmental Control	450,000
Department of Public Safety	55,000
Delaware National Guard	96,500
Delaware State College	1,100,000
Delaware Technical & Community College	270,000
State Board of Education	<u>4,785,408</u>

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Maximum Total Cost</u>
Sussex Vo-Tech	\$ 90,000	\$ -0-	\$ 90,000
Minor Capital Improvements	2,970,708	1,980,472	4,951,180
Annual Maintenance of Schools	906,800	-0-	906,800
Kent Vo-Tech Renovations	650,000	-0-	650,000
Kent Vo-Tech Roof	155,900	-0-	155,900
Appoquinimink School District	<u>12,000</u>	<u>-0-</u>	<u>12,000</u>
Subtotal	\$4,785,408	\$1,980,472	\$6,765,880

TOTAL\$13,647,667

Section 4. Repeal of Prior General Obligation Bond Authorizations. There is hereby repealed the authorization to issue bonds, the proceeds of which were heretofore appropriated to the following project in the following amount:

<u>Department, Agency, or Instrumentality</u>	<u>Authorized Vol. & Ch.</u>	<u>Project Account Code</u>	<u>Amount</u>
Department of Natural Resources and Environmental Control	65/385	40-06-001-8012	\$500,000
<u>TOTAL</u>			<u>\$500,000</u>

Section 5. Deauthorization of State Guaranteed Bonds.

(a) Amend §5054(d)(2) of Title 29 of the Delaware Code, as amended, by striking the number "\$27,292,298" wherever it appears in said subsection and inserting in lieu thereof the number "\$25,619,290".

(b) Nothing in this Act shall reduce the amount of bonds authorized to be issued by The Delaware Economic Development Authority, or any successor authority, to which may be pledged the full faith and credit of the State below the amount of such bonds issued and unpaid on the effective date of this Act. The provisions of Section 11 of Chapter 387 of Volume 63 of the Laws of Delaware shall apply in this regard.

Section 6. Appropriation of General Funds. The State Treasurer and the Secretary of Finance are hereby authorized and directed to transfer Thirty-Four Million Four Hundred Fifty-Five Thousand Three Hundred Thirty-Nine Hundred Dollars (\$34,455,339) from the General Fund to the following departments, agencies and instrumentalities of the State and in the following amounts for the purpose set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof. This is a supplementary appropriation of and in addition to the monies appropriated by the Fiscal Year 1988 Budget Act and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended or unencumbered by June 30, 1991, shall revert to the General Fund of the State of Delaware.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Delaware Development Office	\$ 201,700
Department of State	360,000
Department of Administrative Services	1,300,000
Department of Health & Social Services	50,000
Department of Natural Resources & Environmental Control	2,059,639
Department of Public Safety	570,000
Department of Transportation	27,847,000
University of Delaware	1,545,000
Delaware Technical & Community College	180,000
State Board of Education	250,000
Judicial	<u>239,000</u>
TOTAL	<u>\$34,602,339</u>

Section 7. Appropriation of Delaware Transportation Authority Bonds. There is hereby appropriated Twenty-One Million Six Hundred Forty Thousand Dollars (\$21,640,000) in Delaware Transportation Authority Bonds for a portion of the eligible projects set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof.

Section 8. Reversion of Fund Balances. On the effective date of this Act, the State Treasurer shall transfer the remaining cash balances, not in excess of the amounts indicated below in the enumerated project accounts, to the State Treasurer's Bond Reversion Account (12-05-003-40-00).

<u>Department, Agency, or Instrumentality</u>	<u>Authorized Vol. & Ch.</u>	<u>Project Account Code</u>	<u>Amount</u>
Delaware Development Office	63/179	10-03-003-5213	\$ 37,614
Delaware Development Office	63/387	10-03-003-5312	3,656
Department of Administrative Services	65/385	30-05-001-5720	40,032
Department of Health & Social Services	65/385	35-12-001-5713	50,000
Department of Correction	62/146	38-04-006-5012	71
Department of Correction	64/343	38-04-006-5512	736
Department of Correction	63/387	38-04-010-5312	558

Department of Natural Resources and Environmental Control	62/146	40-01-001-5012	8
Department of Natural Resources and Environmental Control	63/387	40-05-001-5312	15
Department of Natural Resources and Environmental Control	64/343	40-06-001-5515	11,800
Department of Natural Resources and Environmental Control	60/271	40-07-005-7683	7,519
Department of Transportation	64/343	55-05-000-5500	500,000
Department of Transportation	62/407	55-05-000-6600	1,018,000
State Fire Prevention Commission	65/385	75-02-001-5715	444
TOTAL			\$1,670,453

Section 9. Transfers from Reversion Account. The State Treasurer shall transfer, as funds become available, the sum of Four Million One Hundred Fifty-Six Thousand Five Hundred Forty-Two Dollars (\$4,156,542) from the State Treasurer's Bond Reversion Account (12-05-003-40-00) for a portion of the purposes set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services	\$2,156,181
Department of Natural Resources & Environmental Control	2,000,361
TOTAL	\$4,156,542

Section 10. Delaware Transportation Authority - Appropriation of Surplus Balances.

(a) There is hereby appropriated the sum of Twelve Million Three Hundred Six Thousand Dollars (\$12,306,000) in Delaware Transportation Authority ("Authority") funds from the Road Improvement Fund of the Authority established pursuant to Section 1310(c)(1) of Title 2 of the Delaware Code, as amended, and by resolution or indenture of the Authority. Such funds shall be applied to the project costs for a portion of the Department of Transportation project purposes set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof.

<u>Department of Transportation</u>	<u>Amount</u>
Suburban Streets (55-05-000-56-00)	\$ 9,525,500
Intersection Improvements, Drainage & Misc. Projects (50-05-000-56-00)	500,000
Maintenance (55-05-000-68-00)	31,500
Paving & Rehabilitation (55-05-000-64-00)	2,249,000
TOTAL	\$12,306,000

(b) The Secretary of the Department of Transportation shall transfer from funds in the Authority Road Improvement Fund on deposit with the Trustee to the appropriate special funds of the State, such amounts and at such times as may be required to insure that the programs supported by these special fund appropriations are carried out in accordance with the needs of the Division of Highways of the Department of Transportation. These funds shall remain on deposit in their respective accounts until fully expended or specifically rescinded by an act of the General Assembly.

Section 11. Department of Transportation - Reprogramming of Prior Authorizations. The Secretary of the Department of Transportation ("Department") is directed to transfer up to Sixty Thousand Dollars (\$60,000) from the Delaplane Manor project to the Roseville Park project in New Castle County. The Secretary of the Department is also directed to add this amount to additional funds previously authorized for this project and to new funds as designated in the Fiscal Year 1988 "Supplemental List of Transportation Projects".

Section 12. Allocation of Stripper Well Funds. The State hereby authorizes the Department of Administrative Services to allocate One Million Five Hundred Seventy-Three Thousand Seven Hundred Fifty Dollars (\$1,573,750) from the proceeds of the Stripper Well Court Case Settlement for eligible projects up to the amounts set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof. All potentially eligible projects will be submitted to the Energy Office

for review. Eligible projects will be referred to the State Energy Weatherization Committee for consideration for funding from proceeds from the Stripper Well Court Case. For all projects found eligible for Stripper Well funding by the State Energy Weatherization Committee, the Department of Administrative Services will allocate and release funds in a manner consistent with the Stripper Well Court Case Settlement.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of State	\$ 12,000
Department of Administrative Services	282,350
Department of Health & Social Services	722,200
Department of Services for Children, Youth & Their Families	97,500
Department of Correction	162,500
Department of Natural Resources & Environmental Control	2,400
Department of Public Safety	32,200
Delaware National Guard	47,500
Delaware State College	34,100
Delaware Technical & Community College	<u>181,000</u>
<u>TOTAL</u>	<u>\$1,573,750</u>

Section 13. Exxon Funds. It is the intent of the General Assembly that the monies appropriated in this Act may be used to match Exxon funds for any purpose deemed appropriate by the State Energy Weatherization Committee and so long as the purpose does not contradict the purposes set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof.

Section 14. Additions to the First State Improvement Fund.

(a) The State Treasurer and Secretary of Finance are hereby authorized and directed to transfer Seven Million Two Hundred Thousand Dollars (\$7,200,000) from the General Fund to the First State Improvement Fund.

(b) Amend Section 5081, Title 29 of the Delaware Code by deleting it in its entirety on January 1, 1988.

(c) Amend Section 5083(b), Title 29 of the Delaware Code by deleting it in its entirety.

(d) Delete Section 5084, Title 29 of the Delaware Code in its entirety on January 1, 1988.

(e) Amend Section 5086 by deleting the date "September 30, 1988" and substituting in lieu thereof "September 30, 1992".

Section 15. Transportation Trust Fund.

(a) In the event that legislation is enacted into law with the effect of abolishing the Delaware Transportation Authority Road Improvement Fund, appropriations made by this Act from the DTA Road Improvement Fund shall be deemed to be made from the Transportation Trust Fund.

(b) Also, in the event that legislation is enacted into law creating a Transportation Trust Fund, the Fourteen Million Four Hundred Eighty-Nine Thousand Dollars (\$14,489,000) appropriated to the Department of Transportation, Pave and Rehabilitation (State) Program (64/00) pursuant to Sections 2 and 6 of this Act herein shall be increased to Twenty Million Dollars (\$20,000,000). The increased amount of Five Million Five Hundred Eleven Thousand Dollars (\$5,511,000) shall be appropriated from the Transportation Trust Fund. Of this Five Million Five Hundred Eleven Thousand Dollars (\$5,511,000), Four Hundred Sixty Thousand Dollars (\$460,000) shall be used for municipal street aid.

Section 16. Allocation of State Private Activity Bond Monies.

(a) Amend Subchapter VII, Chapter 50, Title 29 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new Subchapter VII to read as follows:

"SUBCHAPTER VII - Allocation of State Private
Activity Bond Ceiling to Governmental
Units, Establishment of Industrial Revenue
Bond Committee and Reporting Requirements

§5090. Definitions.

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) 'Authority' means The Delaware Economic Development Authority created by §5053 of this Title.

(2) 'Chairman' means the Chairman of the Authority.

(3) 'Chief Elected Official' means the highest elected official of any political subdivision of the State, including, but not limited to, the County Executive of New Castle County, the President of the Sussex County Council, the President of the Levy Court of Kent County and the Mayor of the City of Wilmington.

(4) 'Code' means the Internal Revenue Code of 1986, as amended.

(5) 'Committee' means the Industrial Revenue Bond Committee established pursuant to §5092 of this Title.

(6) 'Private Activity Bond' has the meaning ascribed to that term in the Code.

(7) 'Secretary of Finance' means the Secretary of Finance of the State.

(8) 'State' means the State of Delaware.

(9) 'State Ceiling' has the meaning ascribed to that term in the Code.

(10) 'Volume Cap' has the meaning ascribed to that term in the Code.

§5091. Allocation of State Ceiling.

(a) The \$150,000,000 State Ceiling applicable to the State for each calendar year after 1987 is hereby allocated, and the Volume Cap for the State and local governmental issuers for each calendar year after 1987 shall be, as follows:

	Annual
	<u>Volume Cap</u>
State	\$75,000,000
New Castle County	26,250,000
City of Wilmington	18,750,000
Kent County	15,000,000
Sussex County	<u>15,000,000</u>
	\$150,000,000

(b) The entire \$75,000,000 Volume Cap of the State for each calendar year after 1987 shall be retained by the State for future allocation by the Governor among the Delaware State Housing Authority, the Authority and other governmental issuers within the State.

(c) Each issuer's Volume Cap may be used for any type of Private Activity Bond and other tax-exempt obligations to which Section 146 of the Code applies.

(d) The Governor shall have the right, by executive order, to modify the allocations made under subsection (a) of this section; provided, however, that no such modification shall cause any obligation issued prior to the date of such modification to lose its qualification for tax-exempt treatment under the Code. This authority given to the Governor shall be exercisable by the Governor in his discretion, but in so doing, the Governor shall consider any recommendation by the Committee that is adopted by a majority of the Committee's members.

(e) An issuer's application and allocation of any portion of its Volume Cap to any obligations of such issuer shall be considered effective upon such issuer's delivery to the Secretary of Finance of a notice of the issuance of the obligations identifying the issuer, the proposed purchaser of such obligations, the amount of its Volume Cap allocated to such obligations, and the purpose of the financing, and providing such other information as the Secretary of Finance may require. Upon the request of any issuer, the Governor shall certify, based on notices of issuance and notices of reassignments filed with the Secretary of Finance pursuant to this section, whether or not such issuer's obligations meet the requirements of §146 of the Code.

(f) Subject to the provisions of subsection (d) of this section, any issuer (other than any authority, agency or instrumentality of the State) may reassign all or any portion of its Volume Cap to any other issuer, including the State or any of its authorities, agencies or instrumentalities. Any such reassignment shall be made by a written instrument and may be made upon such terms and conditions as may be specified in such written instrument. In the absence of any other procedure established by any political subdivision of the State, a reassignment by such political subdivision shall be made by its Chief Elected Official. Any such reassignment shall be effective upon receipt by the assignee and receipt of a copy of the written instrument by the Secretary of Finance. The Secretary of Finance shall maintain a record of all reassignments made pursuant to this subsection (f).

§5092. Industrial Revenue Bond Committee.

(a) There is hereby established the Industrial Revenue Bond Committee, to be composed of the Chairman, the Secretary of Finance, a representative of the Delaware State Housing Authority and one representative each from Sussex County, New Castle County, Kent County and the City of Wilmington, appointed by each jurisdiction pursuant to those procedures deemed by such jurisdiction to be necessary and appropriate. The Chairman shall be the Chairman of the Committee.

(b) The Committee shall make recommendations to the Governor of the State regarding modification of the allocation of the State Ceiling made in subsection (a) of §5091 of this Title. The Secretary of Finance shall be responsible for monitoring the volume of Private Activity Bonds issued by each of the participating jurisdictions and for recommending to the Committee changes in the allocation of the State Ceiling as circumstances dictate.

(c) The Committee shall meet at such times and in such places as its members determine to be appropriate for carrying out its functions and purposes. The Committee shall engage in other activities to promote the cooperation of jurisdictions on economic development projects within the State. The Secretary of Finance shall report to the Governor, the General Assembly and the Committee at the conclusion of each year on the projects financed with Private Activity Bonds and on other matters as appropriate.

§5093. Reports to the Secretary of Finance.

(a) The Secretary of Finance is authorized to make such rules and regulations requiring any issuer allocated a Volume Cap for any calendar year under §5091 of this Title to file with the Secretary of Finance such reports as the Secretary of Finance may deem necessary to carry out the purposes of this subchapter. Any such report required by the Secretary of

Finance shall contain at least the following information with respect to each obligation issued or planned to be issued by such issuer:

(1) A brief description of the project financed or to be financed by such obligation;

(2) The amount of such obligation that is subject to such issuer's Volume Cap, and, to the extent that any portion of such obligation is claimed to be not subject to its Volume Cap, an opinion of bond counsel to that effect;

(3) The date of issuance of such obligation or the date of preliminary approval if such obligation has not yet been issued; and

(4) A status report on the issuance, including the anticipated date of issue, if not yet issued.

(b) A copy of any report required by the Secretary of Finance pursuant to subsection (a) of this section shall be filed with the Secretary of Finance. In turn, the Secretary of Finance shall compile such reports and distribute the compilation to each issuer."

(b) This Section of this Act is not intended to have any effect, and shall have no effect, upon any allocation made under §5091 of Title 29 of the Delaware Code as in effect prior to the effective date of this Section of this Act, or upon any allocation made under Executive Order Number Twenty-Five(A), approved by the Governor on October 30, 1986, as amended by Executive Order Number Twenty-Five(B), approved by the Governor on December 23, 1986.

(c) This Section of this Act shall be construed and applied consistently with the terms of the Code (including particularly §146), with a view toward protecting the tax-exempt status of obligations issued in reliance upon this Section of this Act and maximizing the use of the State Ceiling applicable to the State for each calendar year after 1987.

(d) This Section of this Act shall take effect on January 1, 1988.

Section 17. Clarification of The Delaware Economic Development Authority's Power to Issue and Refund Bonds, and to Reflect Amendments to the Internal Revenue Code Made by the Tax Reform Act of 1986.

(a) Amend Subsection (11)d. of Section 5052, Title 29 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new Subsection (11)d. to read as follows:

"d. Any other activity (including, without limitation, the providing of working capital or the acquisition or carrying of inventory, accounts receivable, chattel paper or commercial instruments);"

(b) Amend Subsection (12) of Section 5052, Title 29 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new Subsection (12) to read as follows:

"(12) 'Related person' means a person who is a related person under §144(a)(3) of the Internal Revenue Code of 1986, as amended."

(c) Amend Subsection 5054(b), Title 29 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new Subsection 5054(b) to read as follows:

"(b) The Authority may issue bonds to refund bonds previously issued by the Authority or any other issuer, past or present, within the State (including, without limitation, the former Department of Community Affairs and Economic Development), including the payment of any redemption premium thereon and any interest accrued to the date of redemption of such bonds."

(d) Amend Subsection (e)(15) of Section 5054, Title 29 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new Subsection (e)(15) to read as follows:

"(15) To borrow money and issue bonds (the interest on which may be taxable or exempt from tax under the Internal Revenue Code of 1986, as amended) as provided in this subchapter, and provide for the rights of the holders thereof;"

(e) Amend the first sentence of Subsection 5055(e), Title 29 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new first sentence of Subsection 5055(e) to read as follows:

"(e) For purposes of §147(f) of the Internal Revenue Code of 1986, as amended, the Governor of this State, or an elected official of the State designated by the Governor for this purpose as permitted by such Code, shall have the authority and responsibility for approving, or withholding approval of, the issuance by the Authority of any bond."

(f) Subsections (a) through (e) of this Section of this Act shall take effect as of the effective date of this Act.

Section 18. Delaware Health Facilities Authority.

(a) In the subsection (2) of Section 9703 of Title 16 of the Delaware Code, in the first line after the word and comma "facility," the word "a" shall be deleted and the following shall be substituted in its place: "any activity whether a capital improvement or otherwise, including any".

(b) In subsection (2) of Section 9703 of Title 16 of the Delaware Code, the following phrase shall be deleted: "but shall not include such items as fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge".

(c) In subsection (3) of Section 9703 of Title 16 of the Delaware Code, in the second line following the phrase "all or any part of the", the following shall be added: "costs of a project, whether capital or otherwise, including the".

(d) Subsection (5) of Section 9703 of Title 16 of the Delaware Code, is hereby deleted in its entirety and the following is substituted in lieu thereof:

"(5) 'Facility', a health care facility within the State, including a 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 facility, home health agency and blood bank."

(e) In subsection (a) of Section 9704 of Title 16 of the Delaware Code, in the seventh sentence, the phrase "for 1 additional term" shall be deleted.

(f) In subsection (c) of Section 9718 of Title 16 of the Delaware Code, in the fourth line following the word and comma "America," the following shall be added: "or in any other obligation or security as may be determined by the Authority".

(g) In subsection (d) of Section 9718 of Title 16 of the Delaware Code, in the sixth line following the word and comma "America," the following shall be added: "or in any other obligation or security as may be determined by the Authority".

(h) This Act shall take effect upon its adoption pursuant to the provisions of State law.

Section 19. Taxable Bonds. Amend Section 7402(a) Title 29 of the Delaware Code, by striking it in its entirety and substituting in lieu thereof a new Section 7402(a) to read as follows:

"The issuing officers shall authorize the issuance of bonds, notes and revenue notes of the State by resolution adopted by the unanimous vote

of the issuing officers. Each issuing officer may designate a deputy to represent him as an issuing officer at meetings of the issuing officers with full powers to act and vote in his behalf. Bonds and notes shall be issued for the purposes authorized in an authorization act. Revenue notes shall be issued for purposes authorized by this chapter. Bonds, notes and revenue notes may be issued regardless of the treatment of interest thereon for federal income tax purposes."

Section 20. Capital Projects Funding. Amend Section 7414, Title 29 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new Section 7414 to read as follows:

"Section 7414 Deposit of Money; Advances from Funds.

(a) All proceeds from the sale of bonds or notes other than premium or accrued interest shall be deposited by the State Treasurer in a special fund or funds of the State and applied for the purposes for which such bonds or notes were issued or as otherwise provided by law. All proceeds from the sale of revenue notes and all premium or accrued interest from the sale of bonds, notes or revenue notes shall be deposited by the State Treasurer in the General Fund.

(b) The State may advance money to a special fund of the State established to hold money raised or to be raised to finance costs of projects authorized to be financed with the proceeds of bonds or notes after the adoption of an authorization act but prior to the issuance of bonds or notes authorized to be issued by that authorization act. Money may be advanced, in an amount not exceeding \$40,000,000, from any other fund of the State unless prohibited by any other law. Any money advanced must be repaid at the time the money advanced is needed for the purposes for which the money was held before being advanced."

Section 21. Advanced Real Property Acquisition Fund. It is the intent of the General Assembly that Twelve Thousand Dollars (\$12,000) appropriated in Section 3 of this Act to the Board of Education for the Appoquinimink School District be used to repay the Advanced Real Property Acquisition Fund (10-02-06-85-00).

Section 22. Advanced Planning Fund.

(a) It is the intent of the General Assembly that of the One Million Twenty-Five Thousand Two Hundred Sixty Dollars (\$1,025,260) appropriated in Section 1 of this Act to the State Board of Education for Seaford School District projects that Twenty Thousand Dollars (\$20,000) be used to repay the Advanced Planning Fund (10-02-006-84-00).

(b) It is also the intent of the General Assembly that of the Four Hundred Sixty-Six Thousand Five Hundred Dollars (\$466,500) appropriated to the Department of Health & Social Services in Section 3 of this Act, that Twenty-Five Thousand (\$25,000) be used to repay the Advanced Planning Fund (10-02-006-84-00).

Section 23. Economic Development.

(a) Amend Volume 65, Chapter 385 Sections 12(a) and 12(b) of the Laws of Delaware by striking the word "hangar" wherever it appears and inserting in lieu thereof "aviation-related building."

(b) It is the intent of the General Assembly that Three Hundred Thousand Dollars (\$300,000) appropriated to the Delaware Development Office in Section 3 of this Act be used to purchase approximately four (4) acres of land from New Castle County on Basin Road in an area between Commons Boulevard and the DuPont Highway, proximate to Air National Guard Buildings, upon which a structure housing Board of Elections equipment is situated. The State shall not purchase this acreage until New Castle County transfers to the Air National Guard approximately six (6) acres of land located east of the four (4) acres described above, on Basin Road in an area between Commons Boulevard and

DuPont Highway, and upon which the Air National Guard plans to complete its headquarters and other building needs.

Section 24. Liberty Civic Center.

(a) It is the intent of the General Assembly that Five Hundred Fifty Thousand Dollars (\$550,000) appropriated in Section 3 of this Act to the Delaware Development Office ("Office") be used to assess the establishment of and potential funding of a civic center in or near Dover, Delaware. The Office, in conjunction with other appropriate private and/or public entities and persons, shall examine, but not be limited to, the following topics:

(1) Funding of the civic center (including private and public contributions for operating and/or capitalization costs);

(2) The appropriate size of the civic center;

(3) The cost of the civic center;

(4) The most desirable location for such a center;

(5) The potential profit or loss of a civic center's 10-year pro forma;

(6) The financial histories of other similar civic centers in the United States;

(7) The civic center's economic effects on State and local governments and on the private sector; and

(8) The governing body (authority, corporation or other vehicle) best suited to build, operate and manage a civic center if construction of such seems warranted.

(b) The balance of the total appropriation may be expended for land purchase in or near Dover to site the civic center if the Delaware Development Office determines that:

(1) The civic center is economically feasible; and

(2) A governing body (authority, corporation or other vehicle) best suited to build, operate and manage a civic center has been created by State law.

(c) The Director of the Office shall consider the results of the items discussed above in the Executive and Legislative Fiscal Year 1989 State Capital Budget deliberations.

Section 25. Fort Christina Park. It is the intent of the General Assembly that the Delaware Development Office will explore the possibility of transferring title for Fort Christina Park, Wilmington, from the State of Delaware to the City of Wilmington ("City"). Should the Delaware Development Office weigh the merits of such a transfer and determine that such a transfer is desirable, and that the City is willing to accept the park at no cost to the State, then the Delaware Development Office is given the authority to request that the Secretary of State transfer the property and notify the General Assembly when the transfer is completed.

Section 26. Advanced Composites Materials Study. According to the High Technology Task Force, the State is in the unique position to attract the advanced composites materials industry ("industry") to Delaware. To take advantage of this potential opportunity, the General Assembly intends that the Fifty Thousand Dollars (\$50,000) appropriated in Section 6 of this Act to the Delaware Development Office ("Office") be used to attract composite materials firms to the State. The Office shall, in conjunction with other appropriate private and/or public entities and persons study, but not be limited to, the following topics:

(a) The potential of the industry in Delaware;

(b) The sectors of the industry, if any, the State should attract and encourage;

(c) The methods by which the public and private sectors should encourage the industry; and

(d) The financing mechanisms to pay for the methods recommended in (c) above.

Section 27. Veterans Cemetery. It is the intent of the General Assembly that Three Hundred Sixty Thousand Dollars (\$360,000) appropriated in Section 6 of this Act to the Department of State shall be used to continue the development of a Delaware Veterans Cemetery in New Castle County. This appropriation plus past appropriations and the value of the land shall be used to match an equal amount of federal funds for the development of the cemetery.

Section 28. Delaware Geological Survey Building. It is the intent of the General Assembly that One Million Three Hundred Thousand Dollars (\$1,300,000) appropriated in Section 6 of this Act to the Department of Administrative Services shall be used to construct a building to house the Delaware Geological Survey on the University of Delaware Newark campus. The Secretary of Administrative Services shall review and approve and, if necessary, modify the engineering and architectural plans developed pursuant to the Fiscal Year 1987 Capital Improvement Act and may enter into arrangements with the University of Delaware to supervise the construction of the building. The University of Delaware shall assume all responsibility for the operations and maintenance of the facility.

Section 29. Tatnall Building/Legislative Hall. It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) appropriated in Section 1 of this Act, the sum of Six Hundred Fifty-Two Thousand Ninety-Three Dollars (\$652,093) appropriated in Section 8 of this Act and the sum of Eight Hundred Forty-Seven Thousand Nine Hundred Seven Dollars (\$847,907) appropriated in Section 3 of this Act to the Department of Administrative Services ("Department") be used by the Department to undertake a renovation of the Tatnall Building/Legislative Hall in Dover. The final design plans must be approved by Legislative Council before monies appropriated herein are spent for any renovation or construction.

Section 30. Wilmington Public Building. From funds previously appropriated by the General Assembly for the Wilmington Public Building project, the Secretary of Administrative Services is directed to retain architectural services to design a third courtroom and other necessary office and support facilities to adequately accommodate the needs of the Court of Chancery in the Public Building. The Secretary is directed to take all steps necessary to obtain, prior to the end of Fiscal Year 1988, competitive bids for the necessary construction and renovation work so that a public works contract can be awarded immediately upon the future appropriation of the necessary funds.

Section 31. Capitol Complex Electric Distribution System. It is the intent of the General Assembly that Two Hundred Thousand Dollars (\$200,000) appropriated to the Department of Administrative Services in Section 2 of this Act for the Capitol Complex Electric Distribution System be used to upgrade the system to City of Dover standards. The Secretary of the Department of Administrative Services is authorized to contract with the City of Dover to undertake improvements to the electric distribution system provided that the City of Dover agrees to accept ownership of the system and be responsible for ongoing operations and maintenance of the system.

Section 32. Sussex County Family Court. The Secretary of Administrative Services is authorized from monies previously appropriated to the project in the Fiscal Year 1987 Capital Improvement Act (Volume 65, Chapter 214, Laws of Delaware) to acquire land for the purposes of employee and visitor parking for the Sussex County Family Court facility in Georgetown, Delaware.

Section 33. Asbestos.

(a) The sum of Two Million Four Hundred Eighty-Nine Thousand Eight Hundred Ninety-Four Dollars (\$2,489,894) appropriated in Section 1 of this Act and the sum of Five Hundred Ten Thousand One Hundred Six Dollars (\$510,106) appropriated in Section 3 of this Act to the Department of Administrative Services shall be used to implement a comprehensive program of asbestos control in State-owned facilities and public schools. The Secretary of Administrative Services is hereby directed to implement the prioritized listing of asbestos control projects in accordance with the consultant's studies performed for the Department of Administrative Services and for the Department of Public Instruction.

(b) The funds appropriated herein may be used by the Secretary of Administrative Services for any activity relating to the detection, removal,

encapsulation and/or enclosure of asbestos, or reinsulation of areas where asbestos has been removed, in State-owned buildings and public schools, including the relocation of personnel, functions or activities whenever necessary at the discretion of the Secretary of Administrative Services.

(c) Of the Three Million Dollars (\$3,000,000) herein appropriated, One Million Dollars (\$1,000,000) shall be made available for asbestos control projects in public schools in the State of Delaware. Funds allocated by the Secretary of Administrative Services for use by local school districts shall constitute the State's sixty percent (60%) share of a minor capital improvement as defined by §7528 of Title 29 of the Delaware Code. Each qualifying school district shall authorize its forty percent (40%) share which, together with the State match, shall be used to complete the designated asbestos control project. If the school district is able to obtain federal funds for an approved asbestos removal project, each qualifying school district shall be authorized its forty percent (40%) share of the non-federal portion of the project which, together with the State match, shall be used to qualify for federal funds. No local school district may participate in the use of these funds without first providing its local share pursuant to the provisions of this Section and other pertinent provisions of Delaware law.

(d) The Secretary of Administrative Services shall approve the standards and specifications for all asbestos control projects funded with State monies from any source. The selection of asbestos abatement contractors and environmental monitoring firms will be based solely upon qualifications, experience and ability to perform asbestos abatement activities. The Department of Administrative Services shall approve the selections of the asbestos abatement contractors for all asbestos control projects funded with State monies from any source.

Section 34. Beach Preservation - General. It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) be appropriated in Section 6 of this Act to the Department of Natural Resources & Environmental Control be used for shoreline stabilization along the coasts of the State (River Bay and Oceanfront). In the event that local or county governments irrevocably pledge equal non-State funds to projects improving or restoring publically accessible beaches, the Secretary shall give priority to such projects.

Section 35. Soil and Water Conservation. It is the intent of the General Assembly that Three Hundred Fifteen Thousand Dollars (\$315,000) appropriated in Section 6 of this Act to the Department of Natural Resources & Environmental Control ("Department") be used for the Department's soil and water district conservation program. Of the Three Hundred Fifteen Thousand Dollars (\$315,000) appropriated herein, the Department shall set aside one-third [One Hundred Five Thousand Dollars (\$105,000)], for use in each county. Of the One Hundred Five Thousand Dollars (\$105,000) set aside for New Castle County, Fifteen Thousand Dollars (\$15,000) shall be used for a water conservation project in the County. Also, of the One Hundred Five Thousand Dollars (\$105,000) set aside for Sussex County, Forty Thousand Dollars (\$40,000) shall be used preferably for Sussex County animal waste storage facilities. If the entire Forty Thousand Dollars (\$40,000) is not needed for animal waste storage facilities in Sussex County, the remainder may be spent for other Sussex County conservation projects. Of the One Hundred Five Thousand Dollars (\$105,000) set aside for Kent County, Forty Thousand Dollars (\$40,000) shall be used preferably for Kent County animal waste storage facilities to prevent soil and water pollution. If the entire Forty Thousand Dollars (\$40,000) is not needed for animal waste storage facilities in Kent County, the remainder may be spent for other Kent County conservation projects.

Section 36. Equipment - Department of Natural Resources & Environmental Control. It is the intent of the General Assembly that One Hundred Thousand (\$100,000) appropriated in Section 3 of this Act to the Department of Natural Resources and Environmental Control ("Department") be used by the Department for Division of Water Resources equipment.

Section 37. Churchman's Reservoir Study. It is the intent of the General Assembly that One Hundred Thousand Dollars (\$100,000) appropriated in Section 6 of this Act to the Department of Natural Resources and Environmental Control ("Department") be used by the Water Resources Agency of New Castle County to undertake an Environmental Impact Study for a water reservoir on land commonly known as the "Churchman's Property" located north of I-95, south of Stanton and west of Newport in New Castle County. The study shall include all sites that may serve as potential reservoir locations in New Castle County. These funds must be matched by Two Hundred Thousand Dollars (\$200,000) in non-State funds before the Department may encumber any of the funds appropriated herein.

Section 38. Water and Wastewater Systems Study. It is the intent of the General Assembly that One Hundred Twenty-Five Thousand Dollars (\$125,000) appropriated to the Department of Natural Resources and Environmental Control ("Department") in Section 6 of this Act be used to study the condition of water and wastewater systems in the State. The study shall determine the cost and procedures to repair, construct, expand and maintain water and wastewater systems in Delaware. The Delaware Development Office shall be a party to all activities concerning the appropriation herein.

Section 39. Christina Boat Ramp. It is the intent of the General Assembly that the remaining unencumbered balance previously appropriated to the Department of Natural Resources and Environmental Control for a boat ramp on the Christina River in Volume 63, Chapter 179, Fund Line 40-06-01-5217 and for other boat ramps in Volume 65, Chapter 212, Fund Line 40-05-02-5514 be reappropriated for the purposes of constructing a boat ramp on the Christina River.

Section 40. Troop 4 Building. It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) appropriated in Section 6 of this Act to the Department of Public Safety shall be used for a new Troop 4 building in or near Georgetown. The proceeds from the sale of the property now occupied by Troop 4 shall be deposited in the State Treasurer's Bond Reversion Account #12-05-003-40-00.

Section 41. Radio-Based Early Warning System. It is the intent of the General Assembly to allow the Department of Public Safety ("Department") to enter into a lease agreement with a firm selling a radio-based early warning system to demonstrate the system on a trial basis at no cost whatsoever to the State in Fiscal Year 1988. During that trial period, the Department with the concurrence of the State Telecommunications Committee will undertake a thorough evaluation of the system and, if at the end of the trial period the Department determines that purchasing the system would represent a sound investment for the State, it is understood that the Department may seek capital funding in future fiscal years.

Section 42. Eastern Shore Railroad. It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) appropriated in Section 6 of this Act to the Department of Transportation shall be used for the purpose of keeping the Eastern Shore Railroad in operation until such time as a private purchase can be made. When such sale is made, any funds shall be returned to the Road Improvement Fund.

Section 43. Traffic Control Devices.

(a) It is the intent of the General Assembly that the sum of Six Hundred Sixty-One Thousand Dollars (\$661,000) appropriated in Section 6 of this Act to the Department of Transportation ("Department") shall be expended by the Department for warranted traffic signals, warranted speed humps, and other warranted safety projects.

Section 44. Department of Transportation Miscellaneous Projects. It is the intent of the General Assembly that of the One Million Dollars (\$1,000,000) appropriated in Section 2 of this Act to the Department of Transportation that Forty Thousand Dollars (\$40,000) shall be used to purchase and place standpipes on Interstate 495 in New Castle County. The Department shall confer with the local fire districts to determine the most appropriate locations for the standpipes. Of the One Million Dollars (\$1,000,000) appropriated herein, Fifteen Thousand Dollars (\$15,000) shall be used to purchase and install four (4) dry hydrants, one on the north and one on the south of Wagamon's Pond bridge on Mulberry Street, one west of Wagamon's Pond on Lavanin Campground Road and one on Cedar Beach Bridge (State Road 36).

Section 45. Department of Transportation Equipment. The Secretary of the Department of Transportation ("Department") is directed to expend funds not in excess of the One Million Dollars (\$1,000,000) authorized in Section 2 of this Act on equipment necessary to carry out the duties of the Department. The Secretary of the Department shall first expend any available General Funds on equipment with an anticipated useful life of five (5) years or less. To the extent the Department's needs are not met by this source of funds, the Secretary of the Department is authorized to supplement the General Fund sources with funds authorized by this Act, for any equipment needed for the construction or maintenance of the State's highways and roads or for the administration of the Department.

Section 46. Department of Transportation Compensation. Each year the Federal Highway Administration makes available additional funding for highway projects. In order for a State to take advantage of this opportunity, the projects must be ready to immediately utilize the funding. The Secretary of the Department of Transportation ("Department") is hereby authorized to pay overtime wages during Fiscal Year 1988 to the Department's employees that are preparing projects for authorization. In order to

accomplish the purpose expressed herein, any relevant Delaware law, rule or regulation to the contrary is hereby waived.

Section 47. Department of Transportation Accounts.

(a) Any funds appropriated from any source to the Department of Transportation ("Department") shall be accounted for by program category as specified in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof. Amounts indicated for individual projects in the "Supplemental List of Transportation Projects" are the Department's best estimates of cost, but may vary depending on bid results and project designs. The description and limits are general in nature and are to be used only for project identification purposes. It is the intent of the General Assembly that the Secretary of the Department make all reasonable efforts to insure the timely completion of projects subject to the limitation of the total funds available in each program.

(b) The Secretary of the Department is directed to continue inspecting the condition of bridges in the State of Delaware and to use the Bridge Program funds made available by this and previous acts to insure that bridge repairs and replacements are carried out in an expeditious manner.

Section 48. Department of Transportation Study. It is the intent of the General Assembly that the Department of Transportation ("Department") undertake a study to determine the need and feasibility of establishing a priority system for determining the reconstruction and rehabilitation of suburban streets and secondary roads, and an appropriate funding plan. This study should include but not be limited to advanced planning, a prioritized reconstruction schedule, anticipated funding, evaluation of existing standards and specifications for the construction of new roads and the inspection process for both newly-constructed suburban streets as well as the reconstruction of suburban streets. The Department shall report its findings to the Legislative Bond Bill Committee no later than April 1, 1988.

Section 49. Department of Agriculture Space.

(a) The sum of One Hundred Thousand Dollars (\$100,000) appropriated in Section 1 of this Act to the Department of Agriculture shall be used to increase the amount of space available for the Department of Agriculture's office and ancillary uses. The funds appropriated herein may be used for one of the two following purposes:

(1) as earnest money for the purchase of the church property located directly south and adjacent to the Department of Agriculture Building in Dover; or

(2) for architectural and engineering fees required to expand the existing Department of Agriculture Building in Dover.

(b) These funds may be expended only after the Director of the Delaware Development Office, the Secretary of the Department of Administrative Services and the Secretary of the Department of Agriculture choose one of the two purposes described above in this Section as the method to increase the amount of space available for the Department of Agriculture. It is also the intent of the General Assembly that by September 1, 1987, the Department of Agriculture shall transfer the funds appropriated herein to the Department of Administrative Services, which owns the Agricultural Building. The Department of Administrative Services shall be responsible for fulfilling the intent of this Section.

Section 50. Fire Marshal Building. The sum of Five Hundred Seventy Thousand Dollars (\$570,000) appropriated in Section 1 of this Act to the State Fire Prevention Commission ("Commission") shall be transferred by the Commission to the Department of Administrative Services no later than September 30, 1987. The funds appropriated herein shall not be spent without the approvals of the Secretary of the Department of Administrative Services and the Commission or its designee.

Section 51. Infrastructure - University of Delaware. Notwithstanding any other State laws to the contrary, Forty-Five Thousand Dollars (\$45,000) appropriated in Section 6 of this Act to the University of Delaware ("University") shall be used as reimbursement for infrastructure costs on University-owned property in the area of Wyoming and Library Avenues in Newark.

Section 52. Alison Hall - University of Delaware. The sum of One Million Three Hundred Thousand Dollars (\$1,300,000) appropriated in Section 6 of this Act to the

University of Delaware represents the first of two (2) appropriations to complete Allison Hall. The University of Delaware is not required to match the appropriation herein.

Section 53. Athletic Buildings - University of Delaware. The sum of Two Hundred Thousand Dollars (\$200,000) appropriated to the University of Delaware ("University") in Section 6 of this Act shall be used by the University for the following items:

(1) Examine athletic program space requirements and plan for any such proposed additional space needs;

(2) Study the provision of additional seats in Delaware Field House to increase seating for collegiate basketball games; and

(3) Develop plans for a new sports physiology building.

The University is encouraged to use students in these studies.

Section 54. Delaware State College Wall. It is the intent of the General Assembly that funds in project account number 90-03-04-5515 previously appropriated for the pedestrian overpass at Delaware State College, be used to continue to construct a wall in front of the Delaware State College, Dover campus, along Route 13.

Section 55. Delaware Technical and Community College Southern Museum. The sum of Seventy Thousand Dollars (\$70,000) appropriated in Section 3 of this Act and the sum of One Hundred Eighty Thousand Dollars (\$180,000) appropriated in Section 6 of this Act to Delaware Technical and Community College ("College") shall be used to renovate current space at the College's Georgetown campus for a museum. The museum shall display, among other items, the artifacts of the Atocha shipwreck.

Section 56. Delaware Technical and Community College - Terry Campus. It is the intent of the General Assembly that the sum of One Million Dollars (\$1,000,000) appropriated in Section 1 of this Act to Delaware Technical and Community College ("College") and the Six Hundred Fifty Thousand Dollars (\$650,000) appropriated in Section 3 of this Act to the State Board of Education for the Kent Vocational-Technical Woodside campus shall be used only after the Kent Vocational-Technical Board of Directors agree with the College Board of Directors to allow the College to use the Kent Vocational-Technical North Facility ("North Facility") on a long-term basis, either by lease or some other means. Only after such an agreement is made shall the One Million Dollars (\$1,000,000) appropriated herein be used to renovate the North Facility for the benefit of the College, and the Six Hundred Fifty Thousand Dollars (\$650,000) appropriated herein used to renovate and improve the Kent Vocational-Technical Woodside campus.

Section 57. Old Stone School. It is the intent of the General Assembly that Twenty Two Thousand Eight Hundred Dollars (\$22,800) appropriated in Section 1 of this Act to the Department of Public Instruction ("Department") for the benefit of the Brandywine School District be used by the Department to undertake the renovation of the Old Stone School located in the area of Philadelphia Pike and Darley Road in Claymont. The District must provide a forty (40) percent match in the amount of Fifteen Thousand Two Hundred Dollars (\$15,200) before the Department may encumber any of the funds appropriated herein.

Section 58. Hodgson Vocational and Technical School. The sum of Seven Hundred Fifty Thousand Dollars (\$750,000) appropriated in Section 1 of this Act to the Board of Education shall be used for cafeteria and other miscellaneous improvements at Hodgson Vocational and Technical School. No funds appropriated in this Act shall be used for planning, architectural or engineering activities.

Section 59. Appropriations for Minor Capital Improvements.

(a) It is the intent of the General Assembly that the sum of Two Million Nine Hundred Seventy Thousand Seven Hundred Eight Dollars (\$2,970,708) appropriated in Section 3 of this Act to the State Board of Education be used for minor capital improvements to school buildings. This amount shall be paid by the State Board of Education to local districts in the following amounts:

School District	Maximum State Share	Local Share	Maximum Total Cost
Appoquinimink	\$ 59,440	\$ 39,626	\$ 99,066
Brandywine	282,339	188,226	470,565
Special	37,150	-0-	37,150

Christina Special	431,869 36,943	287,913 -0-	719,782 36,943
Colonial Special	248,439 31,114	165,626 -0-	414,065 31,114
New Castle Vo-Tech	207,575	-0-	207,575
Red Clay Special	356,639 47,366	237,759 -0-	594,398 47,366
Caesar Rodney	133,740	89,160	222,900
Capital	148,135	98,757	246,892
Kent Vo-Tech	23,218	-0-	23,218
Lake Forest	83,123	55,415	138,538
Milford	85,445	56,963	142,408
Smyrna	69,655	46,437	116,092
Cape Henlopen	93,339	62,226	155,565
Delmar	18,574	12,383	30,957
Indian River	167,638	111,760	279,398
Laurel	49,222	32,815	82,037
Seaford	87,767	58,511	146,278
Sussex Vo-Tech	26,934	-0-	26,934
Woodbridge	<u>45,044</u>	<u>30,029</u>	<u>75,073</u>
MINOR CAPITAL IMPROVEMENTS	\$2,770,708	\$1,573,606	\$4,344,314
STATE BOARD OF EDUCATION	\$ 115,000		
VOCATIONAL EQUIPMENT	<u>\$ 85,000</u>		
TOTAL	<u>\$2,970,708</u>		

(b) It is the intent of the General Assembly that Eight Hundred Fifty Thousand Dollars (\$850,000) of the Two Million Nine Hundred Seventy Thousand Seven Hundred Eight Dollars (\$2,970,708) allocated pursuant to Paragraph (a) of this Section, be used by the local school districts to the fullest extent possible for energy projects eligible for funding from the proceeds of the settlement of the Exxon Oil Overcharge case administered by the Department of Administrative Services. The State Board of Education will take the necessary steps to insure to the fullest extent possible the maximum use of the Exxon Oil Overcharge funds for energy conservation projects. All potentially eligible projects will be referred to the State Energy Weatherization Committee by the State Board of Education for consideration for funding from the Exxon Oil Overcharge Account.

(c) For all projects eligible for Exxon funding as determined by the State Energy Weatherization Committee, the State funds appropriated in Paragraph (a) of this Section and other available funds such as energy conservation portions of Major Capital Improvement Projects and School Building Maintenance Projects with the required local share shall constitute a fifty percent (50%) contribution toward the cost of the eligible project, and the remaining fifty percent (50%) of the project cost shall come from Exxon Oil Overcharge funds administered by the Department of Administrative Services.

Section 60. Use of appropriated funds for inspecting and auditing. Amend Title 29 by deleting in its entirety Section 7526 and substituting in lieu thereof a new Section 7526 as follows:

"§7526. Use of appropriated funds for inspecting and auditing.

(a) The local school district shall apply such portions of the total cost of any school construction improvement authorized by a school construction bond authorization act as shall be necessary to provide for the cost of auditing such school construction improvement, but in no event shall such portion exceed one-half percent (1/2%) of such total cost. The Auditor of Accounts shall be responsible for conducting or having conducted such audit subject to the provisions of §2906(c) and (d) and §§2907, 2908 and 2909 of Title 29, Delaware Code as amended.

(b) The local school district shall allocate such portion of the total cost of major school construction improvements for which funds are appropriated by an authorization act as shall be necessary to provide for the cost of inspecting such school construction improvement. The local school district may also allocate a portion of the funds appropriated for minor school improvements for such inspection services. The portion of such total cost to be allocated for inspection services shall not exceed the following percentages of the total cost:

- (1) Improvements with a total cost in excess of \$1,000,000 (1.50%)
- (2) Improvements with a total cost of \$1,000,000 or less (1.75%)
- (3) Reconstruction and renovation improvements (1.75%)

(c) The local school district shall let contracts for inspection of school construction improvements. In contracting for the inspection of major or minor school construction improvements, the local school district shall give first preference to an experienced and able Delaware organization offering to provide such inspection services on a non-profit, at-cost basis. Such contracts shall not be deemed public works contracts as defined in Chapter 69, Title 29, Delaware Code as amended. If no such organization is able or willing to perform such specialized service on such non-profit, at-cost basis, then the local school district may contract for such services with profit-making organizations subject to the provisions of Chapter 69, Title 29, Delaware Code."

Section 61. Bond Verification. All bonds issued, or herein before or herein authorized to be issued, by the State are hereby determined to be within all debt and authorization limits of the State.

Section 62. Inconsistency. Insofar as the provisions of this Act are inconsistent with the provisions of any general, special, or local laws, or parts thereof, the provisions of this Act shall be controlling.

Section 63. Severability. If any section, part, phrase, or provision of this Act or the application thereof be held invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof.

Section 64. Effective Date.
This Act shall take effect in accordance with the provisions of State law.

Approved July 2, 1987.

FISCAL YEAR 1988 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

Agency/Project	New GO Bond Author- izations	Deauthor- izations	Reversion & Repro- gramming	OTA Road Improvement	1st State Improvement	New OTA Bonds	Stripper Well	All Other Funds	Total
DELAWARE DEVELOPMENT OFFICE									
Christina Gateway Improvements	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 1,953,000	\$ -0-	\$ -0-	\$ -0-	\$ 1,953,000
Harrington Industrial Area Dev.	-0-	-0-	-0-	-0-	335,565	-0-	-0-	151,700	487,265
New Castle Corporate Commons	-0-	-0-	-0-	-0-	300,000	-0-	-0-	-0-	300,000
Composites	-0-	-0-	-0-	-0-	-0-	-0-	-0-	50,000	50,000
Civic Center Study	-0-	-0-	-0-	-0-	550,000	-0-	-0-	-0-	550,000
Subtotal	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 3,138,565	\$ -0-	\$ -0-	\$ 201,700	\$ 3,340,265
DEPARTMENT OF STATE									
Buena Vista Tenant House Acquisition	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 85,000	\$ -0-	\$ -0-	\$ -0-	\$ 85,000
Dickinson Plantation Completion	-0-	-0-	-0-	-0-	40,000	-0-	-0-	-0-	40,000
Buena Vista Renovation	-0-	-0-	-0-	-0-	50,000	-0-	12,000	-0-	62,000
MC1	350,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	350,000
Belmont Hall Renovation	200,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	200,000
Veterans Cemetery	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	360,000
Subtotal	\$ 550,000	\$ -0-	\$ -0-	\$ -0-	\$ 175,000	\$ -0-	\$ 12,000	\$ 360,000	\$ 1,097,000
DEPARTMENT OF ADMINISTRATIVE SERVICES									
Tatnall Building Interior Renovations	\$ -0-	\$ 500,000	\$ 652,093	\$ -0-	\$ 847,907	\$ -0-	\$ -0-	\$ -0-	\$ 2,000,000
Minor Capital Improvements	-0-	-0-	232,000	-0-	391,881	-0-	50,350	-0-	674,231
Cooper Building Renovations	495,912	-0-	1,272,088	-0-	-0-	-0-	232,000	-0-	2,000,000
Asbestos Abatement	970,586	1,519,308	-0-	-0-	510,106	-0-	-0-	-0-	3,000,000
Kent Co. Family Crt. Site Improvements	750,000	-0-	-0-	-0-	-0-	-0-	-0-	-0-	750,000
Purchasing Warehouse	150,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	150,000
Capitol Complex Electric System	200,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	200,000
Sussex Elections Building	125,000	-0-	-0-	-0-	-0-	-0-	-0-	-0-	125,000
DGS Lab and Office Building	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Subtotal	\$ 2,691,498	\$ 2,019,308	\$ 2,156,181	\$ -0-	\$ 1,749,894	\$ -0-	\$ 282,350	\$ 1,300,000	\$ 10,199,231
DEPARTMENT OF HEALTH & SOCIAL SERVICES									
Minor Capital Improvements	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 528,300	\$ -0-	\$ 217,200	\$ -0-	\$ 745,500
DHSS - Furniture/Equipment	-0-	-0-	-0-	-0-	150,000	-0-	-0-	-0-	150,000
EPBH - Main Building Renovation	325,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	325,000

*10-Year Bonds.

Agency/Project	New GO Bond Author- izations	Death- toll	Rever- sion & Repor- turing	DIA Road Improvement	Let State Improvement	New DIA Bonds	Stripper Well	ALL Other Funds	Total
DHSS - Campus Relocation	\$ 900,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 900,000
DHCC - Window Replacement	-0-	-0-	-0-	-0-	-0-	-0-	165,000	-0-	165,000
Stockley - Medical Center Repairs	-0-	-0-	-0-	-0-	-0-	-0-	215,000	-0-	215,000
BADA - Hughes HVAC (GBHC)	-0-	-0-	-0-	-0-	-0-	-0-	125,000	-0-	125,000
OPH - Public Health Lab	1,500,000	-0-	-0-	-0-	-0-	-0-	-0-	-0-	1,500,000
Medical Examiner's Lab	-0-	-0-	-0-	-0-	-0-	-0-	-0-	50,000	50,000
OSH - Phased Roof Replacement	-0-	-0-	-0-	-0-	82,500	-0-	-0-	-0-	82,500
DHCC - Kitchen Ventilation	-0-	-0-	-0-	-0-	466,500	-0-	-0-	-0-	466,500
OSH - Replace Water Piping	-0-	-0-	-0-	-0-	100,000	-0-	-0-	-0-	100,000
OSH - Rewiring	-0-	-0-	-0-	-0-	200,000	-0-	-0-	-0-	200,000
Subtotal	\$2,725,000	\$ -0-	\$ -0-	\$ -0-	\$1,527,300	\$ -0-	\$ 722,200	\$ 50,000	\$5,024,500

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH & THEIR FAMILIES

Administration Offices	\$1,600,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,600,000
Eval. & Treatment Ctr. - Parking Lot	33,786*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	33,786
Fire Safety Renovations - Ferris	-0-	-0-	-0-	-0-	50,000	-0-	-0-	-0-	50,000
Roof Replace - Voc. & Security - Ferris	-0-	-0-	-0-	-0-	80,000	-0-	-0-	-0-	80,000
Phased Roof Replacement - Terry	-0-	-0-	-0-	-0-	50,000	-0-	-0-	-0-	50,000
Audio System - Security Bldg. - Ferris	-0-	-0-	-0-	-0-	20,000	-0-	-0-	-0-	20,000
Supplemental Heat Unit #5 - Ferris	-0-	-0-	-0-	-0-	-0-	-0-	35,000	-0-	35,000
Supplemental Heat Unit #6 - Ferris	-0-	-0-	-0-	-0-	-0-	-0-	40,000	-0-	40,000
Cald Harlan Heating	-0-	-0-	-0-	-0-	-0-	-0-	22,500	-0-	22,500
Subtotal	\$1,633,786	\$ -0-	\$ -0-	\$ -0-	\$ 200,000	\$ -0-	\$ 97,500	\$ -0-	\$1,931,286

DEPARTMENT OF CORRECTION

DCC - MCI	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 120,000	\$ -0-	\$ 120,000
SCC - MCI	-0-	-0-	-0-	-0-	-0-	-0-	35,000	-0-	35,000
Morris Correctional Center - MCI	-0-	-0-	-0-	-0-	-0-	-0-	7,500	-0-	7,500
Prison Security Program	500,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	500,000
Sussex Work Release Bldg. Utilities	-0-	-0-	-0-	-0-	100,000	-0-	-0-	-0-	100,000
Subtotal	\$ 500,000	\$ -0-	\$ -0-	\$ -0-	\$ 100,000	\$ -0-	\$ 162,500	\$ -0-	\$ 762,500

DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL

Sewer Construction	\$ -0-	\$ -0-	\$1,500,361	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 499,639	\$2,000,000
Marine Police Craft	-0-	-0-	-0-	-0-	-0-	-0-	-0-	32,500	32,500

*10-Year Bonds.

Agency/Project	New GO Bond Author- izations	Deauthor- izations	Reversion & Repro- gramming	DTA Road Improvement	1st State Improvement	New DTA Bonds	Stripper Well	All Other Funds	Total
Dredge Worthyboat	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 37,500	\$ 37,500
Rockwood Acquisition	125,000	-0-	-0-	-0-	-0-	-0-	-0-	-0-	125,000
Rotary Excavator	175,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	175,000
WRA-EIS	-0-	-0-	-0-	-0-	-0-	-0-	-0-	100,000	100,000
Tax Ditches	-0-	-0-	-0-	-0-	-0-	-0-	-0-	450,000	450,000
Conservation Program	-0-	-0-	-0-	-0-	-0-	-0-	-0-	315,000	315,000
Beach Preservation	-0-	-0-	-0-	-0-	-0-	-0-	-0-	500,000	500,000
Water & Sewer Study	-0-	-0-	-0-	-0-	-0-	-0-	-0-	125,000	125,000
Bldg./Road Rehabilitation	-0-	-0-	-0-	-0-	350,000	-0-	2,400	-0-	352,400
Equipment - Water Resources	-0-	-0-	-0-	-0-	100,000	-0-	-0-	-0-	100,000
LAW Conservation Fund	-0-	-0-	500,000	-0-	-0-	-0-	-0-	-0-	500,000
Subtotal	\$ 300,000	\$ -0-	\$ 2,000,361	\$ -0-	\$ 450,000	\$ -0-	\$ 2,400	\$ 2,059,639	\$ 4,812,400

DEPARTMENT OF PUBLIC SAFETY

DSP - Helicopter Lease	\$ -0-	\$ 153,700*	-0-	-0-	-0-	-0-	-0-	-0-	\$ 153,700
DSP - Automated Fingerprint I.D.	375,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	375,000
DSP - Weigh-in Motion System	26,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	26,000
DSP - Troop 6 Garage Roof & Door	-0-	-0-	-0-	-0-	17,000	-0-	-0-	-0-	17,000
DW - Motorcycle Course	-0-	-0-	-0-	-0-	38,000	-0-	-0-	-0-	38,000
DEPO - EOC Security Fence	4,200*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	4,200
Governor Bacon Facility	-0-	-0-	-0-	-0-	-0-	-0-	20,000	-0-	20,000
Georgetown Inspection Lanes	-0-	-0-	-0-	-0-	-0-	-0-	12,200	-0-	12,200
Communications Bldg. Cost Overrun	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	70,000
Troop 4 Building	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	500,000
Subtotal	\$ 405,200	\$ 153,700	\$ -0-	\$ -0-	\$ 55,000	\$ -0-	\$ 32,200	\$ 570,000	\$ 1,216,100

DEPARTMENT OF COMMUNITY AFFAIRS

Architectural Barrier Removal	\$ 50,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 50,000
Subtotal	\$ 50,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 50,000

DEPARTMENT OF TRANSPORTATION

Corridor/Non Corridor (66/00)	\$ -0-	\$ -0-	\$ 945,000	\$ -0-	\$ -0-	\$ 21,245,500	\$ -0-	\$ 20,000,000	\$ 42,190,500
Bridge Program (65/00)	5,386,500	-0-	-0-	-0-	-0-	-0-	-0-	-0-	5,386,500
Pave. & Rehab. (64/00)	-0-	-0-	-0-	2,249,000	-0-	-0-	-0-	-0-	2,249,000
Statewide Safety Program (63/00)	480,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	480,000
Traffic Control Devices (61/00)	600,000*	-0-	-0-	-0-	-0-	-0-	-0-	661,000	1,261,000
Engineer. & Contingencies (57/00)	700,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	700,000
Pave. & Rehabilitation (64/00)	8,489,000*	-0-	-0-	-0-	-0-	-0-	-0-	6,000,000	14,489,000

*10-Year Bonds.

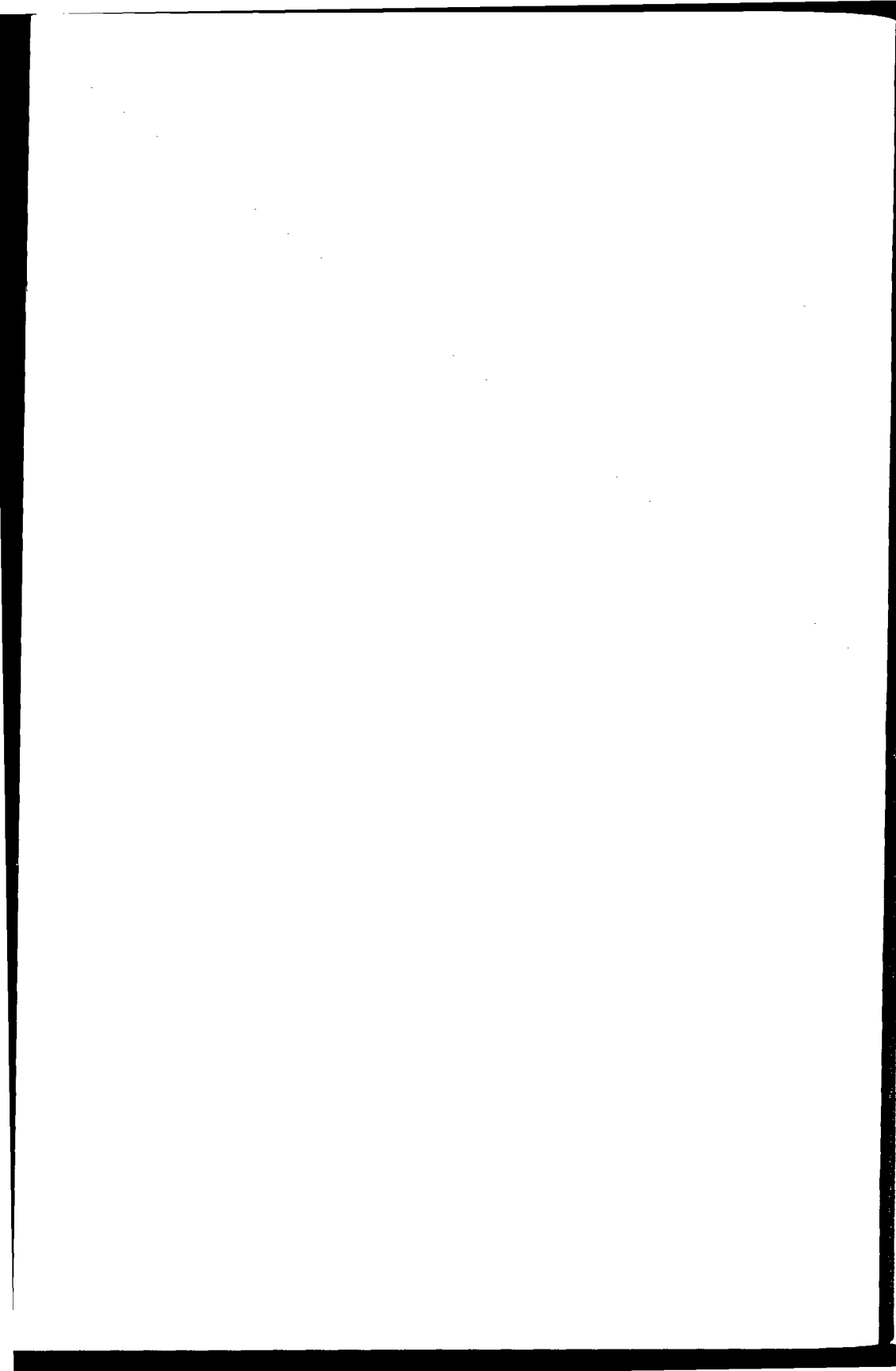
Agency/Project	New GO Bond Author- izations	Deauthor- izations	Reversion & Repro- gramming	OTA Road Improvements	1st State Improvements	New OTA Bonds	Stripper M&T	All Other Funds	Total
Equipment (58/00)	\$ 1,000,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 1,000,000
Advanced Right-of-Way (59/00)	700,000	-0-	-0-	-0-	-0-	-0-	-0-	-0-	700,000
Advanced Planning (60/00)	300,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	300,000
Suburban Streets (56/00)	-0-	-0-	73,000	9,525,500	-0-	394,500	-0-	547,000	10,540,000
Intersection Improvements, Drainage & Misc. Projects (56/00)	1,000,000*	-0-	-0-	500,000	-0-	-0-	-0-	135,000	1,635,000
Off-Road/Surface Treatment (62/00)	1,000,000*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	1,000,000
Maintenance (68/00)	1,968,500*	-0-	-0-	31,500	-0-	-0-	-0-	-0-	2,000,000
Eastern Shore Railroad	-0-	-0-	-0-	-0-	-0-	-0-	-0-	500,000	500,000
Subtotal	\$21,624,000	\$ -0-	\$ 1,018,000	\$12,306,000	\$ -0-	\$21,640,000	\$ -0-	\$27,847,000	\$84,435,000
DEPARTMENT OF AGRICULTURE									
Ag. Building Expansion	\$ 100,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 100,000
Subtotal	\$ 100,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 100,000
NATIONAL GUARD									
Ogishboro Armory (Add./Renov.)	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 96,500	\$ -0-	\$ -0-	\$ -0-	\$ 96,500
1401 Armory, Newport	-0-	-0-	-0-	-0-	-0-	-0-	47,500	-0-	47,500
Subtotal	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 96,500	\$ -0-	\$ 47,500	\$ -0-	\$ 144,000
STATE FIRE PREVENTION COMMISSION									
Fire Marshal's Office Building	\$ 570,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 570,000
Subtotal	\$ 570,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 570,000
UNIVERSITY OF DELAWARE									
Allison Hall	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 1,300,000	\$ 1,300,000
Infrastructure	-0-	-0-	-0-	-0-	-0-	-0-	-0-	45,000	45,000
Athletic Facilities	-0-	-0-	-0-	-0-	-0-	-0-	-0-	200,000	200,000
Subtotal	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,545,000	\$1,545,000
DELAWARE STATE COLLEGE									
Replace Window & AC/Science Center	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 850,000	\$ -0-	\$ -0-	\$ -0-	\$ 850,000
Park Place	-0-	-0-	-0-	-0-	-0-	-0-	22,000	-0-	22,000
MCJ	-0-	-0-	-0-	-0-	250,000	-0-	-0-	-0-	250,000
Tubman Hall	-0-	-0-	-0-	-0-	-0-	-0-	12,100	-0-	12,100
Subtotal	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,100,000	\$ -0-	\$ 34,100	\$ -0-	\$1,134,100
DELAWARE TECHNICAL & COMMUNITY COLLEGE									
Renovate N. Kent Voc-Tech	\$1,000,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,000,000
Terry - Instr. Cmplr. Data Process.	31,300*	-0-	-0-	-0-	-0-	-0-	-0-	-0-	31,300

*10-Year Bonds.

Agency/Project	New GO Bond Author- izations	Deauthor- izations	Reversion & Repro- gramming	DTA Road Improvement	1st State Improvement	New DTA Bonds	Stripper Well	All Other Funds	Total
Stanton - Building Renovation	\$ 935,740*	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 95,000	\$ -	\$ 1,030,740
Southern - Lighting	-	-	-	-	-	-	11,000	-	11,000
Terry - Roof	-	-	-	-	-	-	75,000	-	75,000
MCI and Equip - All Campuses	-	-	-	-	200,000	-	-	-	200,000
Southern - Trades & Industry Bldg.	700,000	-	-	-	-	-	-	-	700,000
Southern - Museum	-	-	-	-	70,000	-	-	180,000	250,000
Subtotal	\$2,667,040	\$ -	\$ -	\$ -	\$ 270,000	\$ -	\$ 181,000	\$ 180,000	\$3,298,040
STATE BOARD OF EDUCATION									
Sussex Vo-Tech ILC	\$ -	\$ -	\$ -	\$ -	\$ 90,000	\$ -	\$ -	\$ -	\$ 90,000
Minor Capital Improvements	-	-	-	-	2,970,708	-	-	-	2,970,708
Annual Maintenance of Schools	-	-	-	-	906,800	-	-	-	906,800
Leach School Add./Renovations	1,173,400	-	-	-	-	-	-	-	1,173,400
Kent County Vo-Tech Renovations	-	-	-	-	650,000	-	-	-	650,000
Seaford - Douglass, West Seaford, Central Elementary	1,025,260	-	-	-	-	-	-	-	1,025,260
Capital - Classrooms	414,172	-	-	-	-	-	-	-	414,172
Indian River - Frankford Classrooms	180,000	-	-	-	-	-	-	-	180,000
Christina - Sterck Equipment	115,000	-	-	-	-	-	-	-	115,000
Christina - Autistic School	743,562	-	-	-	-	-	-	-	743,562
Christina - Four Seasons, Parkway and Palmer School	2,980,032	-	-	-	-	-	-	-	2,980,032
Sussex Vo-Tech Roof	233,000	-	-	-	-	-	-	-	233,000
Hodgson Vo-Tech - Renovs. & Improvements	750,000	-	-	-	-	-	-	250,000	1,000,000
Kent Vo-Tech - Roof	-	-	-	-	155,900	-	-	-	155,900
Apogee/Link - Land Purchase	-	-	-	-	12,000	-	-	-	12,000
Indian River-Emmis School Classrooms	250,000	-	-	-	-	-	-	-	250,000
Brandywine/Old Stone School	22,800	-	-	-	-	-	-	-	22,800
Subtotal	\$7,887,226	\$ -	\$ -	\$ -	\$ 4,785,408	\$ -	\$ -	\$ 250,000	\$12,922,634
JUDICIAL									
JP Crt. #10 & 12 Bldg.	\$ 225,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000	\$ 325,000
JP Crt. #8 (Sayna)	-	-	-	-	-	-	-	-	139,000
Subtotal	\$ 225,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 239,000	\$ 464,000
GRAND TOTAL:	\$41,928,750	\$2,173,008	\$5,177,542	\$12,306,000	\$13,647,667	\$21,640,000	\$1,573,750	\$34,602,339	\$133,045,056

*10-Year Bonds.

GWH:JDR
06/30/87



SUPPLEMENTAL LIST OF TRANSPORTATION PROJECTS
Fiscal Year 1988

I. Corridor/Non-Corridor

SR 1, L/R Canal to 5 Points	\$ 2,000,000
Naaman's Rd.	5,910,000
SR 4, Ogletown	352,000
Old Balt. Pike	1,800,000
SR 896 N. of Sum. to SR 4	302,000
SR 7, US 13 to PA Line	3,952,500
SR 141, Price's Corner to US202	2,085,000
Churchman's Rd., SR 7 to SR 273	162,000
US 301 Connector Md. to I-95	1,060,000
US 13 & 113 Relief Route	20,000,000
US 113A, SR 10 to US 13	2,380,000
12th St., Wilm. Walnut to I-495	230,000
Stein Hwy. (SR20) CR13 to US13	200,000
Linden Hill/M111 Creek/Hercules Rds.	112,000
Saulsbury/Denny's Rd.	700,000
US 113	400,000
SR 404, Bridgeville	125,000
SR 404, Georgetown	120,000
SR 48, Lancaster Pike	100,000
Newark Area	100,000
Metroform Area	100,000
<u>Subtotal</u>	<u>\$42,190,500</u>

II. Paving and Rehabilitation (Federal 4R)

Kirkwood, 273 to WC BR	
US 13, State Rd. to S. Market St.	
SR 16, US13 to 113	
SR 14, MD to Harrington	
Faulkland Rd. 141 to DuPont Rd.	
US 301, Mt. Pleasant to Boyds Corner	
US 113 S of 36 to N of SR 1	
US 113 S of Milford to S of SR 36	
SR 1 MD to S of Bethany	
SR 896, Mt Pleasant Summitt Br.	
Marsh, Edg to 95	
SR 1 Thru Dewey	
Interstate 4R Edgemoor Inter Lighthouse Rd.	
<u>Subtotal</u>	<u>\$ 2,249,000</u>

III. Paving and Rehabilitation (100% State Funded)

MAINT. NO.	ROAD/NAME NO.	FROM	TO
NO18A	CHRISTIANA ROAD	OLD BALTIMORE PIKE	ROAD 18B
NO210	NEWPORT GAP PIKE	RAMP	OLD CAPITAL TRAIL
NO240	PHILADELPHIA PIKE	SILVERSIDE ROAD	GOVERNOR PRINCE BLVD
NO350	RED LION RD(DEL 71)	BEAR-CORBITT ROAD	DUPONT HWY(U.S. 13)
NO350	RED LION RD(DEL 71)	DRUM ROAD	OLD PORTER ROAD
NO350	RED LION RD(DEL 71)	OLD PORTER ROAD	RED LION CHURCH ROAD
NO350	RED LION RD(DEL 71)	RED LION CHURCH ROAD	BEAR-CORBITT ROAD
NO350	RED LION RD.(DEL 71)	WRANGLE HILL ROAD	DRUM ROAD

N2060	BAYNARD BOULEVARD	MARSH ROAD	END
N2130	CARR ROAD	END DIVIDED	STONE RUN CREEK
N2140	SHIPLEY ROAD	OFF SHIPLEY RD(RD214)	WASHINGTON ST(DEL 4)
N2200	EDGEWOOD ROAD	WOODLAND TERRACE	PHILADELPHIA PIKE
N2250	MONTCHANNIN ROAD	GUYENCOURT ROAD	PIKE CREEK ROAD
N2250	MONTCHANNIN ROAD	PIKE CREEK ROAD	WOODLAHN ROAD
N2250	MONTCHANNIN ROAD	ROCKLAND ROAD	ROCKLAND ROAD
N2720	CENTREVILLE ROAD	FAULKLAND ROAD(DEL34)	LANCASTER AVENUE
N2740	BRACKENVILLE ROAD	LANCASTER AVE(DEL41)	OLD HILMINGTON ROAD
N2760	LOVEVILLE ROAD	NEWPORT GAP PIKE	GRAVES ROAD
N2760	MCKENNANS CHURCH RD	MILLTOWN ROAD	MILL CREEK ROAD
N2950	PIKE CREEK ROAD	LINDEN HILL ROAD	GRANVILLE ROAD
N3300	GREENBANK ROAD	NEWPORT GAP PIKE	ALBERTSON BLVD
N3360	OLD BALTIMORE PIKE	CHRISTIANA ROAD	BEGIN DIVIDED
N3380	TELEGRAPH ROAD	DELAWARE ROUTE 7	RAILROAD
N3550	HARMONY RD.	DEL RTE.4	RUTHAR DRIVE
N3560	CHAPEL STREET	WYOMING ROAD	DELAWARE AEV.
N3590	TERMINAL AVENUE	PIGEON POINT ROAD	CHRISTIANA AVENUE
N3600	BARKSDALE ROAD	MARYLAND LINE	CASHO HILL ROAD
N3770	PIGEON POINT ROAD	LAMBSON LANE	RAILROAD
N3770	PIGEON POINT ROAD	RAILROAD	TERMINAL AVENUE
N3780	RIVER ROAD(DEL 9)	CHERRY LANE ROAD	TYBOUTS CORNER ROAD
N3780	RIVER ROAD(DEL 9)	TYBOUTS CORNER ROAD	FED SCHOOL LANE RD.
N3920	OLD CAMP MEETING RD.	MARYLAND LINE	OLD CAMP MEETING RD.
N3970	PLEASANT VALLEY SCH	BEGIN DIVIDED	CHESNUT HILL ROAD
K008A	DEL. 1	KENT & SUSSEX LINE	U.S. 113 ROAD 8
K018B	ROAD 18B	ROAD 1B	ROAD 18A
K018B	ROAD 18B	ROAD 18A	END
K0250	S. STATE ST.(DEL113A	WATER STREET	E. LOOCKERMAN STREET
K0340	DAVID STREET(DEL 12)	BEGIN DIVIDED	DUPONT BLVD.(DEL 12)
K0340	DEL. 12	WEST FREDERICA LMTS.	BEGIN DIVIDED
K0340	FRONT ST.(DEL 12)	DUPONT BLVD.(DEL 12)	MARKET STREET
K0340	FRONT ST.(DEL 12)	MARKET STREET	DAVID STREET
K0410	DEL. 300	DEL. 11	KENTON LIMITS
K0410	DEL. 300	KENTON LIMITS	DEL. 42
K0410	DEL. 300	MAIN STREET(DEL 44)	DEL. 11
K0410	DEL. 300	MARYLAND LINE	MAIN STREET(DEL 44)
K0570	DEL. 12	ROAD 262	ROAD 281
K0570	DEL. 12	ROAD 263	ROAD 56
K0570	DEL. 12	ROAD 56	ROAD 283
K0640	ROAD 64	ROAD 76	ROAD 9
K0640	ROAD 64	ROAD 9	ROAD 76
K0740	SOUTHERN BOULEVARD	ROAD 190	CAMDEN WYOMING AVE.
K0890	PORT MAHON ROAD	ROAD 16	END
K0940	ROAD 94	ROAD 138	DEL. 300
K0990	ROAD 99	DOVER LIMITS	McKEE ROAD
K1000	ROAD 100	ROAD 101	ROAD 163
K1000	ROAD 100	ROAD 163	ROAD 165
K1030	ROAD 103	ROAD 219	ROAD 50
K1050	ROAD 105	ROAD 361	ROAD 360
K1060	ROAD 106	ROAD 368	ROAD 27
K1100	ROAD 110	MARYLAND LINE	ROAD 256
K1100	ROAD 110	ROAD 256	ROAD 255
K1490	ROAD 149	ROAD 42	ROAD 2
K1700	ROAD 170	MAIN STREET(DEL 44)	ROAD 171
K1950	ROAD 195	ROAD 202	ROAD 193
K1950	ROAD 195	ROAD 29	ROAD 202
K1950	ROAD 195	ROAD 52	ROAD 29
K2060	ROAD 206	ROAD 222	ROAD 218
K2070	ROAD 207	ROAD 226	ROAD 228A
K2080	ROAD 208	DEL. 10	ROAD 208A
K2080	ROAD 208	ROAD 207	ROAD 224
K2080	ROAD 208	ROAD 208A	ROAD 211
K2080	ROAD 208	ROAD 211	ROAD 207
K2080	ROAD 208	ROAD 224	ROAD 210
K2220	ROAD 222	ROAD 224	DEL. B

K2320	ROAD 232	MAIN STREET	ROAD 53
K2320	ROAD 232	ROAD 231	ROAD 227
K2320	ROAD 232	ROAD 233	ROAD 231
K2320	ROAD 232	ROAD 53	ROAD 233
K2400	MAIN STREET	EVENS ROAD	HOWARD STREET
K2400	MAIN STREET	HOWARD STREET	ROAD 237
K2400	MAIN STREET	ROAD 237	ROAD 236
K2400	MAIN STREET	ROAD 239	EVENS ROAD
K2400	ROAD 240	ROAD 236	MAIN STREET
K2400	ROAD 240	ROAD 241	ROAD 239
K2460	ROAD 246	ROAD 108	ROAD 54
K2620	ROAD 262	DEL. 12	ROAD 56
K3090	ROAD 309	ROAD 115	ROAD 61
K3090	ROAD 309	ROAD 62	ROAD 115
K3090	ROAD 309	SUSSEX LINE	ROAD 62
K3230	ROAD 323	DEL. 6	DEL. 9
K3490	ROAD 349	DEL. 9	END
K3960	ROAD 396	ROAD 395	DEL. 14
N0100	LEVELS ROAD	WARWICK ROAD	ST. ANNES CHURCH RD.
N0360	ROAD 36	ROAD 463	ROAD 459
N0400	ROAD 40	ROAD 7	ROAD 480
N4220	ROAD 422	ROAD 423	ROAD 422A
N4270	ROAD 427	ROAD 39	ROAD 429
N4290	MECHANIC STREET	BRICK MILL ROAD	ROAD 428
N4290	MECHANIC STREET	ROAD 22	BRICK MILL ROAD
N4290	ROAD 429	ROAD 427	ROAD 39
N4290	ROAD 429	ROAD 428	ROAD 427
N4330	ROAD 433	MARYLAND LINE	ROAD 435
N4400	ROAD 440	ROAD 464	END
N4490	DEL. 9	KENT COUNTY LINE	ROAD 492
N4490	DEL. 9	ROAD 30	ROAD 491
N4490	DEL. 9	ROAD 491	ROAD 454
N4490	DEL. 9	ROAD 492	ROAD 30
N4530	DERRICKSON ROAD	TAYLORS BRIDGE ROAD	END
N4710	BLACKBIRD FOREST RD.	KENT COUNTY LINE	CLAYTON ROAD
N4850	ROAD 485	ROAD 488	ROAD 30
N4850	SMYRNA LANDING ROAD	ROAD 76	BRICK STORE ROAD
N4880	BRICK STORE ROAD	ROAD 485	ROAD 489
N4880	BRICK STORE ROAD	ROAD 489	ROAD 503
S0070	DEL. RTE. 1	DEL. RTE. 1	KENT & SUSSEX LINE
S0160	DEL. 16	ROAD 32	LIMITS
S0160	DEL. 16	ROAD 585	ROAD 588
S0180	U.S. 9	DEL. 1	ROAD 269A
S0180	U.S. 9	ROAD 261	ROAD 265
S0180	U.S. 9	ROAD 265	ROAD 2858
S0240	DEL. 24	ROAD 309	DEL. 5
S0310	ROAD 31	ROAD 563	ROAD 562
S0310	ROAD 31	ROAD 574	ROAD 563
S0320	ROAD 32	ROAD 34	ROAD 585
S0320	ROAD 32	ROAD 585	ROAD 590
S0320	ROAD 32	ROAD 590	DEL. 16
S0400	ROAD 40	ROAD 40A	ROAD 40A
S0400	ROAD 40	ROAD 40A	ROAD 579
S0400	ROAD 40	ROAD 579	ROAD 408
S0400	ROAD 40	ROAD 593	ROAD 40A
S0420	ROAD 42	ROAD 40	ROAD 592
S0420	ROAD 42	ROAD 592	ROAD 591
S0440	ROAD 44	DEL. 16	ROAD 611
S0440	ROAD 44	ROAD 224	DEL. 36
S0440	ROAD 44	ROAD 611	ROAD 630
S0440	ROAD 44	ROAD 614	ROAD 224
S0440	ROAD 44	ROAD 630	ROAD 614
S0470	ROAD 47	DEL. 30	DEL. 5
S0490	ROAD 49	END	DEL. 24
S0610	ROAD 61	END	ROAD 413
S0610	ROAD 61	ROAD 413	DEL. 26

S0620	ROAD 62	ROAD 422	ROAD 72
S0620	ROAD 62	ROAD 422A	ROAD 437
S0620	ROAD 62	ROAD 427	ROAD 451
S0620	ROAD 62	ROAD 428	ROAD 427
S0620	ROAD 62	ROAD 437	DEL. 24
S0620	ROAD 62	ROAD 451	ROAD 66
S0620	ROAD 62	ROAD 456	ROAD 459
S0620	ROAD 62	ROAD 64	ROAD 428
S0620	ROAD 62	ROAD 66	ROAD 422
S0620	ROAD 62	ROAD 72	ROAD 422A
S2040	ROAD 204	ROAD 224	ROAD 204A
S2070	ROAD 207	DEL. 36	ROAD 42
S2140	ROAD 214	ROAD 224	ROAD 207
S2150	ROAD 215	DEL. 1	ROAD 221
S2240	ROAD 224	DEL. 36	ROAD 44
S2240	ROAD 224	ROAD 44	ROAD 594
S2250	ROAD 225	ROAD 207	ROAD 211
S2250	ROAD 225	ROAD 38	ROAD 207
S2310	ROAD 231	ROAD 226	ROAD 230
S2350	ROAD 235	ROAD 233	DEL. 16
S2440	ROAD 244	ROAD 246	ROAD 319
S2490	ROAD 249	ROAD 248A	DEL. 5
S2490	ROAD 249	ROAD 88	ROAD 89
S2500	ROAD 250	ROAD 319	ROAD 197
S2570	ROAD 257	ROAD 260	ROAD 88
S2610	ROAD 261	ROAD 285	U.S. 9
S2610	ROAD 261	U.S. 9	ROAD 247
S2650	ROAD 265	U.S. 9	DEL. 1
S2750	ROAD 275	DEL. 24	ROAD 283
S2750	ROAD 275	ROAD 277	ROAD 18
S2770	ROAD 277	ROAD 278	ROAD 24
S2770	ROAD 277	ROAD 279	ROAD 278
S2810	ROAD 281	ROAD 262	U.S. 9
S2830	ROAD 283	ROAD 277	ROAD 283A
S283A	ROAD 283A	END	ROAD 283
S285A	ROAD 285A	ROAD 277	ROAD 285
S2980	ROAD 298	DEL. 5	ROAD 298A
S2980	ROAD 298	ROAD 298A	DEL. 24
S2990	ROAD 299	DEL. 24	ROAD 306A
S310A	ROAD 310A	END	ROAD 313A
S310A	ROAD 310A	ROAD 313A	DEL. 24
S3110	ROAD 311	ROAD 312	ROAD 297
S3180	ROAD 318	ROAD 318A	ROAD 431
S3190	ROAD 319	ROAD 242	ROAD 241
S3190	ROAD 319	ROAD 250	DEL. 5
S3190	ROAD 319	ROAD 565	ROAD 242
S3210	ROAD 321	ROAD 318	ROAD 318A
S3210	ROAD 321	ROAD 318A	ROAD 47
S3210	ROAD 321	ROAD 324	ROAD 318
S3270	ROAD 327	DEL. 26	ROAD 341
S3280	ROAD 328	U.S. 113	ROAD 326
S3420	ROAD 342	ROAD 344	DEL. 26
S3420	ROAD 342	ROAD 54	ROAD 344
S3450	ROAD 345	END	DEL. 26
S346A	ROAD 346A	ROAD 346	END
S3500	ROAD 350	ROAD 349	END
S3530	ROAD 353	DEL. 17	ROAD 366
S3570	ROAD 357	DEL. 26	ROAD 360
S3730	ROAD 373	ROAD 369	ROAD 374
S3810	ROAD 381	ROAD 364A	ROAD 384
S3820	ROAD 382	ROAD 370	ROAD 372
S3820	ROAD 382	ROAD 372	ROAD 375
S3880	ROAD 388	ROAD 52	ROAD 387
S3890	ROAD 389	ROAD 390	ROAD 382A
S4120	ROAD 412	ROAD 433	ROAD 432
S4530	ROAD 453	ROAD 419	ROAD 454

\$4530	ROAD 453	ROAD 4548	ROAD 452
\$4570	ROAD 457	ROAD 454	ROAD 64
\$4650	ROAD 465	ROAD 465A	ROAD 74
\$465A	ROAD 465A	DEL. 24	ROAD 465
\$4660	ROAD 466	ROAD 475	ROAD 446
\$4750	ROAD 475	ROAD 476A	ROAD 446
\$4850	ROAD 485	ROAD 13	U.S. 13
\$4850	ROAD 485	ROAD 493	ROAD 487
\$509D	ROAD 509	ROAD 504	ROAD 505
\$5090	ROAD 509	ROAD 505	ROAD 514
\$5090	ROAD 509	ROAD 514	ROAD 497
\$5100	ROAD 510	ROAD 503	ROAD 511
\$5240	ROAD 524	ROAD 516	ROAD 46
\$5340	ROAD 534	ROAD 13	U.S. 13
\$5340	ROAD 534	U.S. 13	ROAD 535
\$5440	ROAD 544	ROAD 546	ROAD 5448
\$5530	ROAD 553	ROAD 551	ROAD 554
\$5530	ROAD 553	ROAD 558	ROAD 549
\$5650	ROAD 565	ROAD 594	ROAD 42
\$5660	ROAD 566	ROAD 30	ROAD 562
\$5678	ROAD 5678	ROAD 567A	ROAD 30
\$5690	ROAD 569	MARYLAND LINE	ROAD 572
\$5730	ROAD 573	ROAD 574	ROAD 575
\$5730	ROAD 573	ROAD 575A	ROAD 569
\$5780	ROAD 578	ROAD 569	ROAD 580
\$5850	ROAD 585	ROAD 583	ROAD 32
\$5850	ROAD 585	ROAD 587	DEL. 16
\$5910	ROAD 591	ROAD 42	ROAD 545
\$6000	ROAD 600	ROAD 565	ROAD 599
\$6000	ROAD 600	ROAD 599	ROAD 598
\$6010	ROAD 601	ROAD 597	DEL. 16
\$6110	ROAD 611	ROAD 632	ROAD 44
\$6160	ROAD 616	KENT COUNTY LINE	ROAD 615
\$6160	ROAD 616	ROAD 615	ROAD 617
\$619A	ROAD 619A	DEL. 36	ROAD 619
\$6210	ROAD 621	ROAD 635	DEL. 36
		Subtotal	\$14,489,000
K4490	DEL. 9	ROAD 453	ROAD 456
N0190	NEW CASTLE AVENUE	I-95 & I-295	RAMP
N0210	NEHPORT GAP PIKE	OLD CAPITAL TRAIL	KIRKWOOD HWY.(DEL 2)
N0360	ROAD 36	ROAD 47	ROAD 472
N0360	ROAD 36	ROAD 472	ROAD 463
N0430	WASHINGTON ST.	4TH ST.	DELAWARE AVE.
N1220	PIERCE ROAD	CONCORD PIKE	BEDFORD RD.
N1236	ROAD 1236	ARLINGTON DRIVE	SHELDON DRIVE
N1305	McMILLAN WAY	DAWSON DRIVE	CUL DE SAC
N1307	SHEY DRIVE	DAWSON DRIVE	CUL DE SAC
N1511	MERMAID BLVD.	SKYLINE DR.	PENNINGTON COURT
N1579	ROAD 1579	LIMESTONE ROAD	END
N1775	ROAD 1775	MILLTOWN ROAD	END
N2580	BARLEY MILL ROAD	RAMSEY ROAD	CENTERVILLE ROAD
N2750	OLD WILMINGTON ROAD	YORKLYN ROAD	FRIENDS MEETING ROAD
N2810	DUNCAN ROAD	KIRKWOOD HIGHWAY	McKENNANS CHURCH RD.
N3240	EBENEZER CHURCH RD.	SMITH MILL FARMS	CURTIS MILL RD DE.72
N3280	POLLY DRUMMOND HILL	NEW LINDEN HILL RD.	POLLY DRUM SHOP CTR.
N3340	BOXWOOD ROAD	DODSON AVENUE	JACKSON AVENUE
N3340	BOXWOOD ROAD	JACKSON AVENUE	MARYLAND AVENUE
N3550	HARMONY RD.	RUTHAR DRIVE	DEL RTE. 2
N3550	ROAD 355	ROAD 65 RUTHER DRIVE	ROAD 11 (DEL RT. 2)
N3780	SIXTH STREET	WASHINGTON ST.	SOUTH ST.
N3930	CANN RD.	DEL. RTE.896	DEL. RTE.896
N4280	ROAD 428	ROAD 425	ROAD 15
N4490	DEL. 9	ROAD 452	ROAD 450
N4490	DEL. 9	ROAD 456	ROAD 452

N4690	ROAD 469	ROAD 484	ROAD 470
N4850	ROAD 485	ROAD 30	U.S. 13
N9991	CHRISTINA AVE.	I-495	I-495
N9992	DELAWARE AVE.	MADISON ST.	WASHINGTON ST.
N9993	E. 16TH ST.	POPLAR ST.	FRENCH ST.
N9994	18TH ST.	B & O	B & O
N9995	ROCKWOOD RD.	WASHINGTON ST.	MILLER RD.
K0790	ROAD 79	ROAD 320	END
K090A	ROAD 90A	U.S. 13	BELMONT AVENUE
K0910	ROAD 91	ROAD 148	ROAD 41
K0920	ROAD 92	ROAD 45	ROAD 152
K1020	ROAD 102	ROAD 152	ROAD 151
K1250	ROAD 125	ROAD 54	ROAD 234
K1400	ROAD 140	ROAD 95	ROAD 142
K1420	ROAD 142	ROAD 140	ROAD 94
K1470	ROAD 147	ROAD 42	ROAD 90
K2000	ROAD 200	ROAD 101	ROAD 199
K2000	ROAD 200	ROAD 199	ROAD 198
K2060	ROAD 206	ROAD 216	ROAD 73
K2060	ROAD 206	ROAD 217	ROAD 216
K2070	ROAD 207	MARYLAND LINE	ROAD 210
K2070	ROAD 207	ROAD 208	ROAD 212
K2070	ROAD 207	ROAD 210	ROAD 208
K2070	ROAD 207	ROAD 212	ROAD 223
K2070	ROAD 207	ROAD 213	ROAD 214
K2070	ROAD 207	ROAD 214	ROAD 226
K2070	ROAD 207	ROAD 223	ROAD 213
K2150	ROAD 215	ROAD 216	ROAD 227
K2150	ROAD 215	ROAD 227	ROAD 52
K2160	ROAD 216	ROAD 215	ROAD 206
K2280	ROAD 228	ROAD 228A	ROAD 225
K2340	ROAD 234	ROAD 125	U.S. 13-A
K2390	ROAD 239	ROAD 240	U.S. 13
K2390	ROAD 239	ROAD 244	ROAD 240
K240A	ROAD 240A	ROAD 54	END
K2460	ROAD 246	ROAD 54	DEL. 10
K2480	ROAD 248	ROAD 247	ROAD 249
K2490	ROAD 249	ROAD 248	ROAD 108
K3210	ROAD 321	ROAD 320	END
K3450	ROAD 345	U.S. 13	ROAD 330
K3720	ROAD 372	U.S. 13	ROAD 18
K3730	ROAD 373	ROAD 375	ROAD 374
K3780	ROAD 378	ROAD 379	ROAD 31
K3860	ROAD 386	ROAD 387	ROAD 34
K4530	ROAD 453	ROAD 39	ROAD 38
K5030	ROAD 503	END	ROAD 488
N0360	ROAD 36	ROAD 459	ROAD 460
N0470	GREEN SPRING ROAD	ROAD 471	ROAD 36
N0470	GREEN SPRING ROAD	ROAD 7	ROAD 473
N0470	ROAD 47	ROAD 483	ROAD 471
N4180	THORNTOWN ROAD	ROAD 2	ROAD 2
N422A	ROAD 422A	ROAD 422	END
N4240	ROAD 424	ROAD 37	ROAD 423
N4260	ROAD 426	END	ROAD 15
N4300	BRICK MILL ROAD	ROAD 438	ROAD 429
N4490	ROAD 449	ROAD 440	ROAD 441
N4490	ROAD 449	ROAD 45	ROAD 453
N4490	ROAD 449	ROAD 454	ROAD 45
N4550	ROAD 455	ROAD 456	ROAD 1
N4620	ROAD 462	ROAD 47	ROAD 463
N4710	ROAD 471	ROAD 463A	ROAD 470
N4750	ROAD 475	MARYLAND LINE	ROAD 476
N4760	ROAD 476	MARYLAND LINE	ROAD 477
N4760	ROAD 476	ROAD 475	ROAD 47
N4760	ROAD 476	ROAD 477	ROAD 475
N4880	ROAD 488	ROAD 30	ROAD 485

N4890	ROAD 489	ROAD 488	ROAD 468
N4900	ROAD 490	ROAD 45	ROAD 30
S0130	ROAD 13	DEL. 20	ROAD 544A
S0240	DEL. 24	U.S. 113	BEGIN DIVIDED
S0240	ROAD 24 (DEL RTE 24)	ROAD 277A	ROAD 279
S2030	ROAD 203	DEL. 36	END
S2090	ROAD 209	ROAD 209A	DEL. 36
S2090	ROAD 209	U.S. 1	ROAD 209A
S2440	ROAD 244	U.S. 113	ROAD 246
S2460	ROAD 246	U.S. 9	ROAD 244
S2970	ROAD 297	ROAD 248 (DEL. 30)	ROAD 303
S2970	ROAD 297	ROAD 307	ROAD 24 (DEL. 24)
S3170	ROAD 317	ROAD 315	ROAD 316
S3170	ROAD 317	ROAD 316	ROAD 47
S3170	ROAD 317	ROAD 48	ROAD 315
S3580	ROAD 358	ROAD 357	END
S3590	ROAD 359	ROAD 357	END
S3610	BRANCH ROAD	ROAD 299	ROAD 299
S3660	ROAD 366	ROAD 368	ROAD 353
S3660	ROAD 366	ROAD 84	ROAD 368
S3990	ROAD 399	MARYLAND LINE	U.S. 113
S4100	ROAD 410	ROAD 328A	ROAD 328
S4110	ROAD 411	ROAD 411A	ROAD 407
S4520	ROAD 452	ROAD 13	U.S. 13
S4530	ROAD 453	ROAD 452	ROAD 64
S5040	ROAD 504	ROAD 503	ROAD 509
S5070	ROAD 507	DEL. 54	ROAD 508
S5160	ROAD 516	ROAD 46	ROAD 526
S5270	ROAD 527	ROAD 526	ROAD 18
S5320	ROAD 532	ROAD 531	ROAD 18
S5380	ROAD 538	ROAD 540	ROAD 77
S5540	ROAD 554	ROAD 560	ROAD 561
S5910	ROAD 591	ROAD 545	ROAD 594
S5910	ROAD 591	ROAD 594	ROAD 40
S6290	ROAD 629	ROAD 613	DEL. 36
S6350	ROAD 635	ROAD 42	ROAD 621

Subtotal	\$20,000,000
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CHAPTER 93

FORMERLY

SENATE BILL NO. 296

AN ACT TO AMEND CHAPTER 11, TITLE 30 OF THE DELAWARE CODE RELATING TO THE PERSONAL INCOME TAX.

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

Section 1. Amend §1108, Chapter 11, Title 30 of the Delaware Code by redesignating existing §1108 as subsection (a) of said Section and add to said Section new subsections (b) and (c) as follows:

"(b) In addition to the deduction determined under subsection (a) of this Section, there shall be added the sum of \$1,000 in each of the following circumstances:

(1) For the taxpayer if he has attained the age of 65 before the close of his taxable year;

(2) For the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(3) For the taxpayer if he is blind at the close of his taxable year; and

(4) For the spouse of the taxpayer if a separate return is made by the taxpayer, if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(c) For purposes of this Section, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees."

Section 2. Amend §1123, Chapter 11, Title 30 of the Delaware Code by redesignating existing §1123 as subsection (a) of said Section and add thereto new subsections (b), (c), and (d) to read as follows:

"(b) In addition to the deduction determined under subsection (a) of this Section, there shall be added the sum of \$1,000 in each of the following circumstances:

(1) For the taxpayer if he has attained the age of 65 before the close of his taxable year;

(2) For the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(3) For the taxpayer if he is blind at the close of his taxable year; and

(4) For the spouse of the taxpayer if a separate return is made by the taxpayer, if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(c) For purposes of this Section, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the field of

vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(d) If the amount of adjusted gross income that a nonresident would be required to report under Section 1105 of this title if he were a resident exceeds by more than \$100 the amount of adjusted gross income he receives from sources within this State, the additions to the standard deduction determined under subsection (b) of this Section shall be limited by the percentage which his adjusted gross income from sources within this State is to the adjusted gross income he would be required to report if he were a resident."

Section 3. This Act shall be effective for tax years beginning after December 31, 1986, and before January 1, 1988.

Approved July 2, 1987.

CHAPTER 94

FORMERLY

SENATE BILL NO. 298

AN ACT TO ESTABLISH A MECHANISM AND FORMULA FOR THE SHARING OF STATE REVENUE WITH COUNTIES AND MUNICIPALITIES, AMENDING TITLE 30 OF THE DELAWARE CODE RELATING TO THE REALTY TRANSFER TAX.

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

WHEREAS, county and municipal governments in Delaware face an abrupt and substantial loss in revenue due to the impending termination of the federal revenue-sharing program; and

WHEREAS, the counties and municipalities need time to make an orderly transition from their reliance on federal revenue-sharing to new or expanded sources of local revenue, and to identify and develop such alternative revenue sources; and

WHEREAS, it is appropriate for the State to share a portion of its General Fund revenues with the counties and municipalities to provide them with the opportunity for such an orderly transition;

Section 1. Amend Chapter 54, Title 30 of the Delaware Code by adding thereto a new Section to read as follows:

"§5415. Realty Transfer Tax: Distribution of Tax Receipts.

(a) The tax received under this Chapter shall be disbursed by the appropriate County Recorder of Deeds, or by the agent appointed pursuant to §5406 of this Chapter, as follows:

(1) Seventy-five percent to the Division of Revenue;

(2) Twenty-five percent to the State Treasurer to be deposited in a special fund for distribution to municipalities and counties in accordance with this Section.

(b) There is created in the Office of the State Treasurer a special fund for the credit and redistribution of the tax receipts disbursed to the State Treasurer pursuant to subparagraph (2) of subsection (a) of this Section; provided, however, that if in State Fiscal Year 1988 twenty-five percent of the realty transfer tax receipts exceeds \$8,000,000, then the excess over that amount shall be disbursed by the State Treasurer to the Division of Revenue.

(c) The tax receipts disbursed to the State Treasurer pursuant to paragraph (2) of subsection (a) of this Section, less any excess amount disbursed by the State Treasurer to the Division of Revenue pursuant to subsection (b) of this Section, shall be distributed among the counties and municipalities in accordance with the following pro rata allocations:

Arden Village	0.0200%
Village of Ardencroft	0.0125%
Town of Ardentown	0.0125%
Town of Bellefonte	0.0400%
Town of Bethany Beach	0.1000%
Town of Bethel	0.0125%
Town of Blades	0.1500%
Town of Bowers Beach	0.0400%
Town of Bridgeville	0.2900%
Town of Camden	0.1900%

Town of Cheswold	0.0125%
Town of Clayton	0.2400%
Town of Dagsboro	0.0700%
City of Delaware City	0.4600%
Town of Delmar	0.2100%
Town of Dewey Beach	0.0400%
City of Dover	5.3700%
Town of Ellendale	0.0300%
Town of Elsmere	0.8500%
Town of Farmington	0.0125%
Town of Felton	0.0900%
Town of Fenwick Island	0.0300%
Town of Frankford	0.1600%
Town of Frederica	0.0700%
Town of Georgetown	0.4400%
Town of Greenwood	0.1300%
City of Harrington	0.0800%
Town of Hartly	0.0125%
Town of Henlopen Acres	0.0400%
Town of Houston	0.0400%
Kent County	7.1200%
Town of Kenton	0.0125%
Town of Laurel	0.8000%
Town of Leipsic	0.0400%
City of Lewes	0.5900%
Town of Little Creek	0.0125%
Town of Magnolia	0.0200%
Town of Middletown	0.2300%
City of Milford	1.3500%
Town of Millsboro	0.3500%
Town of Millville	0.0125%
Town of Milton	0.3400%
New Castle County	44.4800%
City of New Castle	0.6800%
City of Newark	2.4800%
Town of Newport	0.2100%

Town of Ocean View	0.1200%
Town of Odessa	0.0125%
City of Rehoboth Beach	0.4300%
City of Seaford	1.2650%
Town of Selbyville	0.3000%
Town of Slaughter Beach	0.0300%
Town of Smyrna	1.1100%
Town of South Bethany	0.0300%
Sussex County	11.9400%
Town of Townsend	0.0200%
Town of Viola	0.0125%
City of Wilmington	16.5550%
Town of Woodside	0.0125%
Town of Wyoming	0.1800%

Provided, however, regardless of the percentage allocations stated above, that each county and municipality shall receive a minimum payment of \$1,000; further provided that the aggregate difference between the amounts determined by the percentage allocations for those recipients receiving such minimum payments and the total amount of all \$1,000 minimum payments shall be deducted pro rata from the payments made to those counties and municipalities receiving more than \$1,000, according to their percentage allocations and that such deduction shall be made in the disbursement to occur on or before the final distribution under this Section.

(d) Except as provided in subsection (b) of this Section, pro-rata distribution to the counties and municipalities pursuant to this Section shall be made on or before the fifteenth day of the month following the month in which the tax receipts are credited to the special fund established by subsection (b) of this Section.

(e) Funds distributed to the counties and municipalities pursuant to this Section may be used by the recipients for any object, program, function or purpose for which such recipient, or any officer, department, agency, board or commission thereof, is by law authorized or required to raise, appropriate or expend money; provided, however, that receipt of these funds shall not cause the recipients to be considered agencies, as defined in Chapters 63 and 65 of Title 29 of the Delaware Code."

Section 2. This Act shall become effective July 1, 1987, and shall continue in effect until July 1, 1988, unless extended by further enactment of the General Assembly; provided, however, that the final distribution pursuant to Section 1 of this Act for realty transfer tax receipts generated in State Fiscal Year 1988 may be made on or before July 31, 1988.

Approved July 2, 1987.

CHAPTER 95

FORMERLY

SENATE BILL NO. 292

AN ACT TO AMEND CHAPTER 11, TITLE 30 OF THE DELAWARE CODE RELATING TO THE PERSONAL INCOME TAX.

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

Section 1. Amend §1108, Chapter 11, Title 30 of the Delaware Code by striking said Section in its entirety and substitute in lieu thereof a new §1108 to read as follows:

"(a) Except as otherwise provided in subsections (b) and (c) of this section, the standard deduction of a resident individual shall be \$1,300. The standard deduction of a resident husband and wife shall be \$1,600 if they file a joint return and \$800 each if they file separate returns.

(b) The sum of \$1,000 shall be added to the standard deduction determined under subsection (a) hereof in each of the following circumstances:

(1) For the taxpayer if he has attained the age of 65 before the close of his taxable year; (2) For the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer; (3) For the taxpayer if he is blind at the close of his taxable year; and (4) For the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(c) For purposes of this Section, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees."

Section 2. Amend §1161, Chapter 11, Title 30 of the Delaware Code by striking the symbols and figures "\$1,000" and "\$2,000" as they appear in the first sentence of paragraph (B) of subsection (1) of said Section, substituting in lieu thereof, respectively, the symbols and figures "\$4,550" and "\$6,100" and by striking the symbol and figure "\$1,000" as they appear in the second sentence of said paragraph and substitute in lieu thereof the symbol and figure "\$1,250."

Section 3. Amend §1110, Chapter 11, Title 30 of the Delaware Code by striking the symbol and figure "\$1,000" and substitute in lieu thereof the symbol and figure "\$1,250."

Section 4. This Act shall be effective for taxable years commencing after December 31, 1987.

Approved July 2, 1987.

CHAPTER 96

FORMERLY

HOUSE BILL NO. 25

AN ACT TO AMEND CHAPTER 13, TITLE 14 OF THE DELAWARE CODE RELATING TO THE DISPOSITION OF UNUSED SICK LEAVE TIME ACCRUED TO THE BENEFIT OF A DECEASED SCHOOL EMPLOYEE.

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

Section 1. Amend Delaware Code, Title 14, Subsection 1318(g) by inserting after the second sentence of said Subsection a new sentence as follows:

"Effective July 1, 1986, in the event of the death of a teacher or other school employee, payment shall be made to his or her estate at the rate of one day's pay for each day of unused sick leave not to exceed ninety days."

Approved July 8, 1987.

CHAPTER 97

FORMERLY

HOUSE BILL NO. 165

AN ACT TO AMEND CHAPTER 51, TITLE 30 OF THE DELAWARE CODE RELATING TO MOTOR FUEL AND SPECIAL FUEL BONDING REQUIREMENTS.

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

Section 1. Amend §5107(a) and §5107(d), Chapter 51, Title 30, Delaware Code by striking the figure "\$50,000" as it appears in each subsection and substituting in lieu thereof the figure "\$100,000".

Section 2. Amend §5134(d)(1) and §5134(d)(4), Chapter 51, Title 30, Delaware Code by striking the figure "\$50,000" as it appears in each subsection and substituting in lieu thereof the figure "\$100,000".

Approved July 8, 1987.

CHAPTER 98

FORMERLY

HOUSE BILL NO. 179

AN ACT TO AMEND PART II, CHAPTER 21, SUBCHAPTER III, TITLE 21, DELAWARE CODE, RELATING TO THE EXCEPTION OF MOTOR VEHICLES SUBJECT TO INSPECTION.

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

Section 1. Amend §2143(e), Chapter 21, Subchapter III, Title 21, Delaware Code, by inserting the words ", and Volunteer Ambulance and Rescue Services", immediately following the words "fire companies" and before the words "in this State" as the same appears in the first sentence of said subsection (e).

Approved July 8, 1987.

CHAPTER 99

FORMERLY

HOUSE BILL NO. 205

AN ACT AWARDED SPECIAL PENSION BENEFITS TO CHARLES H. REID, APPROPRIATING MONIES INTO THE SPECIAL PENSION FUND CREATED BY VOLUME 61, CHAPTER 455, LAWS OF DELAWARE; AND DIRECTING THE BOARD OF PENSION TRUSTEES TO ADMINISTER PAYMENT OF THE PENSION PROVIDED BY THIS ACT AS IF THE AWARD WERE MADE PURSUANT TO CHAPTER 55, TITLE 29, DELAWARE CODE.

WHEREAS, Charles H. Reid rendered valuable and dedicated service to his students and the State of Delaware as a full-time teacher in New Castle County public schools for approximately 21 years; and

WHEREAS, due to a quirk of timing dictated by changing statutes, and the rules and regulations of the Board of Pension Trustees, Charles H. Reid does not receive a state pension despite his many years of dedicated service.

NOW, THEREFORE:

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

Section 1. The Board of Pension Trustees is hereby directed to grant Charles H. Reid a State service pension in the amount of \$341.89 per month as if such award were made pursuant to Chapter 55, Title 29, Delaware Code.

Section 2. The Budget Director and the Controller General are authorized to transfer the sum of \$42,541.09 from the Budget Office Contingency Appropriation in Senate Bill 560 of the 133rd General Assembly for Budget Office Contingency Energy (10-02-04-01-84), to the Special Pension Fund authorized by Volume 61, Chapter 455, Laws of Delaware, for the purpose of implementing the provisions of Section 1 of this Act.

Approved July 8, 1987.

CHAPTER 100

FORMERLY

HOUSE BILL NO. 230
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19, CHAPTER 5, DELAWARE CODE RELATING TO CHILD LABOR.

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

Section 1. Amend §514, Chapter 5, Title 19 of the Delaware Code by striking said Section in its entirety and inserting therein the following:

"No child 14 to 15 years of age to whom an employment certificate, general or provisional, has been issued shall be employed, permitted or suffered to work in, about or in connection with any establishment or in any occupation before the hour of 6:00 a.m. or after the hour of 7:00 p.m. unless the day of employment falls on Friday, Saturday, a non-school day that does not precede a school day or a school day that precedes a non-school day. On such days, hours of employment may extend until 10:00 p.m. Further, no child covered by this Section shall be employed, permitted or suffered to work for more than 6 days or more than 48 hours in any one week, nor more than 8 hours in any 1 day without at least 30 minutes continuous rest between 11:30 a.m. and 2:00 p.m. except that in any event such rest period shall come not later than after 5 hours of work. The presence of such child in any establishment during working hours shall be prima facie evidence of that person's employment therein."

Approved July 8, 1987.

CHAPTER 101

FORMERLY

HOUSE BILL NO. 263

AN ACT TO AMEND CHAPTERS 3 AND 11 OF TITLE 30 OF THE DELAWARE CODE RELATING TO CERTAIN ASSESSMENTS OCCASIONED BY TAXPAYER POSITIONS OR STATEMENTS THAT ARE FRIVOLOUS OR WITHOUT REASONABLE BASIS OR ARISE OUT OF A DESIRE TO DELAY OR IMPEDE THE ADMINISTRATION OF TAX LAWS.

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

Section 1. Amend Chapter 3, Title 30 of the Delaware Code by adding thereto a new §332 to read as follows:

"Whenever it appears to the Tax Appeal Board that proceedings before it have been instituted or maintained by a taxpayer primarily for delay or that the taxpayer's position in such proceedings is frivolous or without reasonable basis, damages in an amount not in excess of \$5,000 shall be awarded to the State of Delaware by the Board as part of the Board's decision. Damages so awarded shall be paid upon notice and demand from the Secretary of Finance and shall be collected as part of tax."

Section 2. Amend §1194, Chapter 11, Title 30 of the Delaware Code by adding thereto a new subsection (g) to read as follows:

"(g)(1) The Secretary of Finance shall assess a penalty of \$500 against any individual who files what purports to be a return of the tax imposed by this Chapter but which:

(A) does not contain information upon which the substantial correctness of the self-assessment may be judged or contains information that on its face indicates that the self-assessment is substantially incorrect; and

(B) evidences a position that is frivolous or a desire to delay or impede the administration of the State income tax laws."

Section 3. Amend §1195, Chapter 11, Title 30 of the Delaware Code by redesignating subsections (h), (i), and (j) respectively as subsections (i), (j), and (k) of said Section and by adding thereto a new subsection (h) to read as follows:

"(h)(1) In addition to any criminal penalty provided by law, the Secretary shall assess a penalty of \$500 whenever:

(A) any individual makes a statement under §1151 of this Title which results in a decrease in the amounts deducted and withheld under Subchapter VII of this Chapter, and

(B) as of the time such statement was made, there was no reasonable basis for such statement.

(2) The Secretary of Finance may waive in whole or in part the penalty imposed under paragraph (1) of this Section if the taxes imposed with respect to the individual under this Chapter for the taxable year are equal to or less than the sum of:

(A) the credits against such taxes allowed by this Chapter, and

(B) the payments of estimated tax on account of such taxes."

Approved July B, 1987.

CHAPTER 102

FORMERLY

HOUSE BILL NO. 264

AN ACT TO AMEND CHAPTER 11, TITLE 30 OF THE DELAWARE CODE RELATING TO INSPECTION OF RETURNS.

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

Section 1. Amend Section 1242, Chapter 11, Title 30 of the Delaware Code by designating existing Section 1242 as subsection (a) of said Section and add to Section 1242 a new subsection (b) to read as follows:

"(b) Notwithstanding any other provision of this Section or Section 1241 of this Title, the Director of Revenue is specifically authorized to enter into an agreement with the Delaware Department of Labor to provide for the inspection of any tax return filed under this Title (other than Chapters 30, 51, and 52); provided, however that such inspection shall be pursuant to the Department of Labor's duties under Title 19 of the Delaware Code and may be subject to such additional requirements as may be imposed by the Director of Revenue."

Approved July 8, 1987.

CHAPTER 103

FORMERLY

HOUSE BILL NO. 267

AN ACT TO AMEND CHAPTERS 21, 54, 61 AND 63 OF TITLE 30 OF THE DELAWARE CODE RELATING TO EXTENSIONS OF PERIODS OF LIMITATION WITH RESPECT TO BUSINESS AND OCCUPATIONAL LICENSE FEES AND TAXES, REALTY TRANSFER TAX, PUBLIC ACCOMMODATION TAXES, AND AFFILIATED FINANCE COMPANY TAXES.

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

Section 1. Amend §2103, Chapter 21, Title 30 of the Delaware Code by redesignating existing subsections (g), (h), and (i), respectively, as subsections (h), (i), (j) of said Section and add to said Section a new subsection (g) to read as follows:

"(g) Where before the expiration of the time prescribed in subsection (e) of this Section for the assessment of the amount due, both the Secretary of Finance and the taxpayer shall have consented in writing to its assessment after such time, the amount due may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon."

Section 2. Amend §5411, Chapter 54, Title 30 of the Delaware Code by redesignating subsections (c) and (d) of said Section as subsections (d) and (e) and add thereto a new subsection (c) to read as follows:

"(c) Where before the expiration of the time prescribed in subsection (a) of this Section for the determination of the amount due, both the Secretary of Finance and the taxpayer shall have consented in writing to its determination after such time, the amount due may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon."

Section 3. Amend §6106, Chapter 61, Title 30 of the Delaware Code by designating existing §6106 as subsection (a) of said Section and add to said Section a new subsection (b) to read as follows:

"(b) Where before the expiration of the time prescribed in subsection (a) of this Section for the determination of the amount due, both the Secretary of Finance and the taxpayer shall have consented in writing to its determination after such time, the amount due may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon."

Section 4. Amend §6306, Chapter 63, Title 30 of the Delaware Code by redesignating subsections (d) and (e) respectively as subsections (e) and (f) of said Section and add thereto a new subsection (d) to read as follows:

"(d) Where before the expiration of the time prescribed in subsection (c) of this Section for the determination of the amount due, both the Secretary of Finance and the taxpayer shall have consented in writing to its determination after such time, the amount due may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon."

Approved July 8, 1987.

CHAPTER 104

FORMERLY

HOUSE BILL NO. 268

AN ACT TO AMEND CHAPTER 29, TITLE 30, DELAWARE CODE, RELATING TO RETAIL MERCHANTS' LICENSE REQUIREMENTS AND TAXES.

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

Section 1. Amend §2901(5), Chapter 29, Title 30, Delaware Code, by adding the following at the end of said subsection:

"'Retailer' for purposes of this Chapter shall not include, however, an individual under the age of 18 who engages in: (a) the delivery or distribution of newspapers or shopping news, (not including delivery or distribution to any point for subsequent delivery or distribution); or (b) the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back."

Approved July 8, 1987.

CHAPTER 105

FORMERLY

SENATE BILL NO. 48

AN ACT TO AMEND TITLES 24 AND 29, DELAWARE CODE, RELATING TO THE BOARD OF REGISTRATION OF GEOLOGISTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members of each House concurring therein):

Section 1. Amend §3602 (4), Chapter 36, Title 24 of the Delaware Code, by striking said subsection in its entirety.

Section 2. Amend §3603, Chapter 36, Title 24 of the Delaware Code, by striking said subsection in its entirety and by substituting in lieu thereof the following:

"§3603. Board of Registration of Geologists-Appointment; Composition; Qualifications; Term of Office; Suspension or Removal; Compensation

(a) There is created a State Board of Registration of Geologists, which shall administer this Chapter.

(b) The Board of Registration of Geologists shall consist of 5 members appointed by the Governor: Three professional members, one of whom shall be the State Geologist; and two public members. Said public members shall not be nor ever have been a geologist; shall not have been employed by a company engaged in the practice of geology; shall not be a member of the immediate family of a geologist; shall not have had a material financial interest in the providing of goods and services to persons engaged in the practice of geology; nor have been engaged in an activity directly related to geology. Such public members shall be accessible to inquiries, comments and suggestions from the general public.

(c) Each member of the Board shall serve for a term of two years and members may succeed themselves. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member.

(d) No more than 3 members of the Board shall belong to the same political party.

(e) A member of the Board shall be removed or suspended by the Governor for misfeasance, nonfeasance or malfeasance. A member subject to disciplinary proceedings shall be disqualified from Board business until the charge is adjudicated, or the matter is otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(f) Board members shall be reimbursed \$50 for each meeting attended provided, however, that no Board member shall receive more than \$500 in any given calendar year."

Section 3. Amend §3605 (2), Chapter 36, Title 24 of the Delaware Code, by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(2) He has acquired five years of experience in geologic work satisfactory to the Board, a minimum of which must be in a position of responsible charge."

Section 4. Amend §3606, Chapter 36, Title 24 of the Delaware Code, by striking said §3606 in its entirety and by substituting in lieu thereof the following:

"§3606. Application

Any person 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 nonrefundable fee payable to the Board pursuant to §3613 of this chapter. All application and renewal fees received by the Board shall be paid to the General Fund."

Section 5. Amend §360B (b), Chapter 36, Title 24 of the Delaware Code, by striking said subsection and by substituting in lieu thereof the following:

"(b) The Board shall, by regulation, establish a procedure by which renewal may be effected. A renewal fee will be charged pursuant to §3613 of this chapter."

Section 6. Amend §3609 (b), Chapter 36, Title 24 of the Delaware Code, by striking said subsection in its entirety.

Section 7. Amend §3611, Chapter 36, Title 24 of the Delaware Code, by striking §3611 in its entirety and by substituting in lieu thereof the following:

"§3611. Disciplinary Procedures: Complaints, Hearings, Appeals

(a) Any practitioner or member of the public who has a question or complaint concerning any aspect of the practice of geology may, during the regular business hours of a business day, contact the Board or the Division of Professional Regulation or voice such question or complaint at a business meeting of the Board.

The Board shall investigate any complaint, including oral and anonymous complaints, and follow through on those complaints which, upon investigation, appear to be valid and well-founded. In cases where the complainant is known to the Board it shall, within six weeks after receipt of the complaint, notify the complainant whether or not it will take any action in the matter. If the Board decides to take no action it shall, by letter, state its reasons therefor. A record shall be kept of each complaint, formal or informal, for a period of five years.

(b) Upon receipt of a complaint against a practitioner, the Board shall determine what action, if any, it shall take. Where the Board has determined to take further action, the matter shall be heard by the Board within three months from the date on which the complaint was received, unless circumstances surrounding the complaint warrant a lengthier investigation.

The Board shall fix the time and place fixed for the hearing, to be personally delivered or served upon the practitioner at least thirty days before the date fixed for the hearing. In cases where the practitioner cannot be located or where personal service cannot be effected, substitute service will be effected in the same manner as with civil litigation.

(c) All hearings shall be informal without the rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this Chapter as it deems necessary. The Board's decision shall be in writing and shall include its reasons for such a decision. A copy of the decision shall be mailed immediately to the complainant and to the practitioner. The Board's decision shall become effective on the thirtieth day after the date it is mailed or served on the practitioner, unless there is an appeal to the Superior Court within that time.

(d) Where either the complainant or the practitioner is in disagreement with the action of the Board, either person may appeal the Board's decision to the Superior Court within thirty days of service, or of the postmarked date of the Board's decision. Upon such appeal, the Court shall hear the evidence de novo, and the filing of an appeal shall act as a stay of the Board's decision, pending final determination of the appeal."

Section 8. Amend §3613, Chapter 36, Title 24 of the Delaware Code, by redesignating said subsection as §3614 and by creating a new §3613 to read as follows:

"§3613. Fees

The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board as well as the proportional expenses incurred by the Division of Business and Occupational Regulation in its services on behalf of the Board. There shall be a separate fee charged for each service or activity, but no fee shall be charged for an activity not specified in this chapter. The application fee shall not be combined with any other fee or charge. The Division of Professional Regulation, or any other state agency acting in its behalf, shall compute for each separate service or activity, the appropriate fee. Said fees shall be calculated no less frequently than once every two years."

Section 9. Amend §8810 (b), Chapter 88, Title 29 of the Delaware Code by adding thereto the following:

"(19) Board of Registration of Geologists."

Section 10. Amend §10161, Chapter 101, Title 29 of the Delaware Code, by adding a new subsection thereto to read as follows:

"(25) Board of Registration of Geologists."

Section 11. The three persons constituting the Board of Registration of Geologists on the effective date of this Act shall continue in office as members of the Board until the expiration of the terms for which they were appointed.

Section 12. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Approved July 8, 1987.

CHAPTER 106

FORMERLY

SENATE BILL NO. 125

AN ACT TO AMEND PART II, CHAPTER 11, TITLE 9, DELAWARE CODE, RELATING TO OPERATING PROCEDURES FOR NEW CASTLE COUNTY GOVERNMENT.

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

Section 1. Amend §1150(a), Part II, Chapter 11, Title 9, Delaware Code, by striking subsection (a) in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) The County Council shall meet regularly at least twice in each month; provided, however, that by vote of a majority of the members of Council, Council may adjourn for not more than one month vacation each calendar year. The place, dates, and times of regular meetings and the places of special meetings shall be established by the County government as a part of the rules of procedure adopted for the conduct of its meetings. Special meetings may be held on call of the President of county government or of a majority of the members of the county government in accordance with rules adopted as a part of the rules of procedure of the county government. All meetings shall be public. Official county business transacted by the county government shall be in the public meetings."

Approved July 8, 1987.

CHAPTER 107

FORMERLY

SENATE BILL NO. 155

AN ACT TO AMEND CHAPTER 7, TITLE 19 OF THE DELAWARE CODE RELATING TO THE USE OF A PRE-EMPLOYMENT POLYGRAPH, LIE DETECTOR, OR SIMILAR TESTS AS PART OF THE POLICE OFFICER APPLICANT BACKGROUND INVESTIGATION.

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

Section 1. Amend subsection (a), Section 704, Subchapter I, Chapter 7, Title 19, Delaware Code by striking the "." at the end thereof and adding the phrase "except as noted in Subsection (d) of this section."

Section 2. Amend subsection (d), Section 704, Subchapter I, Chapter 7, Title 19, Delaware Code by striking the "." at the end thereof and adding the phrase "which shall include police officer applicant background investigations."

Approved July 8, 1987.

CHAPTER 108

FORMERLY

SENATE BILL NO. 164
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 82, TITLE 29 OF THE DELAWARE CODE RELATING TO THE OFFICE OF INTERGOVERNMENTAL SERVICES WITHIN THE DEPARTMENT OF PUBLIC SAFETY.

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

Section 1. Amend Section 8203, Chapter 82, Title 29 of the Delaware Code by striking paragraph "e." of subsection (2) in its entirety.

Section 2. Amend Section 8204, Chapter 82, Title 29 of the Delaware Code by striking said Section in its entirety.

Section 3. Amend Section 8214, Chapter 82, Title 29 of the Delaware Code by striking subsection "(6)" in its entirety.

Section 4. Amend Section 8205, Title 29 of the Delaware Code by deleting subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) as follows:

"(b) The Council on Police Training shall consider matters relating to police training and such other matters as may be referred to it by the Governor or the Secretary of the Department."

Approved July 8, 1987.

CHAPTER 109

FORMERLY

SENATE BILL NO. 165
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 21 OF THE DELAWARE CODE RELATING TO EQUIPMENT ADDED TO OR DELETED FROM MOTOR VEHICLES' ORIGINAL DESIGN.

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 43, Title 21 of the Delaware Code by adding a new Section 4314 to read as follows:

"§4314. Change of Original Design or Performance; Mounting and Adjustment

(a) A person may not use on any motor vehicle or trailer any light, lamp or reflector that tends to change the original design or performance of the motor vehicle or trailer, unless the light, lamp or reflector is of a type that has been approved by the Department and is mounted, adjusted and aimed in accordance with regulations adopted by the Secretary. Such regulations shall not violate the Federal Motor Vehicle Safety Standards."

Approved July 8, 1987.

CHAPTER 110

FORMERLY

SENATE BILL NO. 169

AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 19, TITLE 11 OF THE DELAWARE CODE RELATING TO POLICE MUTUAL AID AGREEMENTS.

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

Section 1. Amend Section 1942, Subchapter III, Chapter 19, Title 11, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§1942. Definitions

As used in this Subchapter:

(1) 'Mutual Aid Agreement' means a covenant between counties, incorporated municipalities, or the Delaware River and Bay Authority and/or the Department of Administrative Services enabling the police of one jurisdiction to enter into another jurisdiction for purpose of rendering assistance upon the request of the other jurisdiction.

(2) 'Police' includes all authorized law enforcement personnel of a jurisdiction.

(3) 'Jurisdiction' means a recognized geographic area such as a county, incorporated municipality or the legislatively defined area of responsibility of the Delaware River and Bay Authority or the Department of Administrative Services in which the governing body and its police have the authority, capacity, power and right to enforce laws.

(4) 'Emergency' means any such circumstance which, in the judgement of the principal law enforcement officer of the requesting jurisdiction, requires additional police assistance. The governing body of a jurisdiction may determine the circumstances under which policemen of its jurisdiction, together with all necessary equipment, may lawfully go or be sent beyond the territorial limits of its jurisdiction to any point within or without the State of Delaware."

Section 2. Amend Section 1944, Subchapter III, Chapter 19, Title 11, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§1944. Mutual Aid Agreement

(a) The governing body of a jurisdiction may in its discretion enter into mutual aid agreements for such periods as it deems advisable with any other jurisdiction within or without the State, including the District of Columbia, in order to establish and carry into effect a plan to provide mutual assistance through the furnishing of police and all necessary equipment in the event of an emergency.

(b) No governing body of a jurisdiction shall enter into a mutual aid agreement unless the agreement provides that each of the parties shall:

(1) Indemnify all other parties to the agreement for any and all claims which may arise out of authorized activities of the other parties outside their respective jurisdictions pursuant to the agreement unless agreed upon otherwise as a condition of the agreement.

(2) Indemnify the other parties to the agreement from all claims by third parties for property damage or personal injury which may arise out of authorized activities of the other parties while acting outside their respective jurisdictions pursuant to the agreement."

Section 3. Amend Section 1945, Subchapter III, Chapter 19, Title 11, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§1945. Liability Insurance

The governing body of any jurisdiction in this State is authorized to procure or extend the necessary public liability insurance to cover claims arising out of mutual aid agreements executed with other jurisdictions."

Approved July 8, 1987.

CHAPTER 111

FORMERLY

SENATE BILL NO. 170

AN ACT TO AMEND CHAPTER 52, TITLE 30, OF THE DELAWARE CODE RELATING TO THE MOTOR CARRIER FUEL PURCHASE LAW.

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

Section 1. Amend Section 5222, Chapter 52, Title 30, Delaware Code, by designating the present paragraph as "(a)".

Section 2. Amend Section 5222, Chapter 52, Title 30, Delaware Code by adding a new subsection (b) as follows:

"(b) The Department of Public Safety shall, upon request from the officials to whom are entrusted the enforcement of the motor carrier fuel use tax laws of any other state, the District of Columbia, the United States, its territories and possessions, the provinces of the Dominion of Canada, forward to any such officials any information which it may have relative to registration, tax reporting, audit findings and any other information concerning motor carrier operations in this state; provided that such other governmental jurisdictions furnish like information to this State."

Approved July 8, 1987.

CHAPTER 112

FORMERLY

SENATE BILL NO. 171

AN ACT TO AMEND CHAPTER 39 OF TITLE 12, DELAWARE CODE, TO PROVIDE IN LIMITED CIRCUMSTANCES FOR THE APPOINTMENT BY THE COURT OF CHANCERY OF AN INTERIM GUARDIAN WHEN AN IMMINENT THREAT OF SERIOUS PHYSICAL HARM IS PRESENT.

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

Amend Chapter 39, Title 12, Delaware Code, by adding the following new Section to be designated as §3915 to read as follows:

"§3915. Emergency Guardianships

(a) Whenever the Court of Chancery finds, based upon a verified petition, affidavit or other evidentiary materials, that:

(1) a named individual is unable properly to care for himself or make decisions relating to his care and in consequence thereof is in danger of substantially endangering his health,

(2) such danger threatens imminent serious physical harm to such person, and

(3) such harm may occur before a hearing for the appointment of a guardian pursuant to Section 3914 of this Title may be held,

the Court may forthwith appoint an interim guardian of the person of such individual, provided that at the time of such interim appointment the Court fixes a date, no later than 30 days from the date of such appointment, for a hearing pursuant to Section 3914(b). A guardian appointed pursuant to the emergency provisions of this section shall, pending the hearing contemplated by Section 3914(b), possess all of the powers of guardian of the person appointed pursuant to Section 3914 and shall be governed in all respects by the applicable provisions of Section 3914 of this Chapter.

(b) Nothing in this section shall be construed to mean an adult is infirm or incapacitated or in need of a guardian for the sole reason he relies upon, or is being furnished with, treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, nor shall anything in this section be construed to authorize or require any medical care of treatment over the implied or express objections of said person.

(c) Whenever a Judge of the Court of Chancery is unavailable, any Judge of the Superior Court may exercise the powers conferred by subsection (a) of this Section."

Approved July 8, 1987.

CHAPTER 113

FORMERLY

SENATE BILL NO. 178

AN ACT AWARDED SPECIAL PENSION BENEFITS TO MARGARET ANSTINE; APPROPRIATING MONIES INTO THE SPECIAL FUND CREATED BY VOLUME 61, CHAPTER 455, LAWS OF DELAWARE, AND DIRECTING THE BOARD OF PENSION TRUSTEES TO ADMINISTER PAYMENT OF THE PENSION PROVIDED BY THIS ACT AS IF THE AWARD WERE PURSUANT TO CHAPTER 55, TITLE 29 OF THE DELAWARE CODE.

WHEREAS, Margaret Anstine has been employed for approximately 25 years as a staff member in the General Assembly, serving both in the House of Representatives and the State Senate; and

WHEREAS, Margaret Anstine has rendered impartial assistance over the years to Democrats and Republicans alike, and has been a calming and positive influence throughout her stay; and

WHEREAS, under the statutes, rules and regulations of the Board of Pension Trustees, Margaret Anstine will not receive a State pension for her many years of dedicated service to the State of Delaware.

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 Margaret Anstine a pension, effective July 1, 1987, in the amount of \$300.00 per month as if such award were made pursuant to Chapter 55, Title 29 of the Delaware Code.

Section 2. The Budget Director and the Controller General are authorized to transfer the sum of \$38,794.01 from the Budget Office Contingency Appropriation in Senate Bill No. 560 of the 133rd General Assembly for Budget Office Contingency Energy (10-02-04-01-B4), to the Special Pension Fund authorized by Volume 61, Chapter 455, Laws of Delaware, for the purpose of implementing the provisions of Section 1 of this Act.

Approved July 8, 1987.

CHAPTER 114

FORMERLY

SENATE BILL NO. 181
AS AMENDED BY SENATES AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 47, TITLE 21 OF THE DELAWARE CODE, RELATING TO MOTOR CARRIER SAFETY, RECORD-KEEPING AND WEIGHTS.

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

Section 1. Amend §4703, Chapter 47, Title 21 of the Delaware Code by numbering the existing paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

"(b) Amend §390.17 by striking the words '10,000 pounds or less' as they appear in said section and insert in lieu thereof the words '26,000 pounds or less'."

Section 2. Amend §4704, Chapter 47, Title 21 of the Delaware Code by adding a new paragraph to read as follows:

"(c) Amend §391.2(b-1) by striking the words 'seating capacity of 10 or less persons' as they appear in said section and insert in lieu thereof the words 'seating capacity of 15 or less persons'."

Section 3. Amend §4704, Chapter 47, Title 21 of the Delaware Code by adding a new paragraph to read as follows:

"(d) Amend §391.2(f-2) by striking the words '10,000 pounds or less' as they appear in said section and insert in lieu thereof the words '26,000 pounds or less'."

Section 4. Amend §4704, Chapter 47, Title 21 of the Delaware Code by adding a new paragraph to read as follows:

"(e) Amend §391.3(d-5-1) by striking the words '10,000 pounds or less' as they appear in said section and insert in lieu thereof the words '26,000 pounds or less'."

Section 5. Amend §4705, Chapter 47, Title 21 of the Delaware Code by adding a new paragraph to read as follows:

"(c) Amend §392.1(d) by striking the words '10,000 pounds or less' and insert in lieu thereof the words '26,000 pounds or less'."

Section 6. Amend §4706, Chapter 47, Title 21 of the Delaware Code by numbering the existing paragraph as paragraph (a) and adding a new paragraph to read as follows:

"(b) Amend §396.1(b-2) by striking the words '4,535kg (10,000 pounds) or less' and insert in lieu thereof the words '26,000 pounds or less'."

Section 7. Amend §4706, Chapter 47, Title 21 of the Delaware Code by adding a new paragraph to read as follows:

"(c) Farm vehicles being operated on an intrastate basis within this State shall be exempt from the record-keeping requirements as provided in Part 396."

Section 8. Amend Chapter 47, Title 21 of the Delaware Code by renumbering Sections 4706, 4707, 4708, 4709, 4710, 4711 and 4712 as Sections 4708, 4709, 4710, 4711, 4712, 4713 and 4714 respectively.

Section 9. Amend Chapter 47, Title 21 of the Delaware Code by adding a new §4706 to read as follows:

"§4706. Same - Amendments of Part 393

(a) Amend §393.1(c) by striking the words '10,000 pounds or less' and insert in lieu thereof the words '26,000 pounds or less'."

Section 10. Amend Chapter 47, Title 21 of the Delaware Code by adding a new §4707 to read as follows:

"§4707. Same - Amendments of Part 395

(a) Amend §395.1(b-2) by striking the words '10,000 pounds or less' and insert in lieu thereof the words '26,000 pounds or less'."

Section 11. Amend §4702, Chapter 47, Title 21 of the Delaware Code by numbering the existing paragraph as paragraph (a) and adding a new paragraph to read as follows:

"(b) Notwithstanding the adoption of the laws and regulations as indicated in paragraph (a) of this Section, no requirements under this Chapter shall apply to any single vehicle or a vehicle in combination with a gross registered weight of 26,000 pounds or less, except for: (1) a vehicle being used to transport hazardous materials of a type or quality that requires the vehicle to be marked or placarded in accordance with the Federal Motor Carrier Safety Regulations; or (2) a vehicle having a seating capacity of 15 or less persons."

Approved July 8, 1987.

CHAPTER 115

FORMERLY

SENATE BILL NO. 184

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Section 3348, Chapter 33, Title 19 of the Delaware Code by adding a new subsection (j) to read as follows:

"(j) Notwithstanding the computation of the average employer assessment rate, the average industry assessment rate, or the average construction industry assessment rate, no employer assigned an assessment rate under subsection (d) or subsection (e) of this Section shall have a rate of less than one percent (1.0%)."

Approved July 8, 1987.

CHAPTER 116

FORMERLY

SENATE BILL NO. 191

AN ACT TO AMEND CHAPTER 23, SUBCHAPTER I, TITLE 19, DELAWARE CODE, RELATING TO WORKMEN'S COMPENSATION.

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

Section 1. Amend Chapter 23, Subchapter I, Title 19, Delaware Code, by adding a new Section 2316 as follows:

"§2316. Licensed Real Estate Salespersons and Licensed Associate Real Estate Brokers who are Independent Contractors.

(a) This Chapter shall not apply to licensed real estate salespersons or licensed associate real estate brokers who are affiliated with a licensed real estate broker under a written contract pursuant to which they are remunerated on a commission only basis and are designated as independent contractors and who qualify as independent contractors for federal tax purposes, except that a licensed real estate broker with whom they have such contracts shall have the right to elect to carry insurance to insure the payment of workmen's compensation to them or their dependents for part or all of the period of such affiliation.

(b) For the purposes of this Section, a licensed real estate broker with whom such licensed real estate salespersons and licensed associate real estate brokers have such independent contract affiliation, shall inform in writing such licensed real estate salespersons and such licensed associate real estate brokers whether the licensed real estate broker has elected to carry insurance to insure the payment of workmen's compensation to them or their dependents. If a licensed real estate broker intends to change the election concerning workmen's compensation, the licensed real estate broker shall notify any licensed real estate salespersons or licensed associate real estate brokers affected thereby at least thirty (30) days prior to the effective date of the change in the election."

Approved July 8, 1987.

CHAPTER 117

FORMERLY

SENATE BILL NO. 192

AN ACT TO AMEND CHAPTER 5, TITLE 19 OF THE DELAWARE CODE RELATING TO CHILD LABOR.

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

Section 1. Amend §531, Chapter 5, Title 19 of the Delaware Code by striking Subsection (5) of said Section in its entirety and inserting therein the following:

"(5) Violates any of this chapter shall, for the first offense, be fined not less than \$200 nor more than \$500; for a second offense be fined not less than \$500 nor more than \$1,000 or imprisoned not more than 30 days, or both. Whoever willfully violates this chapter will be fined \$2,000 or imprisoned not more than 60 days, or both. A third offense shall be prima facie evidence of a willful violation. All fines collected under this section shall be paid into the State Treasury."

Section 2. Amend §531, Chapter 5, Title 19 of the Delaware Code by adding a new Subsection to read as follows:

"(6) The Department shall administer and enforce this chapter."

Approved July 8, 1987.

CHAPTER 118

FORMERLY

SENATE BILL NO. 200
AS AMENDED BY SENATE AMENDMENT NO. 1

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

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

Section 1. Amend §1906, Chapter 19, Title 30 of the Delaware Code by striking said Section in its entirety and substitute in lieu thereof a new §1906 to read as follows:

"If the amount of a taxpayer's federal tax liability reported on its federal income tax return for any taxable year is changed or corrected by the Internal Revenue Service or other competent authority, the taxpayer shall report to the Secretary of Finance such change or correction in federal tax liability within ninety days after the final determination of such change, correction, or renegotiation and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended federal income tax return shall also file, within ninety days thereafter, an amended income tax return under this Chapter and shall provide such information relating thereto as the Secretary of Finance may require."

Section 2. Amend §1907, Chapter 19, Title 30 of the Delaware Code by striking said Section in its entirety and substitute in lieu thereof a new §1907 to read as follows:

"(a) The amount of tax which is shown to be due on the return (including revisions for mathematical errors) shall be deemed to be assessed on the date of filing of the return (including any amended returns showing an increase of tax). In the case of a return properly filed without the computation of the tax, the tax computed by the Secretary of Finance shall be deemed to be assessed on the date when payment is due. If a notice of deficiency has been mailed and no protest is filed, the amount of the deficiency shall be deemed to be assessed in accordance with subsection (e) of this Section. If a protest is filed, then the amount of the deficiency shall be deemed to be assessed on the date when the determination of the Secretary of Finance becomes final. If an amended return or report filed pursuant to §1906 of this Title concedes the accuracy of a federal change or correction, any deficiency in tax under this Chapter resulting therefrom shall be deemed to be assessed on the date of filing such report or amended return, and such assessment shall be timely notwithstanding any other provisions of this Chapter. Any amount paid as a tax or in respect of a tax, other than amounts paid as estimated income tax, shall be deemed to be assessed upon the date of receipt of payment, notwithstanding any other provision of this Chapter.

(b) If the mode or time for the assessment of any tax, interest, addition to tax or penalty under this Chapter is not otherwise provided for, the Secretary of Finance may establish the same by regulation.

(c) The Secretary of Finance may, at any time within the period prescribed for issuance of a notice of deficiency, issue a supplemental notice of deficiency, subject to the other provisions of this Section, whenever it is found that any notice is imperfect or incomplete in any material respect.

(d) As soon as practicable after a return is filed, the Secretary of Finance shall examine it and shall determine the correct amount of tax. If the tax found due upon examination is greater than the amount shown on the return to be due, notice of a deficiency shall be mailed to the taxpayer by registered or certified mail.

(e) Within 90 days after such notice is mailed the taxpayer may file a written protest with the Secretary of Finance for a redetermination of the tax. The taxpayer shall be granted a hearing where it is requested in the written protest. Ninety days after such notice is mailed, the notice shall constitute a final assessment of the amount of tax specified, together with interest, additions to tax and penalties, except only for such amounts as to which the taxpayer has filed a written protest.

(f) Notice of the Secretary of Finance's determination shall be mailed to the taxpayer by certified or registered mail and such notice shall set forth briefly the Secretary of Finance's basis of decision in each case decided in whole or in part adversely to the taxpayer. The action of the Secretary of Finance on the taxpayer's protest is final upon the expiration of 90 days from the date when he mails notice of

his action to the taxpayer unless within this period the taxpayer filed an appeal to the Tax Appeal Board.

(g) If the taxpayer is notified that, because of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due then, notwithstanding subsection (d), (e) and (f) of this Section, such excess shall be paid within ten days after such notice is mailed to the taxpayer.

(h) A 'deficiency' means the amount (other than an amount described in subsection (g) of this Section) by which the tax imposed by this Chapter exceeds the amount shown as the tax by the taxpayer upon its return, or, if no return is made by the taxpayer, 'deficiency' means the amount determined by the Secretary of Finance to be the estimated or correct amount of the tax."

Section 3. Amend §1908, Chapter 19, Title 30 of the Delaware Code by striking said Section in its entirety and substitute in lieu thereof a new §1908 to read as follows:

"(a) Except as provided below, a notice of deficiency shall be mailed to the taxpayer within three years after the last day prescribed for filing the return or, if later, the date the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice of deficiency is mailed within the three year period or a period otherwise fixed in accordance with subsection (c) of this Section.

(b) If no return is filed or a false and fraudulent return is filed with intent to evade the tax imposed by this Chapter, a notice of deficiency may be mailed to the taxpayer at any time.

(c) Where, before the expiration of the time prescribed in subsection (a) of this Section for the issuance of the notice of deficiency, both the Secretary of Finance and the taxpayer have consented in writing to its issuance after such time, the notice may be issued at any time prior to the expiration of the period previously agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. An agreement between the taxpayer and the Internal Revenue Service providing for the extension of the period for assessment of federal income taxes shall constitute an agreement with the Secretary of Finance to extend the period for issuance of a notice of deficiency in income taxes under this Chapter, provided that the taxpayer files a copy of all such agreements and extensions thereof with the Secretary of Finance within thirty days after their execution.

(d) If a taxpayer fails to comply with the requirements of §1906 of this Title by not reporting a change or correction increasing its federal taxable income, by not reporting a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, or by not filing an amended return when one is required, a notice of deficiency may be mailed to the taxpayer at any time.

(e) If the taxpayer shall, pursuant to §1906 of this Title, report a change or correction or file an amended return increasing its federal taxable income or report a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, the notice of deficiency may be issued at any time within two years after such report or amended return was filed."

Approved July 8, 1987.

CHAPTER 119

FORMERLY

SENATE BILL NO. 201
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, TITLE 30, DELAWARE CODE, RELATING TO PUBLIC UTILITY TAXES.

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

Section 1. Amend Chapter 55, Title 30 of the Delaware Code by adding thereto new Sections 5508, 5509, and 5510 to read as follows:

"§5508. Assessment and Collection of Deficiencies; Notice; Petition for Redetermination of Deficiency

(a) The amount of tax which is shown to be due on the return (including revisions for mathematical errors) shall be deemed to be assessed on the date of filing of the return (including any amended returns) showing an increase of tax. In the case of a return properly filed without the computation of the tax, the tax computed by the Secretary of Finance shall be deemed to be assessed on the date when payment is due. If a notice of deficiency has been mailed, the amount of the deficiency shall, if no protest is filed, be deemed to be assessed on the date provided in subsection (e) of this Section or, if a protest is filed, then upon the date when the determination of the Secretary of Finance becomes final. Any amount paid as a tax or in respect of a tax shall be deemed to be assessed upon the date of receipt of payment, notwithstanding any other provision of this Chapter.

(b) If the mode or time for the assessment of any tax under this Chapter, including interest, additions to tax and penalty is not otherwise provided for, the Secretary of Finance may establish the same.

(c) The Secretary of Finance may, at any time within the period prescribed for issuance of a notice of deficiency, issue a supplemental notice of deficiency, subject to the provisions of this Section where applicable, whenever it is found that any notice is imperfect or incomplete in any material aspect.

(d) As soon as practicable after a return is filed, the Secretary of Finance shall examine it and shall determine the correct amount of tax. If the tax found due upon examination is greater than the amount shown on the return to be due, notice of a deficiency shall be mailed to the taxpayer by registered or certified mail.

(e) Within 90 days after such notice is mailed the taxpayer may file a written protest with the Secretary of Finance for a redetermination of the tax. The taxpayer shall be granted a hearing if it is requested in the written protest. If the taxpayer does not file a timely written protest with the Secretary of Finance, assessment of the deficiency shall be made and shall be paid within ten days after notice and demand from the Secretary of Finance.

(f) Notice of the Secretary of Finance's determination shall be mailed to the taxpayer by certified or registered mail, and such notice shall set forth briefly the Secretary of Finance's basis of decision in each case decided in whole or in part adversely to the taxpayer.

The action of the Secretary of Finance on the taxpayer's protest is final upon the expiration of 90 days from the date when he mails notice of his action to the taxpayer unless within this period the taxpayer files an appeal to the Tax Appeal Board.

(g) If the taxpayer is notified that because of a mathematical error appearing upon the face of the return an amount of tax in excess of that shown upon the return is due, then, notwithstanding any other provision of this Section, such excess shall be paid within ten days after such notice is mailed to the taxpayer.

(h) A 'deficiency' means the amount (other than an amount described in subsection (g) of this Section) by which the tax imposed by this Chapter exceeds the amount shown as the tax by the taxpayer upon its return, or if no return is made by the taxpayer, the amount determined by the Secretary of Finance to be the correct or estimated amount of the tax.

§5509. Limitations on Notice of Deficiency

(a) Except as provided below, a notice of deficiency shall be mailed to the taxpayer within three years after the last day prescribed for filing the return or, if later, the date the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice of deficiency is mailed within the three-year period or the period otherwise fixed.

(b) If no return is filed or a false or fraudulent return is filed with intent to evade the tax imposed by this Chapter, a notice of deficiency may be mailed to the taxpayer at any time.

(c) Where before the expiration of the time prescribed in subsection (a) of this Section for the issuance of the notice of deficiency, both the Secretary of Finance and the taxpayer have consented in writing to its issuance after such time, the notice may issue at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

§5510. Claim for Refund

(a) Upon determining that any tax, penalty or interest collected with respect to this Chapter has been collected improperly, the Department of Finance shall, if a claim is made within three years of the date of the overpayment, refund to the taxpayer the sums so paid.

(b) When the Department disallows a claim for refund in whole or in part, the disallowance shall become final 90 days from the date when notice of disallowance is mailed to the taxpayer, unless within that period the taxpayer files a written protest with the Director of Revenue in which he shall set forth the grounds on which the protest is based. If a protest is filed, the Director shall reconsider the disallowance. Notice of the Director's determination shall be mailed to the taxpayer by registered or certified mail. The action of the Director on the taxpayer's protest is final upon the expiration of 90 days from the date when he mails notice of his action to the taxpayer unless within this period he seeks review by the Tax Appeal Board of the Director's determination."

Section 2. This Act shall be effective on the date of enactment.

Approved July 8, 1987.

CHAPTER 120

FORMERLY

SENATE BILL NO. 202
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 3, 11, 15, 19, 21, 53, 54 AND 61 OF TITLE 30 OF THE DELAWARE CODE RELATING TO ADMINISTRATIVE PROCEDURES IN REGARD TO TAX AND REFUND DETERMINATIONS AND THEIR APPEAL.

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

Section 1. Amend §329, Chapter 3, Title 30 of the Delaware Code, by striking said Section in its entirety and substitute in lieu thereof a new §329 to read as follows:

"The Tax Appeal Board shall hear all appeals from determinations of the Director of Revenue of all administrative protests including, but not necessarily limited to, determinations under §1185, §1203, §1351, §1407, §1510, §1907, §1911, §2103(e), §2108, §5323, §5411(c), §5413(c), §5507, §5508, §5509, §6106, §6109, and §6306 of this Title and such other statute granting jurisdiction to the Board as may be hereafter enacted and may affirm, modify or reverse such determinations."

Section 2. Amend §1201, Chapter 11, Title 30 of the Delaware Code, by striking said Section in its entirety and substitute in lieu a new §1201 to read as follows:

"If the Director of Revenue disallows a claim for refund, he shall notify the taxpayer accordingly. The action of the Director of Revenue denying a claim for refund is final upon the expiration of 90 days from the date when he mails notice of his action to the taxpayer, unless within this period the taxpayer files a written protest with the Director of Revenue against the disallowance of the claim for refund in which he shall set forth the grounds on which the protest is based. If a protest is filed, the Director of Revenue shall reconsider the disallowance and, if the taxpayer has so requested, shall grant the taxpayer or his authorized representative an oral hearing."

Section 3. Amend Chapter 15, Title 30 of the Delaware Code, by adding thereto a new §1510 to read as follows:

"§1510. Procedure and Administration

§1181 through §1187 and §1200 through §1203, inclusive, shall apply to the returns and determinations of tax due under this Chapter, and the words 'income tax' whenever they appear in those Sections, shall be deemed to refer to the estate tax, and references to the 'taxpayer,' whenever they appear in these Sections shall be deemed to refer to the executor or administrator."

Section 4. Amend §1200, Chapter 11, Title 30 of the Delaware Code, by striking in its entirety the second sentence of said Section.

Section 5. Amend §1911, Chapter 19, Title 30 of the Delaware Code, by striking in its entirety existing subsection (c) of said Section and substitute in lieu thereof a new subsection (c) to read as follows:

"(c) If the Secretary of Finance or the Director of Revenue acting as his designee disallows the claim in whole or in part, the disallowance shall become final 30 days from the date when he mails notice of his action to the taxpayer unless within this period the taxpayer files a written protest with the Director of Revenue in which he shall set forth the grounds on which the protest is based. A taxpayer may elect to treat failure to act upon a claim for refund within 6 months of its filing as a disallowance of his claim; provided, however, that the disallowance may not become final until the expiration of the 30 day period described in this paragraph, during which period the taxpayer may file a protest against such disallowance. If a protest is filed with regard to any disallowance of a claim for refund under this Chapter, the Director of Revenue shall reconsider the disallowance. Notice of the Director's determination shall be mailed to the taxpayer by registered or certified mail, and such notice shall set forth briefly the Director's basis of decision in each case decided, in whole or in part, adversely to the taxpayer. The action of the Director on the taxpayer's protest is final upon the expiration of 30 days from the date when he mails notice of his action to the taxpayer unless within this period the taxpayer seeks review of the Director's determination."

Section 6. Amend subsection (e) of §2103, Chapter 21, Title 30 of the Delaware Code, by striking the words "filed a complaint or appeal in writing over his signature from the assessment of the Secretary of Finance or filed a petition with the Tax Appeal Board" as they appear in said subsection and substitute in lieu thereof the following: "filed a written protest with the Director of Revenue against the assessment in which he shall set forth the grounds on which the protest is based. If a protest is filed, the Director of Revenue shall reconsider the assessment, and give notice of his determination to the taxpayer by registered or certified mail. The action of the Director of Revenue on a taxpayer's protest under subsection (e) of this Section is final unless within 30 days from the date when he mails notice of his action to the taxpayer, the taxpayer seeks review of the Director's determination."

Section 7. Amend Section 5323, Chapter 53, Title 30 of the Delaware Code, by striking said Section in its entirety and substitute in lieu thereof a new §5323 to read as follows:

"§5323. Any determination or action under this Chapter by the Department of Finance shall become final unless, within 30 days of the mailing of notice of such action to the taxpayer, such taxpayer files a written protest with the Director of Revenue in which he shall set forth the grounds on which the protest is based. If a protest is filed, the Director shall reconsider the determination or action and give notice of his decision to the taxpayer by registered or certified mail. The decision by the Director of Revenue on a taxpayer's protest is final unless the taxpayer seeks review of the Director's decision within 30 days from the date when he mails notice of his action"

Section 8. Amend §5413, Chapter 54, Title 30 of the Delaware Code, by adding to said Section a new subsection (c) to read as follows:

"When the Department disallows a claim for refund in whole or in part, the disallowance shall become final 90 days from the date when notice of disallowance is mailed to the taxpayer, unless within the period the taxpayer files a written protest with the Director of Revenue in which he shall set forth the grounds on which the protest is based. If a protest is filed, the Director shall reconsider the disallowance. Notice of the Director's determination shall be mailed to the taxpayer by registered or certified mail. The action of the Director on the taxpayer's protest is final upon the expiration of 30 days from the date when he mails notice of his action to the taxpayer unless within this period he seeks review of the Director's determination."

Section 9. Amend Chapter 61, Title 30 of the Delaware Code, by adding thereto a new Section 6109 to read as follows:

"§6109. Refunds

(a) Upon determining that any tax, penalty, or interest collected with respect to this Chapter has been collected improperly, the Department of Finance shall, if a claim is made within 3 years of the date of overpayment, refund to the taxpayer the sums so paid.

(b) When the Department disallows a claim for refund in whole or in part, the disallowance shall become final 30 days from the date when notice of disallowance is mailed to the taxpayer, unless within the period the taxpayer files a written protest with the Director of Revenue in which he shall set forth the grounds on which the protest is based. If a protest is filed, the Director shall reconsider the disallowance. Notice of the Director's determination shall be mailed to the taxpayer by registered or certified mail. The action of the Director on the taxpayer's protest is final upon the expiration of 30 days from the date when he mails notice of his action to the taxpayer unless within this period he seeks review of the Director's determination."

Approved July 8, 1987.

CHAPTER 121

FORMERLY

SENATE BILL NO. 203

AN ACT TO AMEND CHAPTER 11, TITLE 30 OF THE DELAWARE CODE RELATING TO SET OFF BETWEEN REFUNDS AND DEBTS TO CLAIMANT AGENCIES.

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

Section 1. Amend §1206, Title 30 of the Delaware Code by adding the following sentence to the end of subsection (a) of said Section:

"In addition, claimant agency shall mean the Department of Labor."

Section 2. This Act shall be effective on the date of its enactment into law.

Approved July 8, 1987.

CHAPTER 122

FORMERLY

SENATE BILL NO. 205

AN ACT TO AMEND CHAPTER 11, TITLE 30 OF THE DELAWARE CODE RELATING TO WITHHOLDING TAXES.

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

Section 1. Amend §1182, Chapter 11, Title 30 of the Delaware Code by inserting the following after the words "ninety days" as they appear in said Section:

"(Thirty days in the case of withholding taxes)".

Section 2. Amend §1183, Chapter 11, Title 30 of the Delaware Code by striking the phrase "(150 days if the taxpayer is outside the United States)" as it appears in the first sentence of said Section and substitute in lieu thereof the following:

"(30 days in the case of withholding taxes but 150 days if the taxpayer is outside the United States)".

Section 3. Amend §1185, Chapter 11, Title 30 of the Delaware Code by inserting the following after the phrase "90 days" as it appears therein:

"(30 days in the case of withholding taxes)".

Section 4. Amend §1201, Chapter 11, Title 30 of the Delaware Code by inserting the following after the phrase "90 days" as it appears therein:

"(30 days in the case of withholding taxes)".

Section 5. This Act shall be effective for proposed assessments made or refunds disallowed on or after the date of its enactment into law.

Approved July 8, 1987.

CHAPTER 123

FORMERLY

SENATE BILL NO. 228

AN ACT TO AMEND CHAPTER 56, TITLE 29, DELAWARE CODE, RELATING TO THE STATE JUDICIARY PENSION PLAN.

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

Section 1. Section 5605(a), Chapter 56, Title 29, Delaware Code is amended by striking said subsection in its entirety and substituting in lieu thereof the following:

"(a) Each new member of the State judiciary, whether by appointment and confirmation or as a result of any provision of this Chapter, may accept the provisions of this Chapter by (1) written declaration to that effect within 30 days following his becoming a member of the State judiciary or (2) through the authorization, heretofore or hereafter accomplished, by said member to permit deductions for the contributions provided in §5601 of this title. The declaration of acceptance shall be filed in the office of the Secretary of State provided, however, that in the event the member accepts the provisions of this Chapter through authorization of deductions for contributions, the member shall thereafter file a written declaration with the Secretary of State. Upon the filing of such written declaration by a member of the State judiciary or upon authorization of deductions for contributions, whichever first occurs, the benefits of this Chapter shall be available to him. Any judge who was, prior to November 8, 1955, a member of the State judiciary, who has not already done so, may file his written declaration of acceptance of the provisions of this Chapter within 30 days after November 8, 1955. A declaration of acceptance, or authorization to permit deductions for the contributions provided in §5601 of this title, heretofore or hereafter accomplished, by a member first appointed on or after July 1, 1980, shall cover such member under the revised plan."

Section 2. Section 5605(c), Chapter 56, Title 29, Delaware Code, is amended by adding the words "or authorization of deductions for the contributions provided in §5601 of this title" after the word "chapter" appearing on the first line of said subsection.

Section 3. Section 5605(d), Chapter 56, Title 29, Delaware Code, is amended by adding the words "or authorization made" after the word "filed."

Approved July 8, 1987.

CHAPTER 124

FORMERLY

SENATE BILL NO. 232
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 18 AND 16 OF THE DELAWARE CODE RELATING TO INSURANCE AND HEALTH AND SAFETY AND TO ALLOCATE RESPONSIBILITY FOR REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS BETWEEN THE INSURANCE COMMISSIONER AND THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

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

Section 1. Amend Title 18, Delaware Code by adding a new Chapter 64 as follows:

"CHAPTER 64. INSURANCE REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

§6401. Statement of Intent

It is the intent of the General Assembly in enacting this Chapter to provide that the Insurance Commissioner regulate the insurance aspects, including financial solvency, of health maintenance organizations established or operated in this State. It is the intent of the General Assembly that such organizations be subject only to the provisions of Title 16, Chapter 91 and to the provisions of this Chapter, including those other chapters of Title 18 expressly included in §6406 herein, and no insurance law hereinafter enacted shall be deemed to apply to health maintenance organizations unless they are specifically referred to therein.

§6402. Health Maintenance Organization Defined

'Health Maintenance Organization' means an organization as defined in §9102(4) of Title 16, Delaware Code.

§6403. Certificate of Authority: When Required: Application

(a) No person shall establish, operate or engage in the business of a health maintenance organization or enter this State for the purpose of enrolling persons in a health maintenance organization without first obtaining a certificate of authority therefor from the Insurance Commissioner and a certificate of authority from the Department of Health and Social Services under Chapter 91, Title 16.

(b) Every health maintenance organization which is established or operating in this State on the effective date of this Chapter must apply for and obtain a certificate of authority under this Chapter in order to continue such operation. If such an application is filed within ninety (90) days after the Insurance Commissioner promulgates the application form called for in (c) of this Section, such operation may continue until the application is acted upon. If the application is denied the applicant shall be treated as a health maintenance organization which has had its certificate of authority revoked under §6405 of this Title.

(c) Application for a certificate of authority as a health maintenance organization shall be made on forms promulgated by the Insurance Commissioner and containing such information as he shall by regulation require. The application shall be accompanied by a filing fee of \$500, copies of any documents which the Insurance Commissioner shall by regulation require, and copies of the following documents:

- (1) Certificate of Incorporation;
- (2) Bylaws;
- (3) A list of the names and addresses of the members of the board of directors or other governing body of the corporation and its principal officers;
- (4) A statement of the geographic areas in which the health maintenance organization proposes to operate;
- (5) A statement describing how the health maintenance organization shall operate, including its anticipated enrollment, the proposed method of marketing and a financial plan which includes a projection of operating results for the first three years of operation;

(6) A statement identifying the states where the health maintenance organization is authorized to operate, any states where it has pending an application for authorization to operate; any states where it has been cited for a violation of any laws or legislation and an explanation of any such alleged violation, including the status or outcome;

(7) Forms of proposed contracts to be offered for members who enroll on a direct payment or standard group basis;

(8) Tables of rates to be charged for such contracts or a statement of the rating formulas to be used in lieu of fixed rates; and

(9) Financial statements showing the applicant's assets, liabilities and sources of financial support; provided that if the applicant's financial affairs are audited by an independent certified public accountant, a copy of the applicant's most recent certified financial statement shall be deemed to satisfy this requirement.

§6404. Issuance of Certificate of Authority

The Commissioner shall issue a certificate of authority to the applicant when it is shown to his satisfaction that:

(1) The applicant meets or is able to meet the requirements of this Title as set forth herein;

(2) Arrangements have been made by the applicant reasonably to assure provision of the services covered by its contracts; and

(3) The applicant is financially responsible and able to meet its obligations to members.

§6405. Suspension or Revocation of Certificate of Authority

The Commissioner may, after a hearing, suspend or revoke the certificate of authority of a health maintenance organization for any of the following causes:

(1) If the health maintenance organization is no longer qualified therefor under this Chapter;

(2) For a violation by the health maintenance organization of any provision of this Chapter; or

(3) Upon any applicable ground under this Chapter or any of the Chapters specified in §6406 of this Chapter for which the certificate of authority of an insurer may be suspended or revoked.

§6406. Other Provisions Applicable

Health maintenance organizations shall be subject to this Chapter and to the following Chapters of this Title, as amended from time to time, to the extent applicable and not in conflict with the express provisions of this Chapter. For purposes of the following Chapters only, a health maintenance organization shall be treated as a health insurer, and its coverages shall be deemed to be 'medical and hospital expense-incurred insurance policies' for purposes of Chapter 25, Title 18.

(1) Chapter 1 (General Definitions and Provisions).

(2) Chapter 3 (The Insurance Commissioner).

(3) Chapter 5 (Authorization of Insurers and General Requirements).

(4) Chapter 9 (Kinds of Insurance; Limits of Risk; Reinsurance).

(5) Chapter 11 (Assets and Liabilities).

(6) Chapter 13 (Investments).

(7) Chapter 15 (Administration of Deposits).

(8) Chapter 17 (Agents, Brokers, Consultants, etc.).

- (9) Chapter 21 (Unauthorized Insurers).
- (10) Chapter 23 (Unfair Practices in the Insurance Business).
- (11) Chapter 25 (Rates and Rating Organizations).
- (12) Chapter 27 (The Insurance Contract).
- (13) Chapter 33 (Health Insurance Contracts).
- (14) Chapter 34 (Medicare Supplement Insurance Minimum Standards).
- (15) Chapter 35 (Group and Blanket Health Insurance).
- (16) Chapter 36 (Individual Health Insurance Minimum Standards).
- (17) Chapter 59, Subchapter I (Rehabilitation and Liquidation)."

Section 2. Amend §9101, Chapter 91, Title 16, Delaware Code by striking the second sentence thereof and substituting in lieu thereof the following:

"It is the intent of the General Assembly that such organizations be subject only to the provisions of this Chapter, the provisions of Chapter 64 of Title 18, and any Chapters specified in §6406 of Chapter 64 of Title 18."

Section 3. Amend Subsection 9102(2), Chapter 91, Title 16, Delaware Code by inserting the words "and under Chapter 64 of Title 18" after the word "title" where it first appears in the subsection, and by adding the words "and subsection (b) of §6403 of Title 18" to the end of the subsection.

Section 4. Amend §9102, Chapter 91, Title 16, Delaware Code by adding the following new subsections (6) and (7):

"(6) 'Insurance Commissioner' means the Insurance Commissioner of the State of Delaware.

(7) 'Health Care Services' means any services included in the furnishing to any individual of medical or dental care, or hospitalization or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability."

Section 5. Amend §9102, Chapter 91, Title 16, Delaware Code by deleting the word "primarily" from §9102(4)(c), by inserting the word "primarily" before the word "compensated" in §9102(4)(b), and by adding the following sentence at the end of subsection 9102(4):

"The organization may also provide or arrange for health care services on a prepayment or other financial basis."

Section 6. Amend §9103(a), Chapter 91, Title 16, Delaware Code by adding the words "and under Chapter 64 of Title 18" to the end of the first sentence of that Section.

Section 7. Amend Chapter 91, Title 16, Delaware Code by deleting §§9105, 9106 and 9109 in their entirety and renumbering the remaining sections accordingly, and by renumbering the reference to §9112 found in current §9103(b), and the reference to §9114 found in current §9104(c)(3).

Section 8. Amend §9112(a), Chapter 91, Title 16, Delaware Code by striking the word "or" at the end of §9112(a)(3), by striking the "." at the end of §9112(a)(4) and substituting in lieu thereof the following "; or", and by adding the following new subsection (5):

"(5) The health maintenance organization no longer holds a valid certificate of authority from the Insurance Commissioner pursuant to Chapter 64, Title 18."

Section 9. Amend §9112(d), Chapter 91, Title 16, Delaware Code by deleting the second sentence thereof.

Section 10. Amend §9114, Chapter 91, Title 16, Delaware Code by substituting the figures "\$500" and "\$100" for "\$100" and "\$50", respectively.

Section 11. Amend §9115(a), Chapter 91, Title 16, Delaware Code by striking the following at the beginning thereof: "Except as provided in subsection (e) below," and by adding the following sentence at the end of §9115(a):

"A certified health maintenance organization shall not be deemed to be practicing any other licensed health care profession, and the health maintenance organization shall be exempt from statutes, rules and regulations relating to such professions."

Section 12. Amend §9115(b), Chapter 91, Title 16, Delaware Code by inserting the following sentence at the beginning thereof:

"A certified health maintenance organization may contract with, or employ, any licensed health care professional to provide health care services, notwithstanding any statute, rule or regulation to the contrary."

Section 13. Amend §9115(c), Chapter 91, Title 16, Delaware Code by deleting the phrase "§9108 or 9109" and substituting in lieu thereof "§9106".

Section 14. Amend §9115(d), Chapter 91, Title 16, Delaware Code by deleting the first sentence of the subsection in its entirety and substituting the following sentence therefor:

"(d) All insurance regulation of certified health maintenance organizations shall take place according to the provisions of Chapter 64, Title 18.

Section 15. Amend §9115, Chapter 91, Title 16, Delaware Code by deleting §9115(e) and (f) in their entirety.

Section 16. Effective Date. This Act shall be effective immediately upon its enactment into law.

Approved July 8, 1987.

CHAPTER 125

FORMERLY

SENATE BILL NO. 235 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 937, CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO THE DISPOSITION OF JUVENILES FOLLOWING ADJUDICATION AND THE COMMITMENT OF JUVENILES TO THE CUSTODY OF THE DEPARTMENT OF CORRECTION.

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

Section 1. Amend Section 937, Chapter 9, Title 10 of the Delaware Code by striking the words "Department of Correction" as the same appears in the Title, and inserting in lieu thereof the words "Department of Services for Children, Youth and Their Families".

Section 2. Amend Section 937(c)(2), Chapter 9, Title 10 of the Delaware Code by striking said subsection in its entirety.

Section 3. Further amend Section 937(c), Chapter 9, Title 10 of the Delaware Code by renumbering Section 937(c)(3) through Section 937(c)(8) as Section 937(c)(2) through Section 937(c)(7).

Approved July 8, 1987.

CHAPTER 126

FORMERLY

SENATE BILL NO. 254

AN ACT TO AMEND CHAPTER 75, TITLE 3 OF THE DELAWARE CODE, RELATING TO BEEKEEPING.

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 §7512, Title 3 of the Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"§7512. Violations and penalties

Whoever knowingly violates this Chapter or any order or quarantine regulation issued hereunder, or interferes in any way with the duly appointed representatives of the Department of Agriculture in the discharge of the duties specified in this Chapter, shall be fined \$50 for the first offense and \$100 for any subsequent offenses. For purposes of Sections 7509, 7510 and 7513, each colony shall constitute a single offense. The Justice of the Peace Courts shall have jurisdiction over all offenses under this Chapter."

Approved July 8, 1987.

CHAPTER 127

FORMERLY

SENATE BILL NO. 285

AN ACT TO AMEND CHAPTER 1, TITLE 17 OF THE DELAWARE CODE RELATING TO HIGHWAYS AND PROVIDING FOR A NEW SUBSECTION GRANTING LOCAL AUTHORITIES POWER TO CREATE "HISTORIC DISTRICTS" AND AUTHORIZING THE ALTERATION OF TRAFFIC SIGNS AND MARKINGS IN SUCH DISTRICTS WITH THE APPROVAL OF THE DEPARTMENT OF TRANSPORTATION.

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

Section 1. Amend Section 134, Chapter 1, Title 17 of the Delaware Code by inserting a new subsection (f) in the section to read as follows:

"(f) Local authorities, within their respective jurisdictions, may create "Historic Districts" which encompass one or more state-maintained roads, and the standards for traffic signs and traffic markings on any such road may be altered by the Department of Transportation to be more compatible with the time period of the Historic District, unless:

- (1) The posted speed limit on the road is above 25 MPH;
- (2) There are more than two thru travel lanes on the road;
- (3) The road is a U.S. or Delaware Route; or
- (4) The road has no reasonable alternative route which can adequately handle the traffic.

Any traffic signs or traffic markings that are proposed under this subsection must be approved by the Department of Transportation."

Section 2. Amend Section 134, Chapter 1, Title 17 of the Delaware Code by renumbering current sections (f), (g) and (h) as (g), (h) and (i) respectively.

Approved July 8, 1987.

CHAPTER 128

FORMERLY

HOUSE BILL NO. 56
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 24, 29 AND 30, OF THE DELAWARE CODE TO PROVIDE FOR THE LICENSING AND REGULATION OF PROFESSIONAL COUNSELORS.

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 Titles 24, of the Delaware Code by adding thereto a new Chapter 30, which shall read as follows:

"CHAPTER 30. PROFESSIONAL COUNSELORS.

§3001. Policy and Objectives.

The primary objectives of the Board of Examiners in Counseling to which all other objectives and purposes are secondary, is to protect the general public (specifically those persons who are direct recipients of services regulated by this Chapter) from unsound practices and from counseling practices which tend to reduce competition or fix the price of services rendered. The secondary objectives of the Board are to maintain minimum standards of practitioner competency and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop standards assuring professional competence; shall monitor complaints brought against practitioners regulated by the Board; shall adjudicate at formal complaint hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against practitioners. Nothing in this Chapter shall be deemed direct or indirect commitment by the General Assembly to a present or future requirement that insurers or third parties must offer or provide coverage for the services of practitioners licensed under this Chapter.

§3002. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meaning subscribed to them under this Section, except where the context clearly indicates a different meaning:

(a) 'Board' shall mean the Board of Professional Counselors which shall administer and enforce this Chapter.

(b) 'Counseling Services' shall mean those acts and behaviors coming within the 'practice of counseling' as defined in this Act.

(c) 'Professional Counselor' shall mean any person who holds himself or herself out to the public by any title or description of services incorporating the words 'Professional Counselor': and who renders or offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies or the general public for monetary remuneration or otherwise, implying that he or she is trained, experienced or expert in counseling, but it does not mean any person, employee, or agent thereof engaging in whole or in part in religious counseling who identifies himself or herself as a professional religious counselor.

(d) 'Associate Counselor' shall mean any person who holds himself or herself out to the public by any title or description of services incorporating the words 'Associate Counselor': and who renders or offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies or the general public for a fee, or otherwise, implying that he or she is trained, experienced or expert in counseling, under the supervision of a duly licensed professional counselor.

(e) 'Practice of Counseling' shall mean rendering or offering to render to individuals, groups, organizations or the general public any service involving the application of principles, methods, or procedures of the counseling profession which include but are not limited to:

(1) 'Counseling' means assisting, by marriage and family counselors, guidance or human development counselors, drug and alcohol abuse counselors, mental

health counselors or vocational rehabilitation counselors, an individual or a group through the counseling relationship to develop an understanding of personal problems, to define goals, and to plan action reflecting his or her interests, abilities, aptitudes and needs as these are related to personal social concerns, educational progress and occupations and careers, but it does not mean religious counseling which touches, in any manner whatsoever, on any of these areas.

(2) 'Appraisal' means selecting, administering, scoring and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests and personal characteristics, but shall not include the use of projective techniques in the assessment of personality.

(3) 'Consulting' means interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups or organizations.

(4) 'Referral' means the evaluating of data to identify problems and to determine the advisability of referral to other specialists.

(5) 'Research' means reporting, designing, conducting or consulting on research in counseling with human subjects.

(f) 'Direct Supervision' shall mean supervision by a qualified licensed professional counselor and shall include the staffing of cases and the critiquing of counseling tapes. Said supervision shall be conducted in a formal, professional and consistent manner on a regularly scheduled basis.

§3003. Unlawful Acts.

No person shall practice professional counseling or hold himself or herself out as a professional counselor or associate counselor or render professional counseling services in this State unless he or she is licensed in accordance with the provisions of this Chapter. It shall be unlawful for any person, or for any business entity, its employees, agents or representatives to use in connection with his or its name or business activity the words 'professional counselor', 'licensed professional counselor', 'associate counselor', 'licensed associate counselor' or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that professional counseling services are rendered unless such person is licensed under this Chapter.

§3004. Persons and Practices Not Affected.

Nothing in this Chapter shall be construed as preventing or restricting the practice, services or activities of:

(a) Any person registered or licensed in this State by any other law from engaging in the profession or occupation for which he or she is licensed:

(b) Non-resident persons engaged in consulting, research, teaching or lecturing in counseling for a period not greater than thirty (30) days in a calendar year;

(c) Any person or legal entity engaged in religious activity of any nature whatsoever. Religious activity shall be construed in the broadest sense possible to include all activity:

(1) arguably protected by either the free exercise or the establishment clauses of the First Amendment to the United States Constitution;

(2) arguably protected by Article 1, Section 1 of the Delaware Constitution of 1897;

(3) which can be shown to have been historically engaged in by any religiously motivated person or legal entity; or

(4) which can be shown is sincerely believed to be described in, or mandated by, the Holy Scriptures of the individual or legal entity involved. Religious activity is not limited in any way to Sabbath worship but extends to any activity or a spiritual or religious nature which touches in any way on the affairs of life. Religious activity is not limited to clergy or churches and it includes church members or other religiously motivated individuals.

(d) The activities of any student, intern or trainee in counseling at an accredited institution of higher education or training institution, or fulfilling the supervised field experience requirements for licensure if these activities constitute a part of the supervised course of study and further provided that the person is designated a 'counselor intern'; or an aide or intern who has met the educational requirements for licensure and is employed by a professional counselor;

(e) Any individual offering volunteer or paid services, who is approved by the entity for whom the services is rendered, provided that the entity is either engaged in religious activity; a public or private non-profit organization; a charity; or an organization licensed under the provisions of the State licensure standards governing alcohol and drug counseling services;

(f) No person or entity exempt under any subparagraph of this Section shall be required to submit to the jurisdiction of the Board of Professional Counselors or to respond in any way whatsoever before that body.'

§3005. Board of Professional Counselors; Qualifications; Term of Office; Compensation.

(a) The Board of Professional Counselors is established and shall consist of seven (7) members who are residents of this State and shall be appointed by the Governor. The Board shall consist of four (4) professional members licensed under this Chapter, one (1) shall be an associate counselor, and two (2) shall be public members. The public members shall not be nor ever have been professional counselors or associate counselors nor members of the immediate family of a professional counselor or associate counselors; shall not have a material interest in providing goods and services to professional counselors; nor be engaged in any activity directly related to professional counseling. The public members shall be accessible to inquires, comments and suggestions from the general public.'

(b) Each member shall serve for a term of three (3) years, and may succeed himself for one additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself for only one additional full term. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment, except that each member shall serve until his successor is duly appointed.

(c) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetency, or neglect of duty. A member subject to disciplinary proceedings shall be disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded.

(d) While serving on the Board, no member may be a president, chairman or other official of a professional association for profession counselors.

(e) A member of the Board shall receive fifty dollars (\$50.00) for each meeting attended, but not more than five hundred dollars (\$500.00) in any calendar year.

§3006. Officers; Conduct of Business.

(a) The Board shall elect annually from its members, a chairman, a vice-chairman and a secretary. Each officer shall serve for one year, and shall not succeed himself in the same office.

(b) The Board shall hold regularly scheduled business meetings at least twice a year, and at such other times as the chairman deems necessary, or at the request of a majority of the Board members.

(c) A majority of the members shall constitute a quorum and no action shall be taken without the affirmative vote of at least four members. Any member who fails to attend three (3) consecutive meetings, or fails to attend at least half of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from office and a replacement shall be appointed.

§3007. Powers and Duties.

(a) The Board of Professional Counselors shall have authority to:

(1) promulgate rules and regulations implementing or clarifying a specific section of this Chapter or necessary for the performance of their duties;

(2) designate a national examination approved by the National Board for Certified Counselors, Inc. to be taken by persons applying for licensure, except applicants who qualify for licensure by reciprocity;

(3) grant licenses to all persons who meet the qualifications for licensure;

(4) receive complaints from practitioners and from the public concerning practitioners, licensed or unlicensed, or concerning practices of the professions; to evaluate such complaints; and to take such action within its power as the Board deems appropriate;

(5) determine whether or not a practitioner shall be the subject of a disciplinary hearing, and if so, to conduct such hearing in accordance with this Chapter and the provisions of the Administrative Procedures Act;

(6) where it has been determined after a disciplinary hearing, that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty;

(7) bring proceedings in court for the enforcement of this Chapter, including suits in its own name to enjoin and restrain any licensed or unlicensed person from violating the provisions of this Chapter or to prevent or remedy any other violation of this Chapter of the rules of the Board. The Board shall be represented in all such actions by the Attorney General;

(8) maintain complete records relating to meeting minutes, applications, examinations, rosters, changes and additions to the rules and regulations, complaints, hearings and such other matters as the Board shall determine;

(9) require by subpoena the attendance and testimony of witnesses and the production of papers, records or other documentary evidence;

(10) set and charge an application fee as determined by the Board pursuant to §3009 of this Chapter;

(b) Whenever the Board has reason to believe that a person licensed under this Act has or will engage in practices which are in violation of this Chapter, may issue a cease and desist order against such person.

(1) Cease and desist orders shall be in writing and shall state what alleged violations have occurred or are about to occur which are the basis for the issuance of such orders.

(2) Cease and desist orders shall be served upon the violator and a copy shall be filed in the office of the Prothonotary of the county where the violator's main place of business in this State is located or in the office of the Prothonotary of the county where the violation occurred, or both.

(3) Upon receipt of a cease and desist order, the violator shall immediately cease and desist from conducting the activity which has been ordered ceased. Any person or agent or employee of the violator who conducts any activity which has been ordered ceased shall be considered to be in contempt of the Superior Court and punished in the same manner and to the same extent.

(c) The Board shall adopt the Code of Ethics of the American Association for Counseling and Development, or its successor, and any revisions or additions deemed appropriate by the Board to govern appropriate practice or behavior referred to in this Chapter. The Board may add additional rules or interpretive guidelines in its discretion.

(d) In all activities the Board shall adhere to the Administrative Procedures Act, 29 Del. C. Chapter 101.

§3008. Application Procedure.

(a) The Board shall issue a license to each applicant who files an application upon a form and in such manner as the Board prescribes, accompanied by payment of

the application fee, and who furnishes satisfactory evidence of the following qualifications:

- (1) the applicant has reached the age of majority;
- (2) the applicant is a citizen of the United States or has declared his intention to become a citizen;
- (3) the applicant is highly regarded in personal character and professional ethics;
- (4) the applicant is not in violation of any of the provisions of this Chapter or the rules and regulations adopted pursuant to this Chapter;

(5) the applicant has not been convicted of any felony, any misdemeanor involving dishonesty, or any offense involving drug addiction and shall not have been penalized or convicted for a willful violation of any confidential communication nor have been professionally penalized or convicted of any offense involving fraud;

(6) the applicant is certified by the National Board for Certified Counselors, Inc.

(7) the applicant has earned a graduate degree from regionally or nationally accredited institution of higher education which is primarily professional counseling in content and meets the specific degree requirements of the National Board for Certified Counselors.

(8) the applicant has three (3) years of supervised, full time experience in professional counseling acceptable to the Board. An applicant may substitute up to one (1) year of experience attained prior to the completion of the Master's Degree for one (1) year of the required experience. Alternatively, an applicant may substitute 30 graduate semester hours or more attained beyond the Master's Degree for one (1) year of the required experience provided that such hours are clearly related to the field of counseling and are acceptable to the Board. In no case shall the applicant have less than two (2) years of the required post Master's professional experience. The Board by its rules and regulations shall establish criteria for determining, acceptable supervised experience. Independent private practice shall not be considered acceptable supervised professional experience.

(9) the applicant has demonstrated his or her knowledge of the field of counseling in general by passing the examination requirements of the National Board for Certified Counselors.

(10) foreign trained applications shall submit to the Board satisfactory evidence of graduation from a school offering a program in counseling or a certificate from a training program approved by an accrediting agency recognized by the National Board for Certified Counselors.

(b) the applicant has submitted to the Board a statement of professional intent outlining the scope of practice sought and the qualifications and experience pertinent to that scope of practice.

(c) the applicant shall complete a review written, oral or situational as the Board may require relevant to the applicant's statement of professional intent and scope of practice sought.

§3009. Fees.

It shall be the policy of the Board and of the Division of Professional Regulation that fees imposed under this Chapter shall approximate and reasonably reflect the expenses and costs incurred by the Board and by the Division in administering this Chapter; provided, however, that each applicant for licensure and each applicant for license renewal shall pay a fee of no less than one hundred (\$100) for those respective services. There shall be a separate fee for each service or activity, but no fee shall be charged for a service or activity not specified in this Chapter. The application fee shall not be combined with any other fee or charge, except as specifically set forth herein. At the beginning of each calendar year, the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute for each service or activity the appropriate fees for the coming year.

(a) The Board shall verify the results of the examination. Written examination documents shall be identified by number only.

(b) In the event an applicant fails to pass the entire examination, he or she may reapply and shall be allowed to take a subsequent examination.

(c) The amount to be charge for an examination fee shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board.

§3010. Requirements for Licensed Associate Counselor.

The Board shall issue an associate counselor license to each applicant who meets the requirements established for professional counselors except those dealing with the required experience and completion of the examination requirements of the National Board for Certified Counselors.

(a) An associate counselor may practice only under the direct supervision of a licensed professional counselor. A plan for supervision of the associate counselor must be approved by the Board prior to the Actual performance of any counseling services by the associate counselor.

(b) The associate counselor license shall be effective for a period of up to three years. Any licensed associate counselor may petition the Board for licensure review as a professional counselor upon fulfillment of the requirements of §3008.

§3011. Renewal; Inactive Status; Continuing Education.

(a) Licenses shall expire biennially and may be renewed, in a manner as prescribed by the Division of Professional Regulation, upon submission of a renewal form provided by the Division and upon payment of the renewal fee and submission of evidence of completion of continuing education courses as may be required by the rules and regulations established by the Board. If the renewal fee is not paid by the expiration date, a license shall automatically expire. A license or registration which has thus expired may within five (5) years of its expiration date be renewed upon the payment to the Board of a sum established by the rules and regulations of the Board. Reactivation of an expired license more than five years after its expiration date may be renewed only by complying with the provisions relating to the issuance of an original license.

(b) The Board shall keep an inactive register. Any person who has been licensed in this State and is neither residing within the State nor actively engaged in the practice of professional counseling in the State may, upon request, be placed upon the inactive register. Provisions for an active status shall be established by the Board.

§3012. Reciprocity.

(a) Upon payment of the appropriate fee, the Board shall waive all examination or education requirements and grant a license to any applicant who shall present proof of current licensure as a professional counselor or associate counselor in another state, the District of Columbia, or any territory of the United States which requires standards for licensure considered by the Board to be equivalent to the requirements for licensure under this Chapter.

(b) Under receipt of an application for reciprocity, the Board shall contact each jurisdiction which has previously licensed the applicant to determine whether or not there are disciplinary proceedings or unresolved complaints pending against the applicant. In the event that a disciplinary proceeding or unresolved complaint is pending, the applicant shall not be licensed until the proceeding or complaint has been resolved.

§3013. Privileged Communications.

Communications between a licensed professional counselor or associate counselor and client shall be considered confidential to the same extent as provided by Delaware Rule of Evidence 503.

§3014. Unlawful Practices; Penalties.

(a) Practitioners regulated under this Chapter shall be subject to disciplinary action by the Board if, after a hearing, the Board finds:

(1) The practitioner has employed or knowingly cooperated in fraud or material deception in order to be licensed, or otherwise authorized to practice professional counseling;

(2) illegal, incompetent or negligent conduct in the practice of professional counseling;

(3) the practitioner habitually indulges in the use of narcotics or other unlawful drugs, or is habitually intemperate;

(4) the practitioner has been convicted of any felony or any misdemeanor involving dishonesty;

(5) the practitioner, in the course of his profession, willfully engaged in an act of consumer fraud or deception, restraint of trade or competition or participated in price fixing activities;

(6) the practitioner, directly or indirectly, has engaged in the division, transfer, assignment, rebate or refunding of fees received for professional services, or profited by means of a credit or other valuable consideration such as wages, an unearned commission, discount, or gratuity, with any person who referred a patient, or with any relative or business associate of the referring person. This does not preclude a practitioner from practicing or being employed by a licensed physician, hospital, health maintenance organization, nursing home, home health agency, rehabilitation agency or public or non public school. Nothing in this Section shall be construed as prohibiting the members of any regularly and properly organized business entity recognized under Delaware Law, and composed of professional counselors, from making any division of their total fees among themselves as they determined by contract, necessary to defray their joint operating costs;

(7) the practitioner has violated any provision of this Chapter or any rule or regulation of the Board.

(b) A practitioner shall be subject to non-disciplinary remedial action if, after a hearing, the Board finds that there is a threat to the health, safety and welfare of the public due to:

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

(2) temporary emotional disorder or mental illness;

(3) permanent emotional disorder or mental illness.

(c) If a practitioner's physical or mental capacity is at issue in a non disciplinary remedial proceeding, the Board may order the practitioner to submit to a reasonable physical or mental examination. Failure to comply with a lawful order to submit to a physical or mental examination shall render a practitioner liable to temporary suspension or revocation of license.

(d) Where a practitioner fails to comply with the Board's request that he submit to an examination or attend a hearing, the Board may petition the Superior Court to order such examination or attendance, and the Court shall have jurisdiction to issue such order.

§3015. Remedial Actions and Disciplinary Sanctions.

(a) The Board may impose any of following sanction, singularly or in combination, when it finds that one of the conditions or violations set forth in this Chapter applies to a practitioner regulated by this Chapter:

(1) issue a letter of reprimand;

(2) censure a practitioner publicly;

(3) place a practitioner on probationary status and require the practitioner to:

i. report regularly to the Board upon matters which are the basis of the probation;

ii. limit all practice and professional activities to those areas prescribed by the Board; or

iii. continue or renew his/her professional education until the required degree of skill, as evidenced by successful completion of a designated examination has been attained in those areas which are the basis of the Board action;

iv. suspend any practitioner's license;

v. revoke a practitioner's license.

(b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies which required the action have been remedied.

(c) The Board may temporarily suspend a practitioner's license in advance of a final adjudication, or during the appeal process; but only in cases where there is clear and immediate danger to the health, safety or welfare of the public if the licensee is allowed to continue to practice with reasonable skill and safety.

(d) Where a license has been suspended due to a disability of the licensee, the Board may reinstate a license if, after a hearing, the Board is satisfied that the licensee is able to practice with reasonable skill and safety.

(e) As a condition to reinstatement of a suspended license, or removal from probationary status, the Board may impose such disciplinary or corrective measures as are authorized under this Chapter.

§3016. Complaints; Board Hearing; Procedure.

(a) Any member of the public or practitioner who has a question or complaint concerning any aspect of the practice of professional counseling, may, during the regular business hours of a business day, contact the Board or the Division of Professional Regulation or voice such question or complaint at a business meeting of the Board.

(b) Upon the receipt of a complaint against a practitioner, the Board shall determine what action, if any, it shall take. If the Board decides not to take any further action, and the complainant is known to the Board, the Board shall forward by letter to the complainant its reasons for not taking further action. Where the Board has determined to take further action, the matter shall be heard by the Board within ninety (90) days of receiving the complaint unless circumstances surrounding the complaint warrant a lengthier investigation. The Board shall fix the time and place for a full hearing of the matter, and shall cause a copy of the complaint, together with a notice of the time and place fixed for the hearing to be personally delivered or served upon the practitioner at least thirty (30) days before the date fixed for the hearing. In cases where the practitioner cannot be located or where personal service cannot be effected, substitute service will be effected in the same manner as in civil litigation.

(c) All hearings shall be informal and evidence shall be received without regard to the formal rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this Chapter as it deems necessary. The Board's decision shall be in writing and shall include its reasons for such a decision. A copy of the decision shall be mailed immediately to the complainant and to the practitioner. The Board's decision shall become effective on the thirtieth day after the date it was mailed or served on the practitioner, unless there is an appeal to the Superior Court within that time. Where either the complainant or the practitioner is in disagreement with the action of the Board, either person may appeal the Board's decision to the Superior Court within thirty (30) days of service, or of the postmark date of the copy of the Board's decision. Upon such appeal the Court shall hear the evidence upon the record and the filing of an appeal shall act as a stay of the Board's decision, pending final determination of the appeal.

§3017. Practicing Without a License.

(a) Where the Board has determined that a person is practicing professional counseling within this State without having lawfully obtained a license, or that a

person previously licensed is unlawfully practicing although his license has been suspended or revoked, the Board shall warn such person. If the offense continues, the Board shall make complaint to the Attorney General and may issue a cease and desist order. The complaint shall include all evidence known to or in the possession of the Board.

(b) Any applicant who knowingly or willfully makes a false statement of fact in making an application under this Chapter shall be subject to prosecution for perjury. The Board shall have full authority to investigate, in accordance with law, every applicant for a license or registration regarding that applicant's qualifications. Any prosecution under this Subsection for perjury and its related offenses shall lie within the exclusive jurisdiction of the Superior Court.

(c) Any violation of this Subsection (a) of this Section is a misdemeanor and upon the first offense, the offender shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each offense. For a second or subsequent conviction the fine shall be increased by five hundred dollars (\$500) for each offense. The Court shall order all client fees received for unlawful services to be refunded."

Section 2. Amend §10161, Chapter 101, Title 29 of the Delaware Code (administrative Procedures) by adding thereto a new Subsection, designated as Subsection (25), which new Subsection shall read as follows:

"(25) Board of Professional Counseling."

Section 3. Amend §8810(b), Chapter 88, Title 29 of the Delaware Code (Division of Professional Regulation) by adding thereto a new paragraph (19) which shall read as follows:

"(19) Board of Professional Counselors."

Section 4. Amend §2301(a), Chapter 23, Title 30 of the Delaware Code (Occupational Licensing Fees) by redesignating paragraphs (58) through (88) as paragraphs (59) through (89) and by adding a new paragraph (58) to read as follows:

"(58) Professional Counselor, \$50.00. Associate Counselor, \$50.00. 'Professional Counselor' and 'Associate Counselor' includes every person engaged in the business of professional counseling as defined in Chapter 30 of Title 24."

Section 5. Members of the initial Board shall be appointed in such manner that the terms of two (2) members expire on June 30, 1989; the terms of two (2) members shall expire on June 30, 1990; and the terms of three (3) members shall expire on June 30, 1991. Thereafter, appointments shall be made for terms of three years.

Section 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 7. So as not to unduly restrict the trade of those already in the practice of Professional Counseling, those persons in practice prior to the enactment of this Chapter will have twelve (12) months after the date of enactment to meet the full requirements for licensure.

Approved July 9, 1987.

CHAPTER 129

FORMERLY

HOUSE BILL NO. 265

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE RELATING TO PERSONAL INCOME TAX CREDITS FOR SOLAR ENERGY DEVICES.

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

Section 1. Amend Chapter 11, Title 30 of the Delaware Code by striking Section 1112 of said Chapter in its entirety as it appears therein.

Section 2. This Act shall be effective for tax years beginning after December 31, 1987.

Approved July 10, 1987.

CHAPTER 130

FORMERLY

HOUSE BILL NO. 266

AN ACT TO AMEND CHAPTERS 11, 53, 54, AND 55 OF TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES AND TO CERTAIN CIVIL PENALTIES AND RELATED PROCEDURES.

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

Section 1. Amend §1194, Chapter 11, Title 30 of the Delaware Code by adding thereto a new subsection (g) to read as follows:

"(g)(1) In the case of a failure to file a personal income tax return under this Chapter at the time prescribed therefor (determined by taking into account any authorized extension of time for filing), unless it is shown that failure is due to reasonable cause, there shall be added to the amount required to be shown as tax on the return a penalty determined under paragraph (2) of this subsection.

(2) For purposes of paragraph (1) of this subsection, the amount of penalty shall be the lesser of \$35 or the refund due on such return.

(3) The deficiency and appeal procedures provided in §1181 through §1186 of this Chapter shall not apply to penalties assessed under this subsection; provided, however, that the taxpayer shall be notified of said penalty and may, within 90 days from the date of the mailing of such notification, institute a protest of said penalty to the Director of Revenue."

Section 2. Amend §5325, Chapter 53, Title 30 of the Delaware Code by striking the symbol and figure "\$1" as they appear therein and substitute in lieu thereof the symbol and figure "\$15".

Section 3. Amend §5411, Chapter 54, Title 30 of the Delaware Code by striking the phrase "additional tax" as it appears in subsection (a) of said Section and substitute in lieu thereof the phrase "additional tax, penalty".

Section 4. Amend §5411, Chapter 54, Title 30 of the Delaware Code by adding thereto a new subsection (e) to read as follows:

"(e) If any part of the additional tax determined to be due is due to negligence or intentional disregard of rules and regulations there shall be added to the tax an amount equal to 10% of the additional tax determined to be due."

Section 5. Amend §5505, Chapter 55, Title 30 of the Delaware Code by designating existing §5505 as subsection (a) of said Section and add thereto new subsections (b), (c), (d), and (e) to read as follows:

"(b) In the case of failure to file a return under §5504 of this Chapter at the time prescribed for filing, unless such failure is shown to be due to reasonable cause, there shall be added to the amount required to be shown on such return 5% of said amount for each month, or fraction thereof, during which such failure continues, not to exceed 50% in the aggregate.

(c) In the case of the failure to pay the amount shown as tax on a return filed pursuant to §5504 on or before the date prescribed for payment of such tax, unless it is shown that such failure is due to reasonable cause, there shall be added to the amount shown as tax on such return 0.5% for each additional month, or fraction thereof, during which such failure continues, not to exceed 25% in the aggregate. For purposes of computing the addition for any month, the amount of tax shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the beginning of such month.

(d) If any part of the additional tax determined to be due is due to negligence or intentional disregard of rules or regulations (but without intent to defraud) there shall be added to the tax an amount equal to 10% of the additional tax determined to be due.

(e) If any part of the additional tax determined to be due is due to fraud, there shall be added to the tax 100% of the additional tax determined to be due. This amount shall be in lieu of the amount determined under subsection (d) of this subsection."

Approved July 10, 1987.

CHAPTER 131

FORMERLY

SENATE BILL NO. 39

AN ACT TO AMEND CHAPTER 44, TITLE 9, DELAWARE CODE RELATING TO THE AUTHORITY OF KENT COUNTY TO ESTABLISH BUILDING PERMIT FEES AND ESTABLISH PENALTIES FOR OFFENSES OR VIOLATION OF ITS CONSTRUCTION CODE.

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

Section 1. Amend §4405, Chapter 44, Title 9, Delaware Code by striking the comma "," after the word "government" and further striking the remaining language in said subsection commencing with the word "but" and ending with the word "value".

Section 2. Amend §4410, Chapter 44, Title 9, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §4410 to read as follows:

"Penalties for offenses in this chapter of the building code of Kent County or of violations of this chapter shall be as prescribed by ordinance of the county government of Kent County."

Section 3. This Act shall become effective on the date the county government of Kent County establishes, by ordinance, penalties and fines for the violation of its building code and this chapter.

Approved July 10, 1987.

CHAPTER 132

FORMERLY

SENATE BILL NO. 49
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 24 OF THE DELAWARE CODE, RELATING TO THE BOARD OF ACCOUNTANCY.

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

Amend §110 (a), Chapter 1, Title 24 of the Delaware Code, by striking the words "within 1 year after June 30, 1985" as they appear therein, and by substituting in lieu thereof the following:

"by December 31, 1987."

Approved July 10, 1987.

CHAPTER 133

FORMERLY

SENATE BILL NO. 69
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 11 OF THE DELAWARE CODE RELATING TO AUTHORIZING THE DEPARTMENT OF CORRECTION TO ADMINISTRATIVELY HANDLE THE TECHNICAL AND MINOR VIOLATIONS OF CONDITIONS OF PARTIAL CONFINEMENT, PROBATION, OR SUSPENSION OF SENTENCE.

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

Section 1. Amend §4334(c), Title 11 of the Delaware Code by adding the following to the end of said §4334(c):

"Notwithstanding the above, the Department is authorized to administratively handle technical and minor violations of conditions of probation when a sanction less restrictive than partial or total confinement is being sought by the Department as a result of the violation, and is further authorized to administratively handle technical and minor violations of conditions of partial confinement when a sanction less restrictive than total confinement is being sought by the Department as a result of the violation. All such administrative dispositions shall be documented in the offender's record and shall be made available to the court in the event of a subsequent violation which is considered by the court."

Approved July 1, 1987.

CHAPTER 134

FORMERLY

SENATE BILL NO. 71
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 42, TITLE 11, OF THE DELAWARE CODE RELATING TO THE AUTHORIZED DISPOSITIONS OF CONVICTED OFFENDERS.

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

Section 1. Amend §4204(c) of Chapter 42, Title 11 of the Delaware Code by striking said Subsection (c) in its entirety and substituting in lieu thereof a new Subsection (c) to read as follows:

"(c) When a person is convicted of any offense other than a Class A felony the court may take the following action:

(1) Impose a sentence involving an Accountability Level I sanction. Such sanctions include imposition of a fine as provided by law for the offense or placement of the offender upon unsupervised probation with or without special conditions, or with or without the imposition of a fine as provided by law for the offense;

(2) Impose a sentence involving an Accountability Level II sanction. Such a sanction includes a placement of the offender upon supervised probation amounting to field supervision rather than intensive supervision, with or without special conditions, or with or without the imposition of a fine as provided by law for the offense;

(3) Impose a sentence involving an Accountability Level III sanction. Such sanctions include placement of the offender upon intensive supervision or placement of the offender upon community service, with or without special conditions, or with or without the imposition of a fine as provided by law for the offense. Such intensive supervision shall entail at least the equivalent of 1 hour of supervision per day and no more than 56 hours of supervision per week;

(4) Impose a sentence involving an Accountability Level IV sanction. Such sanctions include placement of the offender upon partial confinement under house arrest under the supervision of the Department of Correction or commitment of the offender to the Department of Correction under partial confinement to a half-way house or restitution center or placement of the offender in a residential treatment facility, all with or without special conditions, and all with or without the imposition of a fine as provided by law for the offense;

(5) Impose a sentence involving an Accountability Level V sanction. Such a sentence consists of the commitment of the offender to the Department of Correction for a period of incarceration, with or without the imposition of a fine provided by law for the offense;

(6) Impose a period of incarceration, with or without the imposition of a fine provided by law for the offense, and placement of the offender in a less restrictive sanction, with or without special conditions, to commence when he is released from incarceration;

(7) Suspend the imposition or execution of sentence, or suspend a portion thereof;

(8) Impose any sentence as authorized in this subsection to include any special condition such as the payment of restitution to the victim or victims of the crime for which the offender is being sentenced and/or participation in a drug/alcohol outpatient treatment program, job training program, mental health treatment program, education program, community service program or other like programs. With regard to any such programs, the offender may be ordered to pay a fee covering, in whole or in part, the costs of such program and such fees shall be based upon the offender's ability to pay therefore;

(9) Whenever a victim of crime suffers a monetary loss as a result of the defendant's criminal conduct, the sentencing court shall impose as a special condition of the sentence that the defendant make payment of restitution to the

victim in such amount as to make the victim whole, in so far as possible, for the loss sustained."

Section 2. Amend Section 4204, Chapter 42, Title 11, Delaware Code by striking the words "Department of Health and Social Services" wherever found in said Section 4204 and substituting in lieu thereof the words "Department of Correction."

Section 3. This Act shall become effective 90 days after its enactment into law.

Approved July 10, 1987.

CHAPTER 135

FORMERLY

SENATE BILL NO. 86

AN ACT TO AMEND TITLES 15 AND 22 OF THE DELAWARE CODE RELATING TO ANNEXATIONS AND SPECIAL ELECTIONS CONCERNING ANNEXATIONS.

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 1, Title 22 of the Delaware Code by creating a new Section 101A to read as follows:

"§101A. Extension of boundaries of large municipalities: special elections for annexation.

Any municipality in the State having a population in excess of 50,000, as enumerated in the most recent federal census, may extend the boundary limits of the municipality so as to include any portion of adjoining or adjacent territory, under the following terms and conditions:

(a) The annexation process under this section shall only be initiated by a written petition to annex adjacent or adjoining territory submitted by the municipality's chief executive officer, or by member(s) of the municipality's legislative body, or by at least 25% of the qualified voters in the territory. The petition to annex, containing a general description of the territory, must be filed with the clerk of the municipality or equivalent municipal officer who is the keeper of official municipal legislative records, and with the equivalent clerk or officer of the county in which the territory is situated.

(b) Upon the filing of a petition under subsection (a) of this section, the annexation must be approved in the following order:

(1) The legislative body of the municipality must enact an ordinance approving the proposed annexation. The ordinance must provide a legal description of the territory, adopt the corresponding changes to the boundaries of the municipality, and contain such other provisions as may be required by law.

(2) The chief executive officer of the municipality must approve the proposed annexation, as evidenced by his or her actual signature approving the ordinance enacted by the municipality's legislative body pursuant to subsection (b)(1) of this section.

(3) The legislative body of the county in which the territory is situated must enact an ordinance approving the proposed annexation. The ordinance may incorporate by reference all or a portion of the ordinance enacted by the municipality's legislative body pursuant to subsection (b)(1) of this section.

(4) The chief executive officer of the county in which the territory is situated must approve the proposed annexation, as evidenced by his or her actual signature approving the ordinance enacted by the county's legislative body pursuant to subsection (b)(3) of this section.

(5) A majority of the qualified voters in each parcel of the territory, voting in a special election held by the proper election official, must approve of the annexation. Such special election shall be held not less than 30 days nor later than 60 days following the date of approval of the county ordinance by the chief executive officer of the county pursuant to subsection (b)(4) of this section.

(6) If the proper election official certifies that the results of the special election indicate that a majority of the qualified voters in each parcel of the territory who voter in such election approved of the proposed annexation, the annexation shall become effective on the first day of the month immediately following such certification.

(c) If either legislative body shall fail to enact the respective ordinances required under subsections (b)(1) and (3) of this section, or if

either chief executive officer shall fail to approve such respective ordinances as required by subsections (b)(2) and (4) of this section, or if the certification of the votes cast in the special election shall indicate that a majority of the qualified voters in each parcel of the territory who voted in such election was against the annexation of the territory, the proposed annexation of the territory shall be declared to have failed. Nothing in this section shall prohibit any interested party from resubmitting a petition for annexation of the territory, or any portion thereof, under the authority of and in accordance with this section.

(d) The following definitions shall apply to this section:

(1) 'Adjacent' means to lie upon or touch the boundary of the municipality.

(2) 'Adjoining', in addition to its general meaning, shall also mean to lie upon or touch a highway, railroad right of way, or watercourse which lies upon the boundary line of the municipality and separates the municipality and the territory by only the width of such highway, railroad right of way, or watercourse. If more than one (1) highway and/or railroad right of way and/or watercourse, or any combination of the same, separates the municipality and the territory, and such highways and/or railroad rights of way and/or watercourses lie upon or touch each other, then the municipality and the territory shall be deemed adjoining.

(3) 'Election official' shall mean the person designated as the judge of the election under any special election law concerning annexations which applies to the particular municipality under Title 15 or otherwise.

(4) 'Parcel' shall mean the property in the territory to which is assigned a separate tax parcel number on the books and records of the county Board of Assessment.

(5) 'Qualified voter':

(i) with respect to any petition filed by voters in the territory pursuant to subsection (a), the term 'qualified voter' shall mean each voter qualified to vote under any special election law concerning annexations which applies to the particular municipality under Title 15 or otherwise, as of the date of filing of the petition; and

(ii) with respect to any such special election, the term 'qualified voter' shall have the meaning set forth under any special election law concerning annexations which applies to the particular municipality under Title 15 or otherwise.

(6) 'Territory' shall mean the property or properties proposed to be annexed to the municipality."

Section 2. Amend Chapter 75, Title 15 of the Delaware Code by creating a new Subchapter III to read as follows:

"Subchapter III. Special elections for Annexations for City of Wilmington.

§7540. Special election to approve annexation for City of Wilmington under 22 Del. C. §101A: fixing time for holding.

(a) Upon the enactment of a county ordinance pursuant to 22 Del. C. §101A(b)(3), for a proposed annexation of territory by the City of Wilmington, and its approval by the county executive pursuant to 22 Del. C. §101A(b)(4), the county council, by resolution, shall fix a date for the special election required by 22 Del. C. §101A(b)(5), at which all voters qualified under §7543 of this title may vote, on the question whether the proposed annexation should be approved.

(b) The special election shall be held not less than 30 days nor more than 60 days after the date of approval of the county ordinance enacted pursuant to 22 Del. C. §101A (b)(3).

§7541. Contents of notice of special election.

The special election shall be held on the date fixed by county council pursuant to §7540 of this title and shall be previously advertised by publishing a notice in a newspaper published within the county and having a general circulation therein, once in each of 2 weeks preceding the week in which the special election is held, and by posting a notice in a prominent place in the building at which county council meets for the conduct of legislative business. The notices shall state the time and place of the special election, and further state that the purpose of the special election is to determine whether a majority of the qualified voters in each parcel of the territory are in favor of the annexation by the City of Wilmington. The posted notice shall also provide a detailed description of the territory, including but not limited to a map showing the territory in relation to the City of Wilmington and the area surrounding the territory.

§7542. Place, time and manner of voting; duties of Clerk of the Peace.

(a) The special election shall be held in the building in which is situated the offices of the Clerk of the Peace. The polls shall be open from 9:00 a.m. to 6:00 p.m. on the day of the special election and voting shall be by printed ballot, which shall give the qualified voters an opportunity clearly to indicate their consent or objection to the annexation of the territory by the City of Wilmington.

(b) The Clerk of the Peace shall:

- (1) act as judge of the special election;
- (2) prepare, publish, and post the notices required under §7541 of this title;
- (3) prepare the ballots required for the special election; and
- (4) perform such other duties as provided in this subchapter for the Clerk of the Peace.

§7543. Qualified voters; voting list.

(a) The following shall be considered qualified voters for a special election held with respect to an annexation initiated pursuant to 22 Del. C. §101A for the City of Wilmington, and shall be entitled to vote in such election as provided herein:

(1) Every person eighteen (18) years of age or older who at least 30 days prior to the date of the special election is a duly registered voter in the election district or districts of the county in which the territory is located, and who resides in said territory, shall be entitled to one vote each.

(2) Unless already qualified to vote under subsection (a)(1) and subject to subsection (b) of this section each owner of a parcel of real estate located in the territory, as evidenced by the assessment records of the county, shall be entitled to one vote each. Corporations, limited partnerships, or other entities which own real estate in the territory shall be entitled to one vote each under this subsection, which right to vote shall be permitted by the judge of the election at the special election upon receipt of a sealed, certified copy of a corporate resolution passed by the governing body of the corporation, or the equivalent of such resolution of the entity involved, authorizing an officer, agent, or other person to vote on behalf of the entity at the special election.

(3) Unless already qualified to vote under subsections (a)(1) or (a)(2), each holder of a then-current leasehold interest in a parcel in the territory, as evidenced by a certified copy of the lease reflecting that interest submitted to the judge of the election at the time of the special election, shall be entitled to one vote each, which shall be permitted in the same fashion as if carried out under the provisions of subsections (1) or (2), as the case may be.

(4) Unless already qualified to vote under subsections (a)(1), (a)(2), or (a)(3), each person, corporation, limited partnership, or other entity, who in the determination of the judge of the election is qualified to vote under the provisions of subsection (b) of this section, shall be entitled to one vote each, which shall be permitted in the same fashion as if carried out under the provisions of subsections (a)(1) or (a)(2), as the case may be.

(5) In no event shall any person, corporation, limited partnership, or other entity, or any holder of a leasehold interest, who or which is qualified to vote under this section, be entitled to more than one vote in such special election.

(b) Not less than 14 days prior to the special election, the Clerk of the Peace shall prepare from the books and records of the county Board of Assessment a list of the real estate owners of each parcel of the territory for which the special election is to be held. In addition, not less than 21 days prior to the special election the Department of Elections for the county shall provide the Clerk of the Peace with a current list of registered voters in the election district or districts in which the territory is located, who reside in the territory. From the two lists prepared pursuant to this subsection the Clerk of the Peace shall compile the voting list of the qualified voters for the special election. The voting list shall be evidence of the right of qualified voters to vote in the special election, except as hereinafter provided:

(1) Real estate owners who sold their property or properties in the territory prior to the date of the special election shall not be permitted to vote but the then owners of the property or properties shall be entitled to vote in their place and stead upon furnishing the judge of the election with the original or a certified copy of the deed to the property or properties, which deed shall clearly evidence that it was duly recorded; provided, however, that if the new owner is a corporation, limited partnership, or other entity, the new owner must also comply with the provisions of subsection (a)(2) of this section;

(2) Any person claiming the right to vote at the election as an heir of any real estate owner in the territory who has died since the preparation of the voting list, or as trustee or guardian under the terms of the last will and testament of such real estate owner (who has died since the preparation of the voting list) shall furnish the judge of election with the original or a certified copy of the will or other document evidencing his ownership of, or interest in, the property of such real estate owner, and shall thereupon be permitted to vote as if qualified under subsection (a)(2) of this section; or

(3) Each person, corporation, limited partnership, or other entity qualified to vote in the special election pursuant to subsection (a)(3) of this section shall be permitted to vote despite their absence from the voting list prepared by the Clerk of the Peace.

§7544. Certification of result of special election; retention of ballots.

No later than 3 days after the holding of the special election, the judge of the election shall tabulate the ballots and certify the result to the county council and to the Wilmington City Council under his or her hand and seal. The ballots shall be retained in the safekeeping of the county government for 1 year before being destroyed.

§7545. Alternative approval procedure when only one qualified voter exists.

If only one qualified voter in the territory exists for the purpose of determining whether an annexation initiated pursuant to 22 Del. C. §101A for the City of Wilmington shall be approved, notwithstanding any other provisions in this subchapter or in Title 22 the annexation shall be deemed approved if, within 7 days of the county executive's approval of the county ordinance pursuant to 22 Del. C. §101A(b)(4), the qualified voter files with the Clerk of the Peace a sworn affidavit approving of the annexation. If the qualified voter is a corporation, limited partnership, or other entity, such affidavit must be accompanied by a suitable sealed, certified copy of a corporate resolution or its equivalent authorizing an officer, agent, or other person to execute the affidavit approving the annexation on behalf of the entity. On receipt of said affidavit, together with the authorization, if any, the Clerk of the Peace shall certify the approval to the county council and to the Wilmington City Council under his or her hand and seal. Said certification shall, for all intents and purposes, be construed as the required certificate under §7544 of this title and 22 Del. C. §101A(b)(6).

§7546. Definitions.

For the purposes of this subchapter, the following terms shall have the meanings described herein:

- (1) 'Clerk of the Peace' shall mean the Clerk of the Peace for New Castle County.
- (2) 'County' shall mean New Castle County.
- (3) 'County council' shall mean the New Castle County Council.
- (4) 'County executive' shall mean the New Castle County Executive.
- (5) 'Parcel' shall have the meaning set forth in 22 Del. C. §101A(d)(4).
- (6) 'Territory' shall have the meaning set forth in 22 Del. C. §101A(d)(6)."

Section 3. If any provision 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 the Act which shall be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 4. This Act shall become effective 30 days after it is enacted.

Approved July 9, 1987.

CHAPTER 136

FORMERLY

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

AN ACT TO AMEND TITLE 8, DELAWARE CODE, RELATING TO THE GENERAL CORPORATION LAW OF THE STATE OF DELAWARE.

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 §102(a)(4), Title 8, Delaware Code, by deleting the sentence which reads "Such grant of authority may include the power to specify the number of shares of any series" and by deleting the second sentence thereof in its entirety and inserting in lieu thereof the following:

"If the corporation is to be authorized to issue more than one class of stock, the certificate of incorporation shall set forth the total number of shares of all classes of stock which the corporation shall have authority to issue and the number of shares of each class, and shall specify each class the shares of which are to be without par value and each class the shares of which are to have par value and the par value of the shares of each such class."

Section 2. Amend §141(d), Title 8, Delaware Code, by adding the following sentence at the end of such subsection:

"If the certificate of incorporation provides that directors elected by the holders of a class or series of stock shall have more or less than 1 vote per director on any matter, every reference in this chapter to a majority or other proportion of directors shall refer to a majority or other proportion of the votes of such directors."

Section 3. Amend §141(e), Title 8, Delaware Code, by deleting that subsection and substituting in lieu thereof the following:

"A member of the board of directors, or a member of any committee designated by the board of directors, shall, in the performance of his duties, be fully protected in relying in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any of the corporation's officers or employees, or committees of the board of directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation."

Section 4. Amend §151(g), Title 8, Delaware Code, by deleting the words "class or" in the second sentence of that subsection the first time they appear, by deleting the parenthetical in the second sentence after the word "increased" the first time it appears and inserting "(but not above the total number of authorized shares of the class)" in lieu thereof, and by inserting before the last sentence thereof the following:

"Unless otherwise provided in the certificate of incorporation, if no shares of stock have been issued of a class or series of stock established by a resolution of the board of directors, the voting powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, may be amended by a resolution or resolutions adopted by the board of directors. A certificate which (1) states that no shares of the class or series have been issued, (2) sets forth a copy of the resolution or resolutions and (3) if the designation of the class or series is being changed, indicates the original designation and the new designation, shall be executed, acknowledged, filed, recorded shall become effective, in accordance with §103 of this title."

Further amend said Section by striking the period at the end thereof and by inserting in lieu thereof the following:

"; except that neither the filing of such certificate nor the filing of a restated certificate of incorporation pursuant to §245 of this title shall prohibit the board of directors from subsequently adopting such resolutions as authorized by this subsection."

Section 5. Amend §172, Title 8, Delaware Code, by deleting such section in its entirety and substituting in lieu thereof the following:

"A member of the board of directors, or a member of any committee designated by the board of directors, shall be fully protected in relying in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any of its officers or employees, or committees of the board of directors, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation, as to the value and amount of the assets, liabilities and/or net profits of the corporation, or any other facts pertinent to the existence and amount of surplus or other funds from which dividends might properly be declared and paid, or with which the corporation's stock might properly be purchased or redeemed."

Section 6. Amend Title 8, Delaware Code, by deleting §203 in its entirety.

Section 7. Amend §213(a), Title 8, Delaware Code, by deleting that subsection in its entirety and inserting in lieu thereof the following:

"(a) In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors, and which record date shall not be more than sixty nor less than ten days before the date of such meeting. If no record date is fixed by the board of directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the board of directors may fix a new record date for the adjourned meeting."

Section 8. Amend §213(b), Title 8, Delaware Code, by deleting that subsection in its entirety and inserting in lieu thereof the following:

"(b) In order that the corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors, and which date shall not be more than ten days after the date upon which the resolution fixing the record date is adopted by the board of directors. If no record date has been fixed by the board of directors, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the board of directors is required by this chapter, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation by delivery to its registered office in this State, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the board of directors and prior action by the board of directors is required by this chapter, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the board of directors adopts the resolution taking such prior action."

Section 9. Amend §213(c), Title 8, Delaware Code, by deleting that subsection in its entirety and inserting in lieu thereof the following:

"(c) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the board of directors adopts the resolution relating thereto."

Section 10. Amend §216(2), Title 8, Delaware Code, by adding at the beginning of that paragraph the words "In all matters other than the election of directors," and deleting "and," after the semi-colon at the end of such paragraph.

Section 11. Amend §216, Title 8, Delaware Code, by deleting paragraph (3) thereof and substituting in lieu thereof the following:

"(3) Directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors; and

(4) Where a separate vote by a class or classes is required, a majority of the outstanding shares of such class or classes, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter and the affirmative vote of the majority of shares of such class or classes present in person or represented by proxy at the meeting shall be the act of such class."

Section 12. Amend §228(a), Title 8, Delaware Code, by adding the words "or consents" after the word "consent" the first time it appears in such subsection and adding "and shall be delivered to the corporation by delivery to its registered office in this State, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested." after the word "voted".

Section 13. Amend §228(b), Title 8, Delaware Code, by adding the words "or consents" after the word "consent" the first time it appears in such subsection and adding "and shall be delivered to the corporation by delivery to its registered office in this State, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested." at the end of the subsection after the word "voted".

Section 14. Amend §228(c), Title 8, Delaware Code, by redesignating such subsection as subsection "(d)" and inserting the following as a new subsection (c):

"(c) Every written consent shall bear the date of signature of each stockholder or member who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by this Section to the corporation, written consents signed by a sufficient number of holders or members to take action are delivered to the corporation by delivery to its registered office in this State, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested."

Section 15. Amend §243(a), Title 8, Delaware Code, by deleting the second sentence, so that the entire subsection shall read:

"A corporation, by resolution of its board of directors, may retire any shares of its capital stock that are issued but are not outstanding."

Section 16. Amend §243(b), Title 8, Delaware Code, to read in its entirety as follows:

"(b) Whenever any shares of the capital stock of a corporation are retired, they shall resume the status of authorized and unissued shares of the class or series to which they belong unless the certificate of incorporation otherwise provides. If the certificate of incorporation prohibits the reissuance of such shares, or prohibits the reissuance of such shares as a part of a specific series only, a certificate stating that reissuance of the shares (as part of the class or series) is prohibited identifying the shares and reciting their retirement shall be executed, acknowledged and filed and shall become effective in accordance with §103 of this Title. When such certificate becomes effective, it shall have the effect of amending the certificate of incorporation so as to reduce accordingly the number of authorized shares of the class or series to which such shares belong or, if such retired shares constitute all of the authorized shares of the class or series to which they belong, of eliminating from the certificate of incorporation all reference to such class or series of stock."

Section 17. Amend §251(b)(3), Title 8, Delaware Code, by deleting such subsection in its entirety and inserting in lieu thereof the following:

"(3) In the case of a merger, such amendments or changes in the certificate of incorporation as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation;"

Section 18. Amend §251(b)(4), Title 8, Delaware Code, by inserting a new subsection (b)(4) as follows and renumbering the current subsection (b)(4) as subsection (b)(5) and the remaining subsections accordingly:

"(4) in the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;"

Section 19. Amend §251(c), Title 8, Delaware Code, by inserting the following sentence between the second and third sentences thereof:

"The notice shall contain a copy of the agreement or a brief summary thereof, as the directors shall deem advisable."

Section 20. Amend §251(c), Title 8, Delaware Code, by adding the words "required by this Section" after the words "In lieu of filing and recording the agreement of merger or consolidation" in the last sentence thereof.

Section 21. Amend §251(c)(2), Title 8, Delaware Code, by deleting the word "subsection" and inserting in lieu thereof the word "Section".

Section 22. Amend §251(c)(4), Title 8, Delaware Code, by deleting that subsection and inserting in lieu thereof the following:

"(4) in the case of a merger, such amendments or changes in the certificate of incorporation of the surviving corporation as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation."

Section 23. Amend §251(c)(5), Title 8, Delaware Code, by inserting a new subsection (c)(5) to read as follows and renumbering the current subsection (c)(5) as subsection (c)(6) and the remaining subsections accordingly:

"(5) in the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the certificate."

Section 24. Amend §252(c)(4), Title 8, Delaware Code, by deleting said subsection and inserting in lieu thereof the following:

"(4) in the case of a merger, such amendments or changes in the certificate of incorporation of the surviving corporation as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation."

Section 25. Amend §252(c)(5), Title 8, Delaware Code, by deleting said subsection and inserting in lieu thereof the following:

"(5) in the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the certificate."

Section 26. Amend §253(a), Title 8, Delaware Code, by inserting the words "if the parent corporation is a corporation of this State or state that the proposed merger has been adopted, approved, certified, executed and acknowledged by the parent corporation in accordance with the laws under which it is organized if the parent corporation is not a corporation of this State" after the words "as it appears on the records of the corporation" and before the "." in the second sentence thereof.

Section 27. Amend §254(d)(4), Title 8, Delaware Code, by deleting that subsection and inserting in lieu thereof the following:

"(4) in the case of a merger, such amendments or changes in the certificate of incorporation of the surviving corporation as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation."

Section 28. Amend §254(d)(5), Title 8, Delaware Code, by inserting a new subsection (d)(5) as follows and renumbering the current subsection (d)(5) as subsection (d)(6) and the remaining subsections accordingly:

"(5) in the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the certificate."

Section 29. Amend §255(c), Title 8, Delaware Code, by inserting the following sentence between the second and third sentences thereof:

"The notice shall contain a copy of the agreement or a brief summary thereof, as the governing body shall deem advisable."

Section 30. Amend §262(a), Title 8, Delaware Code, by deleting the first sentence thereof and substituting in lieu thereof the following:

"Any stockholder of a corporation of this State who holds shares of stock on the date of the making of a demand pursuant to the provisions of subsection (d) of this section with respect to such shares, who continuously holds such shares through the effective date of the merger or consolidation, who has otherwise complied with the provisions of subsection (d) of this Section and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to §228 of this Chapter shall be entitled to an appraisal by the Court of Chancery of the fair value of his shares of stock under the circumstances described in subsections (b) and (c) of this Section."

Section 31. Amend §262(b), Title 8, Delaware Code, by inserting the words "or consolidation" after the words "in a merger" and before the words "to be effected pursuant to sections" in the first sentence thereof.

Section 32. Amend §262(i), Title 8, Delaware Code, by inserting the following sentence after the first sentence thereof:

"Interest may be simple or compound, as the Court may direct."

Section 33. Amend §274, Title 8, Delaware Code, by deleting the title thereto and replacing it with "Dissolution before the issuance of shares or beginning of business; procedure."; by deleting the first two words of such section and substituting "If a corporation has not issued shares or has not commenced" in lieu thereof; by adding a comma after the word "organized" the first time it appears in such Section; by inserting "that no shares of stock have been issued or" after the word "stating" the first time it appears in such Section; by adding "that if the corporation has begun business but it has not issued shares, all debts of the corporation have been paid; that if the corporation has not begun business but has issued stock certificates" after the phrase "has been returned to those entitled thereto."; and by deleting the word "that" as it appears before "all issued stock certificates, if any,".

Section 34. Amend §275, Title 8, Delaware Code, by deleting subsections (b) and (c), and inserting in lieu thereof the following:

"(b) At the meeting a vote shall be taken upon the proposed dissolution. If a majority of the outstanding stock of the corporation entitled to vote thereon shall vote for the proposed dissolution, a certification of dissolution shall be filed with the Secretary of State pursuant to subsection (d) of this Section.

(c) Dissolution of a corporation may also be authorized without action of the directors if all the stockholders entitled to vote thereon shall consent in writing and a certificate of dissolution shall be filed with the Secretary of State pursuant to subsection (d) of this Section.

(d) If dissolution is authorized in accordance with this Section, a certificate of dissolution shall be executed, acknowledged and filed, and shall become effective, in accordance with §103 of this Title. Such certificate of dissolution shall set forth:

(i) the name of the corporation;

(ii) the date dissolution was authorized;

(iii) that the dissolution has been authorized by the board of directors and stockholders of the corporation, in accordance with subsections (a) and (b) of this Section, or that the dissolution has been authorized by all of the stockholders of the corporation entitled to vote on a dissolution, in accordance with subsection (c) of this section; and

(iv) the names and addresses of the directors and officers of the corporation.

(e) The resolution authorizing a proposed dissolution may provide that notwithstanding authorization or consent to the proposed dissolution by the stockholders, or the members of a nonstock corporation pursuant to §276 of this title,

the board of directors or governing body may abandon such proposed dissolution without further action by the stockholders or members.

(f) Upon a certificate of dissolution becoming effective in accordance with §103 of this title, the corporation shall be dissolved."

Section 35. Amend §276, Title 8, Delaware Code, by deleting "nonprofit", from the title thereof; by designating the current text of such section as "(a)"; by deleting "not for profit and" the two times such words appear in §276; by deleting "not for profit or" the one time such words appear in §276; and by adding a new subsection (b) to read as follows:

"(b) If a corporation having no capital stock has not commenced the business for which the corporation was organized, a majority of the governing body or, if none, a majority of the incorporators may surrender all of the corporation rights and franchises by filing in the office of the Secretary of State a certificate, executed and acknowledged by a majority of the incorporators or governing body, conforming as nearly as may be to the certificate prescribed by §274 of this title."

Section 36. Amend §278, Title 8, Delaware Code by deleting the last sentence and inserting in lieu thereof the following:

"With respect to any action, suit or proceeding begun by or against the corporation either prior to or within 3 years after the date of its expiration or dissolution the action shall not abate by reason of the dissolution of the corporation; the corporation shall, solely for the purpose of such action, suit or proceeding, be continued as a body corporate beyond the 3-year period and until any judgments, orders or decrees therein shall be fully executed, without the necessity for any special direction to that effect by the Court of Chancery."

Section 37. Amend §279, Title 8, Delaware Code, by adding "; duties." to the end of the title thereof and by deleting the text coming after the phrase "the Court of Chancery on application of any creditor" and before the phrase "shows good cause therefor" and by inserting in lieu thereof ", stockholder or director of the corporation, or any other person who".

Section 38. Amend Title 8, Delaware Code, by deleting §280 in its entirety and inserting in lieu thereof the following:

"§280. Notice to Claimants: Filing of Claims

(a)(1) After a corporation has been dissolved in accordance with the procedures set forth in this chapter, the corporation or any successor entity may give notice of the dissolution requesting all persons having a claim against the corporation to present their claims against the corporation in accordance with such notice. Such notice shall state:

(i) that all claims must be presented in writing and must contain sufficient information reasonably to inform the corporation or successor entity of the identity of the claimant and the substance of the claim;

(ii) the mailing address to which a claim must be sent;

(iii) the date by which a claim must be received by the corporation or successor entity, which date shall be no earlier than 60 days from the date thereof; and

(iv) that the corporation or a successor entity may make distributions to other claimants and the corporation's stockholders or persons interested as having been such without further notice to the claimant.

Such notice shall also be published at least once a week for two consecutive weeks in a newspaper of general circulation in the county in which the office of the corporation's last registered agent in this State is located and in the corporation's principal place of business and, in the case of a corporation having \$10 million or more in total assets at the time of its dissolution, at least once in all editions of a daily newspaper with a national circulation. On or before the date of the first publication of such notice, the corporation or successor entity shall mail a copy of such notice by certified or registered mail return receipt requested to each known claimant of the corporation.

(2) A corporation or successor entity may reject, in whole or in part, any claim made by a claimant pursuant to this subsection by mailing notice of such rejection by certified mail return receipt requested to the claimant within 90 days after receipt of

such claim and, in all events, at least 150 days before the expiration of the period described in §278 of this title. A notice sent by a corporation or successor entity pursuant to this subsection shall be accompanied by a copy of §278-283 of this title.

(b)(1) A corporation or successor entity electing to follow the procedures described in subsection (a) of this section shall also give notice of the dissolution of the corporation to persons with claims contingent upon the occurrence or nonoccurrence of future events or otherwise conditional or unmatured, and request that such persons present such claims in accordance with the terms of such notice. Such notice shall be in substantially the form, and sent and published in the same manner, as described in subsection (a)(1) of this section.

(2) The corporation or successor entity shall offer any claimant whose claim is contingent, conditional or unmatured, such security as the corporation or successor entity determines is sufficient to provide compensation to the claimant if the claim matures. The corporation or successor entity shall mail such offer to the claimant by certified mail return receipt requested, within 90 days of receipt of such claim and, in all events, at least 150 days before the expiration of the period described in §278 of this title. If the claimant offered such security does not deliver in writing to the corporation or successor entity a notice rejecting the offer within 120 days after receipt of such offer for security, the claimant shall be deemed to have accepted such security as the sole source from which to satisfy his claim against the corporation.

(c)(1) A corporation or successor entity which has given notice in accordance with subsections (a) and (b) of this section shall petition the Court of Chancery to determine the amount and form of security that will be sufficient to provide compensation to any claimant who has rejected the offer for security made pursuant to subsection (b)(2) of this section.

(2) A corporation or successor entity which has given notice in accordance with subsection (a) of this section shall petition the Court of Chancery to determine the amount and form of security which will be sufficient to provide compensation to claimants whose claims are known to the corporation or successor entity but whose identities are unknown. The Court of Chancery shall appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this subsection. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the petitioner in such proceeding.

(d) The giving of any notice or making of any offer pursuant to the provisions of this section shall not revive any claim then barred or constitute acknowledgment by the corporation or successor entity that any person to whom such notice is sent is a proper claimant and shall not operate as a waiver of any defense or counterclaim in respect of any claim asserted by any person to whom such notice is sent.

(e) As used in this section, the term 'successor entity' shall include any trust, receivership or other legal entity governed by the laws of this State to which the remaining assets and liabilities of a dissolved corporation are transferred and which exists solely for the purposes of prosecuting and defending suits, by or against the dissolved corporation, enabling the dissolved corporation to settle and close the business of the dissolved corporation, to dispose of and convey the property of the dissolved corporation, to discharge the liabilities of the dissolved corporation, and to distribute to the dissolved corporation's stockholders any remaining assets, but not for the purpose of continuing the business for which the dissolved corporation was organized."

Section 39. Amend Title 8, Delaware Code, by deleting §281 and inserting in lieu thereof the following:

"§281. Payment and Distribution to Claimants and Stockholders

(a) A dissolved corporation or successor entity which has followed the procedures described in §280 of this title (i) shall pay the claims made and not rejected in accordance with §280(a) of this title, (ii) shall post the security offered and not rejected pursuant to §280(b)(2) of this title, (iii) shall post any security ordered by the Court of Chancery in any proceeding under §280(c) of this title and (iv) shall pay or make provision for all other obligations of the corporation or such successor entity. Such claims or obligations shall be paid in full and any such provision for payment shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority, and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed to the stockholders of the dissolved corporation; provided, however, that such distribution shall not be made

before the expiration of 150 days from the date of the last notice of rejections given pursuant to §280(a)(2) of this title. In the absence of actual fraud, the judgment of the directors of the dissolved corporation or the governing persons of such successor entity as to the provision made for the payment of all obligations under (iv) above shall be conclusive.

(b) A dissolved corporation or successor entity which has not followed the procedures described in Section 280 of this title shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional, or unmatured claims known to the corporation or such successor entity and all claims which are known to the dissolved corporation or such successor entity but for which the identity of the claimant is unknown. Such claims shall be paid in full and any such provision for payment made shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed to the stockholders of the dissolved corporation.

(c) Directors of a dissolved corporation or governing persons of a successor entity which has complied with subsections (a) or (b) of this section shall not be personally liable to the claimants of the dissolved corporation.

(d) As used in this section, the term 'successor entity' has the meaning set forth in §280(e) of this title."

Section 40. Amend Title 8, Delaware Code, by deleting §282 and inserting in lieu thereof the following:

"§282. Liability of Stockholders of Dissolved Corporations

(a) A stockholder of a dissolved corporation the assets of which were distributed pursuant to §281(a) or (b) of this title shall not be liable for any claim against the corporation in an amount in excess of such stockholder's pro rata share of the claim or the amount so distributed to him, whichever is less.

(b) A stockholder of a dissolved corporation the assets of which were distributed pursuant to §281(a) of this title shall not be liable for any claim against the corporation on which an action, suit or proceeding is not begun prior to the expiration of the period described in §278 of this title.

(c) The aggregate liability of any stockholder of a dissolved corporation for claims against the dissolved corporation shall not exceed the amount distributed to him in dissolution."

Section 41. Amend §283 and §284, Title 8, Delaware Code, by redesignating such sections as §284 and §285 respectively and by inserting in lieu of §283 the following:

"§283. Jurisdiction of the Court

The Court of the Chancery shall have jurisdiction of any application prescribed in this subchapter and of all questions arising in the proceedings thereon, and may make such orders and decrees and issue injunctions therein as justice and equity shall require."

Section 42. This Bill shall become effective on July 1, 1987, provided that (i) Sections 19 and 29 shall be effective only with respect to mergers or consolidations for which the notice of the stockholders meeting to vote thereon has been mailed after the Effective Date, (ii) Section 30 shall be effective only with respect to mergers or consolidations consummated pursuant to an agreement of merger or consolidation entered into after the Effective Date and (iii) Sections 8, 12, 13 and 14 shall be effective with respect to corporate actions taken by written consent, and to such written consent or consents, as to which the first written consent is executed or solicited after the Effective Date.

Approved July 9, 1987.

CHAPTER 137

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 96

AN ACT TO AMEND CHAPTER 36, PART I, TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATIONAL BENEFITS FOR CHILDREN OF DECEASED VETERANS AND OTHERS.

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

Section 1. Amend §3602, Chapter 36, Part I, Title 14 of the Delaware Code by striking subsection (b) in its entirety, and substituting in lieu thereof the following:

"(b) No child of a member of the Armed Forces shall receive educational benefits in accordance with this Chapter unless such child qualifies under Subsection (a), and:

(1) a parent of such child is a resident of the State of Delaware, and is or was missing in action or held as a prisoner of war; or

(2) a parent of such child was a resident of the State of Delaware at the time such parent was killed, or later died from disease, wounds, injuries or disabilities arising or resulting from performance of duty."

Approved July 10, 1987.

CHAPTER 13B

FORMERLY

SENATE BILL NO. 97

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 47, PART V, TITLE 7 OF THE DELAWARE CODE RELATING TO STATE PARKS; AND PROVIDING FOR A PUBLIC PARK FEE WAIVER FOR VETERANS' PATRIOTIC OR MEMORIAL SERVICES.

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

Section 1. Amend §4701 (a) (5) (A), Title 7 of the Delaware Code by adding, at the end of sub-paragraph (A), the following:

"; provided however, that no fee shall be imposed on any recognized veterans' service organization for the use of any state park or portion thereof for purposes of patriotic or memorial services; provided that advance written notification of not less than 15 days is given to the agency and does not conflict with other previously scheduled activities within the park."

Approved July 10, 1987.

CHAPTER 139

FORMERLY

SENATE BILL NO. 98

AN ACT TO AMEND TITLE 16 AND TITLE 29 OF THE DELAWARE CODE, RELATING TO CERTAIN STATUTES WHICH DIRECTLY AFFECT VETERANS AND VETERANS' ORGANIZATIONS.

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

Section 1. Amend §5323, Chapter 53, Part IV, Title 16 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§5323. Veterans' Preference

The Department of Health and Social Services shall give veterans of World War I, World War II, the Korean Conflict, and the Vietnam era who are eligible for admission to the Health Center a preference over other persons with respect to admission thereto."

Section 2. Amend §4305, Chapter 43, Part IV, Title 29 of the Delaware Code by striking the words "and of the Paralyzed Veterans of America" as the same appear in subsection (a), and substituting ", of the Paralyzed Veterans of America, and of the Vietnam Veterans of America" in lieu thereof.

Section 3. Amend §6314, Chapter 63, Part VI, Title 29 of the Delaware Code by adding, immediately after the words "Veterans of Foreign Wars", the following:

"from Disabled American Veterans, from Paralyzed Veterans of America, from Vietnam Veterans of America,"

Approved July 10, 1987.

CHAPTER 140

FORMERLY

SENATE BILL NO. 101
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 63, TITLE 7 OF THE DELAWARE CODE RELATING TO HAZARDOUS WASTE.

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

Section 1. Amend §6302, Title 7, Delaware Code, by adding a new definition of "Transfer facility" to read as set forth below and by renumbering the present subsections (14) through (16) accordingly:

"(14) 'Transfer facility' means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation."

Section 2. Amend §6306, Title 7, Delaware Code by adding a new subsection (g) to read as follows:

"(g) No person transporting hazardous waste shall operate or utilize a hazardous waste transfer facility for the temporary holding or storage of hazardous waste except with written approval of the Secretary. No written approval shall be given to a transfer facility pursuant to this section unless the owner or operator demonstrates to the Secretary that the facility is in compliance with the following sections or subparts of the State of Delaware Regulations Governing Hazardous Waste:

- (1) §264.16 Personal Training
- (2) Part 264, Subpart C Preparedness and Prevention
- (3) Part 264, Subpart D Contingency Plans and Emergency Procedures
- (4) Part 264, Subpart I Use and Management of Containers.

In addition, the Secretary may adopt such other regulations affecting transfer stations as he deems necessary to achieve the policies and purposes of this Chapter. This subsection shall not apply to transfer facilities located on the premises where such hazardous waste is generated.

Section 3. This Act shall become effective immediately upon passage; provided, however, that hazardous waste transfer facilities lawfully in operation on the date of passage of this Act shall have sixty (60) days thereafter to comply.

Approved July 9, 1987.

CHAPTER 141

FORMERLY

SENATE BILL NO. 105

AN ACT TO AMEND CHAPTER 27, TITLE 11 OF THE DELAWARE CODE RELATING TO JUSTICE OF THE PEACE COURT JURISDICTION.

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

Section 1. Amend §2702, Title 11, Delaware Code by striking subsection (45) in its entirety and by renumbering subsections (46) through (48), inclusive, as (45) through (47), inclusive.

Approved July 9, 1987.

CHAPTER 142

FORMERLY

SENATE BILL NO. 156

AN ACT TO AMEND CHAPTER 1, TITLE 22 OF THE DELAWARE CODE RELATING TO MUNICIPAL PARKS; AND PROVIDING FOR A PARK FEE WAIVER FOR VETERANS' PATRIOTIC OR MEMORIAL SERVICES.

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

Section 1. Amend Chapter 1, Title 22 of the Delaware Code by adding thereto a new section to read as follows:

"§109. Municipal Parks; Use for Veterans' Services; Waiver of Fee

No fee shall be imposed on any recognized veterans' service organization for the use of any municipal park or portion thereof for purposes of patriotic or memorial services; provided that advance written notification of not less than 15 days is given to the municipal agency and does not conflict with other previously scheduled activities within the park."

Approved July 10, 1987.

CHAPTER 143

FORMERLY

SENATE BILL NO. 172

AN ACT TO AMEND CHAPTER 100, TITLE 29, DELAWARE CODE, RELATING TO THE PROHIBITION OF CERTAIN RECORDS IN POSSESSION OF THE DEPARTMENT OF CORRECTION.

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

Section 1. Amend §10002(d), Chapter 100, Title 29, Delaware Code, by adding thereto a new subsection (13) to read as follows:

"(13) Any records in the possession of the Department of Correction where disclosure is sought by an inmate in the Department's custody."

Approved July 9, 1987.

CHAPTER 144

FORMERLY

SENATE BILL NO. 186

AN ACT TO AMEND CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE", TO PERMIT ABSENTEE VOTING IN ANNUAL ELECTIONS.

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

Section 1. Amend Section 5, Chapter 237, Volume 51, Laws of Delaware, as amended by Chapter 279, Volume 61, Laws of Delaware by adding thereto a new paragraph to read as follows:

"The Commissioners of Bridgeville may, by ordinance, provide for a qualified voter, duly registered, who shall be unable to appear to cast a ballot at any annual election either because of being in the public service of the United States or of this State, or because of the nature of his or her business or occupation, or because of illness or physical disability, or because of being unavoidably absent on the day of the election, or because of being absent while on vacation, to vote by absentee ballot."

Approved July 10, 1987.

CHAPTER 145

FORMERLY

SENATE BILL NO. 190

AN ACT TO AMEND CHAPTER 66, TITLE 16, DELAWARE CODE, RELATING TO THE PROHIBITION AGAINST ANY LIVE BURN OPERATION CONDUCTED AT THE DELAWARE STATE FIRE SERVICE CENTER WHILE CONDUCTING TRAINING OR INSTRUCTIONAL COURSES AT THE CENTER.

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

Section 1. Amend §6614, Chapter 66, Title 16, Delaware Code, by adding thereto a new subsection (c) to read as follows:

"(c) The State Fire Prevention Commission shall be permitted to conduct any live burn operation at the Delaware State Fire Service Center necessary to carry out the purposes and duties of Chapter 66 of this Title, notwithstanding any other provision of the Delaware Code, any county or municipal ordinance or any rules or regulations prohibiting the same to the contrary."

Approved July 10, 1987.

CHAPTER 146

FORMERLY

SENATE BILL NO. 194

AN ACT TO AMEND TITLE 14, CHAPTER 26, SECTION 2601(a)(1), TO PROVIDE INCREASED REVENUES FOR THE SUSSEX COUNTY VOCATIONAL-TECHNICAL SCHOOL DISTRICT.

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

Section 1. Amend Title 14, Section 2601(a)(1) by deleting said section in its entirety and substituting a new 2601(a)(1) as follows:

"(1) The amount to be raised by taxation shall not exceed eight (8) cents on each \$100 of value of real property in Sussex County for the tax year 1989 and shall not exceed (9) cents on each \$100 of the value of the real property in Sussex County for the tax year 1990 and all tax years thereafter."

Approved July 10, 1987.

CHAPTER 147

FORMERLY

SENATE BILL NO. 195

AN ACT TO EMPOWER KENT COUNTY LEVY COURT TO ADOPT BY ORDINANCE A PENSION PLAN.

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

Section 1. Amend Chapter 43, Title 9 of the Delaware Code, by adding a new subpart II to read as follows:

" SUBPART II. ENACTMENT OF PENSION PLAN BY ORDINANCE

§4323. Pension Plan for County Employees

(a) The County Government shall, by ordinance, establish a funded pension program for Kent County employees upon such terms and conditions as it shall deem necessary and best.

(b) The County Government shall take no action hereunder which shall deny or reduce benefits to former employees, retired employees, or vested current employees who have qualified for benefits under any prior authorized pension program.

(c) At such time as the County Government has by ordinance adopted such pension program, §4302 through §4322 shall be repealed."

Approved July 10, 1987.

CHAPTER 148

FORMERLY

SENATE BILL NO. 196
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 81, TITLE 9, DELAWARE CODE, TO EMPOWER KENT COUNTY LEVY COURT TO EXEMPT CITIZENS OVER AGE 65 FROM TAXATION ON REAL PROPERTY.

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

Section 1. Amend Chapter 81, Title 9, Delaware Code, by adding thereto a new §8141 to read as follows:

"§8141. Exemption from Property Taxes on Real Estate in Kent County

The provisions of this Chapter notwithstanding - The Kent County Levy Court shall by ordinance provide for the exemption of real property owned by citizens over age 65 from real estate taxes to such degree and in such manner as it determines will best promote the public welfare."

Approved July 10, 1987.

CHAPTER 149

FORMERLY

SENATE BILL NO. 207

AN ACT TO AMEND CHAPTER 27, TITLE 30 OF THE DELAWARE CODE RELATING TO THE LICENSE TAXES IMPOSED ON CERTAIN PERSONS ENGAGED IN THE ACTIVITY OF MANUFACTURING.

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

Section 1. Amend §2701, Chapter 27, Title 30 of the Delaware Code, by adding thereto a new subsection (5) to read as follows:

"(5) Whenever a person: (a) is engaged in the activity of manufacturing, as defined in subsection (2) of this section; (b) performs such services exclusively on materials provided under bailment by another manufacturer licensed under this Chapter; and (c) the product produced by such person is intended for inclusion as a part of a product manufactured by the other manufacturer within this State, then such person shall himself be licensable as a manufacturer and his gross receipts shall include fees paid to him for services rendered in this State as described in this subsection. In all other cases where the person is engaged in and receives consideration for manufacturing as a service apart from or in addition to the sale of a product, then such person shall be licensed under Chapter 23 of this Title."

Approved July 9, 1987.

CHAPTER 150

FORMERLY

SENATE BILL NO. 220

AN ACT TO AMEND CHAPTER 67, TITLE 16 DELAWARE CODE RELATING TO APPOINTMENT OF FIRE POLICE.

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

Section 1. Amend §6701(a), Chapter 67, Title 16, Delaware Code by striking the number "3" and inserting in lieu thereof the phrase "not more than 6".

Approved July 10, 1987.

CHAPTER 151

FORMERLY

SENATE BILL NO. 251

AN ACT TO AMEND CHAPTER 29, TITLE 7 OF THE DELAWARE CODE, RELATING TO STATE FORESTRY.

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

Section 1. Amend §2908, Chapter 29, Title 7 of the Delaware Code, by adding a new subsection thereto to read as follows:

"(6) Establish a program for issuing permits for various activities on State Forest Land."

Approved July 10, 1987.

CHAPTER 152

FORMERLY

SENATE BILL NO. 252

AN ACT TO AMEND CHAPTER 13, TITLE 3 OF THE DELAWARE CODE, RELATING TO NURSERIES AND NURSERY STOCK.

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

Section 1. Amend §1313, Chapter 13, Title 3 of the Delaware Code, by striking said Section in its entirety and substituting in lieu thereof the following:

"§1313. Appeals

Any holder of a nursery or nursery dealer certificate who feels aggrieved by an action of the Department in denying, suspending, modifying or revoking his nursery or nursery dealer certificate, may take an appeal, within 30 days of such action to the Superior Court. The appeal shall be on the record. Written notice of such appeal, together with the grounds therefore, shall be served upon the Secretary of the Department."

Approved July 10, 1987.

CHAPTER 153

FORMERLY

SENATE BILL NO. 256

AN ACT TO AMEND CHAPTER 11, TITLE 3 OF THE DELAWARE CODE RELATING TO PLANT DISEASES AND INSECT PESTS.

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 11, Title 3 of the Delaware Code by deleting §1101, §1103, §1104, §1105 and §1106 in their entirety.

Section 2. Amend Chapter 11, Title 3 of the Delaware Code by adding thereto a new section to read as follows:

"§1101. Definitions

'Plant pest' - any insect, snail, nematode, fungus, virus, bacterium, weed, parasitic plant, or any other microorganism or plant which the Department determines to be dangerously injurious to the agricultural, forest or horticultural interests of the State."

Section 3. Amend Chapter 11, Title 3 of the Delaware Code by renumbering existing §1102 as §1104 and substituting in lieu thereof a new §1102 to read as follows:

"§1102. Discovery and Suppression of Plant Pests

(a) In order to prevent, control, abate, eradicate or exterminate dangerously injurious plant pests which may appear in the State, the Department of Agriculture shall seek out and suppress all dangerously injurious plant pests destructive to the agricultural, forest and horticultural interests of this State, and also shall conduct experiments when necessary to accomplish that end. Upon knowledge of the existence of any dangerously injurious plant pest in this State, the Department may mark or tag in some conspicuous way all such trees, plants, vines, shrubs or grains and notify the owner or owners thereof, or the tenant in possession of the premises in which the trees, vines, plants, shrubs or grains are found, of the existence therein of the plant pest and prescribe the proper treatment and remedies therefor. Should such owner or owners of such infested or infected trees, vines, plants, shrubs or grains, or the tenant or tenants in possession of the premise wherein the trees, plants, vines, shrubs or grains are found, neglect, fail or refuse to apply the remedy or remedies prescribed by the Department of Agriculture, in the manner and at the times as ordered and directed by the Department, then, in such case the Department, its agents or servants, may cause the remedy or remedies prescribed to be applied at the expense of the owner or owners of such infested or infected trees, plants, vines, shrubs, or grains; and the Department may, when it deems necessary, cause the trees, plants, vines, shrubs, or grains so infected or infested to be destroyed at the expense of the owner or owners thereof, or the tenant or tenants in possession, and the loss to fall upon such owner or owners, tenant or tenants.

(b) The Department of Agriculture, its agents, officers or servants, may treat or have treated at the expense of the owner or owners, in order to prevent the spread or dissemination of dangerously injurious plant pests any and all suspicious trees, vines, shrubs, plants or grains found to be in dangerous proximity to those infested or infected.

(c) The Department may enter into cooperative agreements with organizations, such as, persons, civic groups or governmental agencies to adopt and execute plans to treat affected areas to achieve the purposes stated in subsection (a) of this section. A treatment may be provided for by any of the methods approved in Chapter 12 of this title. Such cooperative agreements may include provisions of joint funding of any treatment.

(d) The methods of operations by the Department shall not be limited to those specifically listed in this section."

Section 4. Amend Chapter 11, Title 3 of the Delaware Code by adding thereto a new §1103 to read as follows:

"§1103. Warning and Information to Farmers

The Department, whenever it receives reliable information, or otherwise knows, that any dangerously injurious plant pest exists in any tree, vine, shrub, plant or grain any where in the State, shall, in addition to the other duties, acts and responsibilities herein prescribed to be done and performed by it, warn the farmers and other persons residing in the hundred in which any such plant pest exists, and also persons living near the infested or infected area, of the nature of such plant pest, and the localities where it exists, and shall also furnish to farmers and other persons any and all information and knowledge the Department may have or be able to procure, of the remedies to be applied to suppress, abate and eradicate the plant pest."

Section 5. Amend new §1104, Chapter 11, Title 3 of the Delaware Code by adding the phrase "or infected" after the word "infested" as it appears each time in said §1104 and by changing the title thereof to the following:

"§1104. Failure to pay expenses of treating diseased plants and pests: Penalty; Civil Suits; Appeal."

Section 6. Amend Chapter 11, Title 3 of the Delaware Code by adding thereto a new section to read as follows:

"§1105. Establishment of Quarantine Restrictions

The Department of Agriculture may establish quarantine restrictions in areas infested or infected with dangerously injurious plant pests and areas adjacent thereto, and adopt, issue and enforce rules and regulations relative to such quarantine and for the control and limitation of the pest. Under such quarantine restrictions, the Department or its authorized agents, may prohibit and prevent the movement, or the shipment, or transportation of any agricultural, forest, horticultural or any other material of any character whatsoever capable of carrying the plant pest under restriction in any state of its development, and further the Department or its authorized agents may under such quarantine restrictions, intercept and detain for official inspection, any person, car, vessel, truck, wagon, automobile, motor or other vehicle, suspected or known to carry any material in violation of any quarantine restriction or of any rules or regulations thereunder established by the authority of this Chapter."

Section 7. Amend existing §1107, Chapter 11, Title 3 of the Delaware Code by renumbering as §1106 and by replacing the number "ten dollars" with the number "one hundred dollars" and the number "fifty dollars" with the number "five hundred dollars".

Approved July 10, 1987.

CHAPTER 154

FORMERLY

SENATE BILL NO. 259

AN ACT TO AMEND CHAPTER 55, PART VI, TITLE 7 OF THE DELAWARE CODE RELATING TO THE DELAWARE GEOLOGICAL SURVEY.

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 §5501, Chapter 55, Part VI, Title 7 of the Delaware Code by striking the first twelve words of said section, and by substituting in lieu thereof the following:

"The Delaware Geological Survey shall have the following purposes and objectives:"

Section 2. Amend §5505, Chapter 55, Part VI, Title 7 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§5505. Responsibilities and Duties.

The State Geologist and the acting State Geologist shall have the following responsibilities and duties:

(a) The State Geologist or the Acting State Geologist shall hereby be required to evaluate all activities related to oil, gas and geothermal energy exploration or development on land or water within the State and report his/her findings and recommendations promptly to the appropriate and affected agencies and officials of the State. In order to receive and consider the report of the State Geologist, any agency or official of the State approached to allow, permit, or otherwise provide for such activities shall promptly notify the State Geologist, providing details of the contact and requesting a report and recommendations.

(b) The Delaware Geological Survey may receive by appropriation or transfer funds for cooperative programs with its counterpart federal agencies, including the United States Geological Survey, the United States Bureau of Mines, and the United States Minerals Management Service and shall be the only agency of the State to enter into agreements with those federal agencies.

(c) The State Geologist shall serve as the representative of the State of Delaware to the River Master of the Delaware River in accordance with the Supreme Court decree of 1954.

(d) The State Geologist or the Acting State Geologist shall prepare reports to the General Assembly showing the progress and conditions of the Survey together with such other information as it deems necessary and useful. Any reports, maps or other literature prepared and printed by the Survey shall be distributed or sold as the interest of the State and of science demand. All material collected after having served the purposes of the Survey shall be distributed to the educational institutions of the State; or the whole or part of such material shall be put on public exhibition.

(e) Responsibility for matters relating to water quality, geologic hazards, seismicity and cartographic information."

Approved July 9, 1987.

CHAPTER 155

FORMERLY

SENATE BILL NO. 261

AN ACT TO AMEND TITLE 14, DELAWARE CODE, RELATING TO THE SALE OF SCHOOL PROPERTY.

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

Section 1. Amend §1057, Title 14, Delaware Code, by adding thereto a new subsection (e) to read as follows:

"(e) Notwithstanding any provision of subsection (a), (b), (c), or (d) of this section, any real property: (1) to which title is held by a reorganized school district free of any recorded liens, (2) which was originally purchased and paid for by 100% local district funds, (3) which is no longer needed for school purposes; and (4) from the sale of which all proceeds would be retained by the local school district may be sold by the district without first following the procedures set forth in subsections (a), (b), (c) or (d) hereof.

Approved July 9, 1987.

CHAPTER 156

FORMERLY

SENATE BILL NO. 267

AN ACT TO AMEND CHAPTER 56, TITLE 29 OF THE DELAWARE CODE RELATING TO PENSIONS FOR MEMBERS OF THE STATE JUDICIARY.

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

Section 1. Amend §5603, Chapter 56, Title 29, Del. C., by designating the first paragraph of subdivision (1) as new subsection (a) and designating the second paragraph of subdivision (1) as new subsection (b) (1). Further amend §5603 by redesignating current subdivision (2) as new subsection (c).

Section 2. Amend Subsection 5603 (b), Chapter 56, Title 29, Del. C., by adding thereto a new paragraph (2) to read as follows:

"Anything to the contrary in this Section notwithstanding, the maximum pension of a retired Judge who has served more than 25 years and who retires between January 1, 1988 and December 31, 1989 shall be three-fourths of his or her average annual compensation to be computed based on a period equal to the retired Judge's highest paid sixty consecutive months reduced by one month for each month of service as a Judge in excess of 25 years up to a maximum reduction of twenty-four months. In no case shall a retired Judge's average annual compensation as calculated under this paragraph be based on a period of less than thirty-six months."

Approved July 9, 1987.

CHAPTER 157

FORMERLY

SENATE BILL NO. 272

AN ACT TO AMEND CHAPTER 71, TITLE 3 OF THE DELAWARE CODE RELATING TO ANIMAL HEALTH AND THE POWER AND DUTIES OF THE DEPARTMENT OF AGRICULTURE AS THEY RELATE TO POULTRY AND TO ANIMAL HEALTH.

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

Section 1. Amend Section 7101, Chapter 71, Title 3 of the Delaware Code by redesignating the present section as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) Where this section is in conflict with Chapter 63 of Title 3, this section shall control."

Approved July 10, 1987.

CHAPTER 158

FORMERLY

SENATE BILL NO. 290

AN ACT TO AMEND CHAPTER 35, TITLE 24, DELAWARE CODE RELATING TO STATE EMPLOYED PSYCHOLOGISTS.

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

Section 1. Amend §3517(b), Chapter 35, Title 24, Delaware Code by adding thereto a new sentence to read as follows:

"This Chapter shall not apply to psychologists employed by the State; provided, however, psychologists employed by the State must meet at least the minimum educational requirements, including continuing education, for psychological assistants under subsection (h) of this Section. Non-licensed State psychologists shall not independently diagnose or formulate treatment plans, and must be directly supervised by a licensed psychologist."

Approved July 9, 1987.

CHAPTER 159

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 90

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, SUBCHAPTER II, TITLE 29, DELAWARE CODE, RELATING TO SURVIVOR'S PENSION.

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

Section 1. Amend §5528(d)(1), Chapter 55, Subchapter II, Title 29, Delaware Code, by striking said subsection 1 in its entirety and substituting in lieu thereof a new subsection 1 to read as follows:

"(1) The widow or widower; or".

Section 2. The effective date of this Act shall be July 1, 1986.

Approved July 13, 1987.

CHAPTER 160

FORMERLY

SENATE BILL NO. 167

AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE RELATING TO SUSPENDING AND REVOCATION OF LICENSE FOR REFUSAL TO SUBMIT TO CHEMICAL TEST AND PERSONS QUALIFIED TO ADMINISTER TESTS.

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

Section 1. Amend §2746 of Chapter 27, Title 21 of the Delaware Code by striking the Section in its entirety and substituting in lieu thereof the following:

"§2746. Persons qualified to administer tests.

Only duly licensed physicians, registered nurses, licensed practical nurses or other persons trained in medically accepted procedures for the drawing of blood and employed by a hospital or other health care facility, acting at the request of a police officer, may withdraw blood from a person submitting to a chemical test under this subchapter. This limitation shall not apply to obtaining a specimen of breath or urine as to which qualified personnel shall include a police officer as well as the above personnel."

Approved July 13, 1987.

CHAPTER 161

FORMERLY

SENATE BILL NO. 204

AN ACT TO AMEND CHAPTERS 3 AND 11, TITLE 30, DELAWARE CODE, RELATING TO STATE TAXES, THE MAKING OF FALSE STATEMENTS IN CONNECTION WITH STATE TAXES, AND FURTHER RELATING TO THE POWERS AND DUTIES OF THE SECRETARY OF FINANCE WITH REGARD TO TAX RETURNS AND OTHER DOCUMENTS.

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 3, Title 30, Delaware Code, by adding thereto a new §367 to read as follows:

"§367. False Statements

Any person who: (1) wilfully makes and subscribes any return, statement, form, or other document which contains or is verified by, a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, or (2) wilfully aids or procures the preparation or presentation of a return, affidavit, claim or other document which is fraudulent or is false as to any material matter, shall be fined not more than \$3,000 or imprisoned not more than 6 months or both.

(b) 'Return, statement, form, affidavit, claim or other document' as used in this Section includes any return, form, or other writing required under any Chapter of this Title (other than Chapters 30, 51, or 52) or authorized by the Division of Revenue to be filed in connection with the determination of any tax under this Title.

(c) The Secretary of Finance may require that any return or other writing to be filed with respect to any tax imposed under this Title (other than those imposed under Chapters 30, 51, and 52) be signed by the maker of such return or writing subject to the penalties of perjury."

Section 2. Amend Chapter 11, Title 30, Delaware Code, by striking present §1234 of said Chapter in its entirety.

Approved July 13, 1987.

CHAPTER 162

FORMERLY

SENATE BILL NO. 210
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE, RELATING TO APPEALS FROM THE FAMILY COURT OF THE STATE OF DELAWARE.

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

Section 1. Amend §960, Chapter 9, Title 10 of the Delaware Code, by striking subsections (a), (b), and (e), and substituting in lieu thereof new subsections (a), (b), and (e) to read as follows:

"(a) From any order, ruling, decision, or judgment of the Court in any civil proceeding, including any delinquency proceeding, there shall be the right of appeal as provided by law to the Supreme Court.

(b) From any order, ruling, decision, or judgment of the Court in any criminal proceeding, there shall be the right of appeal in the first instance as provided by law to the Superior Court in the same county in which the case was adjudicated by the Court, with the further right of appeal as provided by law to the Supreme Court from an affirmance by the Superior Court of the order of the Court which was appealed, or from the entry of a judgment of conviction by the Superior Court upon a trial *de novo* on appeal to that Court.

* * *

(e) No appeal shall stay the execution of any order of the Court unless such stay shall be specifically ordered by this Court in the first instance or by the appellate court."

Section 2. Amend §961, Chapter 9, Title 10 of the Delaware Code as follows:

"(a) By striking the phrase 'Superior Court' and substituting in lieu thereof the phrase 'Supreme Court' wherever it appears in existing §961 (except in subsection (d));

(b) By striking in existing subsection (d) the phrase 'one of the Judges of the Superior Court', and substituting in lieu thereof 'the Court';

(c) By striking in existing subsection (d) the phrase 'and rehearing';

(d) By striking in existing subsection (f) the phrase 'Judge of the Superior Court who presides at the hearing' and substituting in lieu thereof the phrase 'Supreme Court'; and

(e) By striking subsection (c) in its entirety, and redesignating existing subsections (d), (e) and (f) as subsections (c), (d) and (e), respectively."

Section 3. Amend §962, Chapter 9, Title 10 of the Delaware Code by striking subsections (a) and (b), and substituting in lieu thereof new subsections (a) and (b) to read as follows:

"(a) An appeal may be taken by the State from the Family Court to an appellate court in the following instances:

(1) Appeal as of right. The State shall have an absolute right to appeal to an appellate court a final order of the Family Court where the order constitutes a dismissal of a petition or information or any count thereof or the granting of any motion vacating any verdict or judgment of delinquency or conviction where the order of the Family Court is based upon the invalidity or construction of the statute upon which the petition or information is founded or where the order is based on lack of jurisdiction of the Family Court over the person or subject matter.

(2) Appeal in the discretion of the appellate court. The State may apply to an appellate court to permit an appeal to determine a substantial question of law or procedure, and the appellate court may permit the appeal in its absolute discretion. The appellate court shall have the power to adopt rules governing the allowance of such an appeal; but, in no event shall the decision or result of the appeal affect the rights of the appellee and he shall not be obligated to defend

the appeal, but the appellate court may require the Public Defender of the State to defend the appeal and to argue the cause; provided, however, that if the order appealed from is an order suppressing or excluding substantial and material evidence the appellate court may permit an interlocutory appeal of any pretrial order, and if the order suppressing such evidence is reversed, the appellee may be subjected to a trial.

(b) The State's rights of appeal in a delinquency proceeding provided under subsection (a) of this section, shall be to the Supreme Court. The State's rights of appeal in a criminal proceeding provided under subsection (a) of this section, shall be to the Superior Court in the first instance, with further rights of appeal to the Supreme Court as are provided under subsection (a) of this section, from an affirmation by the Superior Court of the order of the Family Court which was appealed."

Section 4. This Act shall become effective the day on which it is enacted into law. Appeals perfected prior to the effective date of this Act shall be governed by the provisions of the Delaware Code operative prior to such effective date and those provisions shall remain in effect as to those appeals as if this Act were not in effect.

Approved July 13, 1987.

CHAPTER 163

FORMERLY

SENATE BILL NO. 240

AN ACT TO AMEND CHAPTER 60, TITLE 7, DELAWARE CODE RELATING TO THE ASSESSING OF CIVIL AND ADMINISTRATIVE PENALTIES.

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

Section 1. Amend Title 7, Chapter 60, Section 6005, paragraph (b) of the Delaware Code by adding a new subparagraph (3) to read as follows:

"(3) In his discretion, the Secretary may impose an administrative penalty of not more than \$10,000 for each day of violation. Prior to assessment of an administrative penalty, written notice of the Secretary's proposal to impose such penalty shall be given to the violator, and the violator shall have thirty (30) days from receipt of said notice to request a public hearing. Any public hearing, if requested, right of appeal and judicial appeal shall be conducted pursuant to 7 Del. C. §§6006, 6007, 6008, and 6009. Assessment of an administrative penalty shall be determined by the nature, circumstances, extent and gravity of the violation, or violations, ability of violator to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. Simultaneous violations of more than one pollutant or air contaminant parameter or of any other limitation or standard imposed under this Chapter shall be treated as a single violation for each day. In the event of nonpayment of the administrative penalty after all legal appeals have been exhausted, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys fees and costs, and the validity, amount and appropriateness of such administrative penalty shall not be subject to review."

Section 2. Amend Title 7, Chapter 60, Section 6005(d) of the Delaware Code by adding after the word "civil" and before the word "penalties" the following:

"or administrative"

Approved July 13, 1987.

CHAPTER 164

FORMERLY

SENATE BILL NO. 273

AN ACT TO AMEND CHAPTER 51, TITLE 6 OF THE DELAWARE CODE RELATING TO SALE OF MEAT, POULTRY AND SEAFOOD PRODUCTS.

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

Section 1. Amend Section 5124, Chapter 51, Title 6 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"Except for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal sold, as a unit, for consumption elsewhere than on the premises where sold, and ready-to-eat chicken or turkey parts cooked on the premises, all meat, meat products, poultry (whole or parts), and all seafood except shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight. When meat, poultry, or seafood is combined with or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by weight, and the quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination; provided that, for ready-to-cook stuffed whole carcass, ready-to-cook stuffed poultry, ready to cook stuffed poultry roasts, ready-to-cook stuffed rolls, ready-to-cook stuffed bars, ready-to-cook stuffed logs, and ready-to-cook stuffed poultry products designated by terms of similar import, the label must show the total net weight of the poultry product and, in proximity thereto, a statement specifying the minimum weight of poultry in the product."

Approved July 13, 1987.

CHAPTER 165

FORMERLY

SENATE BILL NO. 280

AN ACT TO AMEND CHAPTER 251, VOLUME 61, LAWS OF DELAWARE, BEING "AN ACT TO REINCORPORATE THE CITY OF DELAWARE CITY" RELATING TO APPEALS FROM THE ASSESSMENT BOARD OF APPEALS TO THE SUPERIOR COURT AND RELATING TO THE SALE OF BONDS AT 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. Amend Section 4-01D, Chapter 251, Volume 61, Laws of Delaware by striking the second sentence of the first paragraph in its entirety and substituting in lieu thereof the following:

"The decision of a majority of the Mayor and Council sitting on appeals shall constitute the final decision of the Assessment Board of Appeals. The Board shall notify the appellant in writing, by certified mail, of its decision within five (5) days of its decision. The appellant, if he or she feels aggrieved by the decision may, within thirty (30) days from the date of mailing of the written decision, appeal therefrom to the Superior Court in and for New Castle County. The decision of the Board shall be *prima facie* correct and the burden of proof shall be on the appellant to show that the Board acted contrary to law, fraudulently, arbitrarily, or capriciously. The appellant shall be heard on the record and proceedings of the Board shall be certified to the Court by the Board within fifteen (15) days after service on the Board of a notice of appeal. The Court may permit the appellant or the Board to present any new or different evidence pertinent to the matter. The Court may affirm, reverse or modify the Board and the decision of the Court shall be final."

Section 2. Amend Section 6-08B (7), Chapter 251, Volume 61, Laws of Delaware, by striking out all of Paragraph (7), Subsection B, and substituting in lieu thereof a new Paragraph (7) to read as follows:

"(7) The form of bond or certificate of indebtedness, the interest rate, the date or dates for payment of interest, the classes, the date on dates of maturity, and the provisions pertaining to the registration shall be determined by the Mayor and Council after the said special election provided for in this Section. The bonds may be sold at either public or private sale as determined by the Mayor and Council. The Mayor and Council shall provide, in the budget, and in fixing the rate of tax, for revenues sufficient for payment of interest and principal of said bonds or certificates at the maturity or maturities thereof. The full faith and credit of the City shall be deemed to be pledged for the due payment of the principal and interest of general obligation bonds issued within the prescribed debt limitation when the same have been properly executed and delivered for value, and there shall be no limitation upon the amount of taxes which may be raised by taxation for the payment of interest on and principal of any bonded indebtedness or certificate or certificates issued pursuant to the provisions of the Act."

Section 3. Section 1 of this Act shall be effective immediately upon its adoption and will apply to all decisions of the Board for the current year (1987-1988). In the case of those decisions for the current year (1987-1988) which were rendered prior to the date of the adoption of the amendment, the Board will notify all appellants by certified mail that they have a right of appeal pursuant to this section, which may be exercised within thirty (30) days of the mailing of the notice.

Section 4. Section 2 of this amendment shall be effective immediately upon its adoption.

Approved July 13, 1987.

CHAPTER 166

FORMERLY

SENATE BILL NO. 137

AN ACT TO AMEND CHAPTER 5, TITLE 31, OF THE DELAWARE CODE RELATING TO CATEGORIES OF ASSISTANCE.

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

Section 1. AMEND §505 (6), Title 31, of the Delaware Code by adding a new Subsection "c" to read as follows:

"c. Notwithstanding any other provisions of this Chapter, pregnant women and children under one year of age whose family income as calculated under Federal and State regulations is less than 100% of the Federal poverty level for their family size, shall be entitled to medical care as follows:

(1) Pregnant women shall be entitled to services related to pregnancy and conditions that might complicate pregnancy, or other services subsequently approved for this group under Title XIX of the Social Security Act.

(2) Children shall be eligible for one year following the date of birth for all medical services provided by the Delaware Title XIX (Medicaid) Program. Under certain circumstances as determined by Federal and State regulations, eligibility for children may be extended."

Section 2. The effective date of this Act shall be January 1, 1988.

Approved July 14, 1987.

CHAPTER 167

FORMERLY

SENATE BILL NO 255
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21, DELAWARE CODE, IN RELATION TO BICYCLE-RELATED PROVISIONS AND PENALTIES.

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 §4157, Title 21, Delaware Code by adding a new sentence at the end of §4157 (3) to read as follows:

"Notwithstanding the foregoing provisions, a person operating a bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle."

Section 2. Amend Chapter 41, Title 21, Delaware Code by striking Subchapter XII. (Sections 4192 through 4198) and substituting in lieu thereof the following:

"Subchapter XII.

OPERATION OF BICYCLES AND OTHER HUMAN POWERED VEHICLES

§4192. Effect of Regulations

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this subchapter.

§4193. Traffic Laws Apply to Persons on Bicycles and other Human Powered Vehicles

Every person propelling a vehicle by human power or riding a bicycle shall have all of the rights and all of the duties applicable to the driver of any other vehicle by this title, except as to special regulations in this subchapter and except as to those provisions of this title which by their nature can have no application.

§4194. Riding on Bicycles

(a) No bicycle shall be used to carry more persons at one time than the number for which it is designed or equipped, except that an adult rider may carry a child securely attached to his person in a back pack or sling.

(b) A trailer or semitrailer designed for attachment to a bicycle may be used when securely attached thereto.

§4195. Clinging to Vehicles

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a highway.

§4196. Position on Roadway

(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand edge of the roadway except under any of the following circumstances:

(1) When overtaking and passing another bicycle or vehicle proceeding in the same direction.

(2) When preparing for a left turn at an intersection or into a private road or driveway.

(3) When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right-hand edge of roadway. For purposes of this section, a "substandard width lane" is

a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

(b) Any person operating a bicycle upon a one-way highway with two or more marked traffic lanes and a posted speed limit of less than 30 MPH may ride near the left-hand edge of such roadway as practicable.

(c) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

§4197. Carrying Articles

No person operating a bicycle shall carry any package, bundle or article which prevents the use of both hands in the control and operation of the bicycle. A person operating a bicycle shall keep at least one hand on the handlebars at all times.

§4198. Left Turns

(a) A person riding a bicycle intending to turn left shall follow a course described in section 4152 or in subsection (b).

(b) A person riding a bicycle intending to turn left shall approach the turn as close as practicable to the right edge of the roadway. After proceeding across the intersecting roadway to the far corner of the curb or intersection of the roadway edges the bicyclist shall stop, as much as practicable out of the way of traffic. After stopping, the bicyclist shall yield to any traffic proceeding in either direction along the roadway the bicyclist has been using. After yielding, and complying with any official traffic control device or police officer regulating traffic on the highway along which he intends to proceed, the bicyclist may proceed in the new direction.

(c) Notwithstanding the foregoing provisions, the Department or local authorities in their respective jurisdictions may cause official traffic control devices to be placed and thereby require and direct that a specific course be traveled by turning bicycles, and when such devices are so placed, no person shall turn a bicycle other than as directed and required by such devices.

§4197A. Turn and stop signals

(1) Except as provided in this section, a person riding a bicycle shall comply with section 4155.

(2) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the bicycle before turning, and shall be given while the bicycle is stopped waiting to turn. A signal by hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle.

§4197B. Bicycles and Human Powered Vehicles on Sidewalks

(1) A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(2) A person shall not ride a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, where such use of bicycles is prohibited by official traffic-control devices.

(3) A person propelling a vehicle by human power upon and along a sidewalk, or pushing a bicycle across a roadway upon and along a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

§4197C. Bicycle Parking

(1) A person may park a bicycle on a sidewalk unless prohibited or restricted by an official traffic control device.

(2) A bicycle parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.

(3) A bicycle may be parked on the roadway at any angle to the curb or edge of the roadway at any location where parking is allowed.

(4) A bicycle may be parked on the roadway abreast of another bicycle or bicycles near the side of the roadway at any location where parking is allowed.

(5) A person shall not park a bicycle on a roadway in such a manner as to obstruct the movement of a legally parked motor vehicle.

(6) In all other respects, bicycles parked anywhere on a highway shall conform with the provisions of this title.

§4197D. Bicycle Racing

(1) Bicycle racing on the highways is prohibited by section 4172 except as authorized in this section.

(2) Bicycle racing on a highway shall not be unlawful when a racing event has been approved by the Department or local authorities in their respective jurisdictions. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(3) By agreement with the approving authority, participants in an approved bicycle highway racing event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users.

§4197E. Inspecting Bicycles

A uniformed police officer may at any time upon reasonable cause to believe that a bicycle is unsafe or not equipped as required by law, or that its equipment is not in proper and adjustment or repair, require the person riding the bicycle to stop and submit the bicycle to an inspection and such test with reference thereto as may be appropriate.

§4198. Lamps and Other Equipment on Bicycles

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front.

(b) Every bicycle shall be equipped with a red reflector of a type approved by the Department which shall be visible for 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(c) Every bicycle when in use at nighttime shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle, or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least 500 feet.

(d) A bicycle or its rider may be equipped with lights or reflectors in addition to those required by the foregoing subsections.

(e) Every bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle within 25 feet from a speed of 10 miles per hour on dry, level, clean pavement.

§4198A. Bicycle Identifying Number

A person engaged in the business of selling bicycles at retail shall not sell any bicycle unless the bicycle has an identifying number permanently stamped or cast on its frame.

§4198B. Use of Earplugs Restricted

(a) A person shall not drive a bicycle with earplugs in both ears or while wearing a headset covering both ears.

(b) A prosthetic device which aids the hard of hearing is not an earplug or a headset under this section.

§4198C. Human Powered Vehicles

Human powered vehicle shall mean that certain class of vehicles which are exclusively human-powered by means of foot pedals and which the driver normally rides astride. Adult cycles are included but all children's cycles are excluded as are all toys and all vehicles of whatever nature that require the driver to place a foot or other object on the ground to cause motion.

Approved July 14, 1987.

CHAPTER 168

FORMERLY

SENATE BILL NO. 289

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE, RELATING TO POST-RETIREMENT LUMP SUM DEATH BENEFITS.

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

Section 1. Amend §5546 of Title 29 of the Delaware Code by striking the amount "\$2,000" as it appears therein, and substituting in lieu thereof the amount "\$3,000".

Section 2. This Act shall be effective for the beneficiaries or the estates of decedents dying after June 30, 1987.

Approved July 14, 1987.

CHAPTER 169

FORMERLY

HOUSE BILL NO. 248

AN ACT TO AMEND DELAWARE CODE, TITLE 16, CHAPTER 6B RELATING TO EXEMPTIONS FROM CIVIL LIABILITY.

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

Section 1. Amend Delaware Code, Title 16, Part IV, Chapter 6B, by adding a new subchapter VI, to read as follows:

"Subchapter VI. Civic Organizations Maintaining Parkland.

§6840. Definitions.

As used in this subchapter:

(1) The term 'member of a staff' means any person or entity which:

a. Is a member, board-member, director, or officer of a civic organization;
or

b. Is an employee of a civic organization.

(2) The term 'sponsor' means any person or entity which provides financial support to a civic organization through contributions, gifts, or payment of dues;

(3) The term 'negligent act or omission' shall be defined in accordance with applicable State law, except that such meaning shall not include any reckless act or omission nor any grossly negligent act or omission.

(4) The term 'civic organization' shall be defined as any non-profit organization, which is the owner of parkland, or which has contracted with the State or a political subdivision thereof for the maintenance of parkland, provided that:

a. The organization is not organized for profit or is qualified as an exempt organization under Section 501(c) of the Internal Revenue Code of 1954 as amended;

b. No part of the net earnings of the organization inures to the benefit of any private shareholder or individual;

(5) The term 'parkland' shall be defined as real property, including improvements erected thereon and fixtures attached thereto, used primarily for recreational purposes and owned by the State, a political subdivision, or a civic organization, provided that:

a. The property is not used by the civic organization or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor or bondholder of the organization or operator or any other person through the distribution of profits or the payment of excessive compensation;

b. The property is used for recreational purposes and upon liquidation or dissolution of the organization, or abandonment by the organization, none of the assets of the organization nor benefits from the property will inure to the benefit of anyone except a community chest, fund, foundation, government, governmental agency, civic association, maintenance corporation, or other non-profit organization;

c. The use of the property is open, without charge, to the public members of the civic organization, or to the residents of the neighborhood, community or subdivision in which the property is located, regardless of sex, race, creed, color or national origin;

d. The property does not have a swimming pool thereon.

§6841. Limitation on liability of civic organizations maintaining parkland.

(1) No civic organization, as defined in Section 6840, shall be liable under the laws of this State for civil damages resulting from any negligent act or omission of such organization, its staff, or any person or entity with which such organization may contract, which act or omission occurs in connection with the construction or maintenance of parkland.

(2) No member of the staff of a civic organization shall be liable under the laws of this State for civil damages resulting from any negligent act or omission of such organization, its staff, or any person or entity with which such organization may contract, which act or omission occurs in connection with the construction or maintenance of parkland. The immunity provided in this subsection shall apply only to the extent that said damages exceed either existing liability insurance coverage applicable to the negligent act or omission or the minimum liability insurance coverage required by law if no coverage applicable to the negligent act or omission exists.

(3) No sponsor of any civic organization shall be liable under the laws of this State for civil damages resulting from any negligent act or omission of such organization, its staff, or any person or entity with which such organization may contract, which act or omission occurs in connection with the construction or maintenance of parkland. The immunity provided in this subsection shall apply only to the extent that said damages exceed either existing liability insurance coverage applicable to the negligent act or omission or the minimum liability insurance coverage required by law if no coverage applicable to the negligent act or omission exists.

§6842. Applicability

This subchapter shall apply to any cause of action arising after the enactment of this subchapter."

Approved July 14, 1987.

CHAPTER 170

FORMERLY

HOUSE BILL NO. 300

AN ACT TO AMEND CHAPTER 81, TITLE 10, DELAWARE CODE RELATING TO LIMITING CIVIL LIABILITY FOR CERTAIN NON-PROFIT ORGANIZATION VOLUNTEERS.

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

Section 1. Amend §8133 (a)(1), Chapter 81, Title 10, Delaware Code by adding the phrase "exofficio trustee," after the word "trustee," and before the word "director" as they appear therein.

Section 2. Amend §8133 (a)(3), Chapter 81, Title 10, Delaware Code by adding a new sentence at the end of said paragraph which reads as follows:

"Compensation shall not include any remuneration which an exofficio trustee receives by way of salary for a position which requires among other duties serving as an exofficio trustee."

Approved July 14, 1987.

CHAPTER 171

FORMERLY

HOUSE BILL NO. 14
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 3 AND 5, TITLE 28 OF THE DELAWARE CODE RELATING TO THE DELAWARE THOROUGHBRED RACING COMMISSION AND THE DELAWARE HARNESS RACING COMMISSION.

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

Section 1. Amend §301(g), Chapter 3, Title 28 of the Delaware Code by striking said Subsection in its entirety.

Section 2. Amend §502(a), Chapter 5, Title 28 of the Delaware Code by striking said Subsection in its entirety and substituting in lieu thereof the following:

"(a) The Delaware Harness Racing Commission is continued. The Commission shall consist of 5 members."

Section 3. Amend §502(b), Chapter 5, Title 28 of the Delaware Code by striking the number "2" as it appears in the first sentence thereof and substituting in lieu thereof the number "3".

Section 4. Amend §502(b), Chapter 5, Title 28 of the Delaware Code by striking the last two sentences thereof in their entirety.

Approved July 16, 1987.

CHAPTER 172

FORMERLY

HOUSE BILL NO. 20
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, TITLE 29 OF THE DELAWARE CODE RELATING TO THE AMOUNT OF A STATE SERVICE PENSION.

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

Section 1. Amend §5527(a)(2)(b) by striking the phrase "not to exceed 1" as it appears in said subsection and substituting in lieu thereof the phrase "not to exceed 1 1/4".

Section 2. This Act shall take effect for state service pensions effective on or after July 1, 1987.

Approved July 16, 1987.

CHAPTER 173
FORMERLY
HOUSE SUBSTITUTE NO. 2
FOR

HOUSE BILL NO. 41
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 27, TITLE 6, DELAWARE CODE RELATING TO EQUIPMENT DEALER CONTRACTS.

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

Section 1. Amend Chapter 27, Title 6, Delaware Code by adding a new subchapter III thereto which shall read as follows:

"SUBCHAPTER III. EQUIPMENT DEALER CONTRACTS

§2720. Definitions.

As used in this subchapter, unless the context requires otherwise:

(1) 'Dealer' means a person, firm, or corporation engaged in the business of selling at retail, construction, farm, industrial or outdoor power equipment and maintains a total inventory of new equipment and repair parts valued at \$50,000.00 or over and provides repair service for the above mentioned equipment.

(2) 'Supplier' means a wholesaler, manufacturer, or distributor who enters into a contract agreement with a dealer.

(3) 'Contract agreement' means a written or oral contract or agreement between a dealer and a supplier by which the dealer is granted the right to sell their equipment and the dealer is required to order and maintain an inventory in excess of \$25,000.00 at current net price from the supplier.

(4) 'Inventory' means the tractors, implements, attachments, equipment, and repair parts that the dealer purchased from the supplier.

(5) 'Termination' of a contract agreement means the termination, cancellation, nonrenewal, or noncontinuation of the agreement.

(6) 'Current net price' means the price listed in the supplier's price list in effect at the time the contract agreement is terminated, less any applicable discount allowed.

(7) 'Net cost' means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus reasonable cost of assembly performed by the dealer.

(8) 'Construction,' 'Farm,' 'Industrial,' and 'Outdoor Power,' when used to refer to tractors, implements, attachments, or repair parts, have the meanings commonly used and understood among dealers and suppliers of those trades.

§2721. Notice of termination of contract agreements.

(a) Notwithstanding any agreement to the contrary, a supplier who terminates a contract agreement with a dealer shall notify the dealer of the termination not less than 6 months prior to the effective date of the termination. If termination results from an ongoing program or standard of which the dealer was aware at least 6 months prior to termination, the supplier shall give 90 days notice of termination. However, the supplier may immediately terminate the agreement at any time after the occurrence of any of the following events:

(1) A petition under bankruptcy or receivership law has been filed against the dealer.

(2) The dealer has made an intentional misrepresentation with the intent to defraud the supplier.

(3) Default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier.

(4) Close out or sale of a substantial part of the dealer's business related to the handling of the supplier's product, the commencement or dissolution or liquidation of the dealer if the dealer is a partnership or corporation, or a change, without the prior written approval of the supplier, in the location of the dealer's principal place of business under the agreement.

(5) Withdrawal of an individual proprietor, partner, major shareholder, or manager of the dealership, or a substantial reduction in interest of a partner or major shareholder, without the prior written consent of the supplier.

(6) Revocation or discontinuance of any guarantee of the dealer's present or future obligations to the supplier.

(b) Notwithstanding any agreement to the contrary, a dealer who terminates a contract agreement with a supplier shall notify the supplier of the termination not less than 6 months prior to the effective date of the termination.

(c) The contract agreement may also be terminated by the mutual written consent of the parties, with the effective date of such termination to be such as may be mutually agreed upon.

(d) Notification under this Section shall be in writing and shall be by certified mail or personally delivered to the recipient. It shall contain:

(1) A statement of intention to terminate the agreement.

(2) A statement of the reasons for the termination.

(3) The date on which the termination takes effect.

§2722. Supplier's requirement to repurchase.

(a) Whenever a contract agreement between a dealer and a supplier is terminated by either party, the supplier shall repurchase the dealer's inventory as provided in this subchapter unless the dealer chooses to keep the inventory.

(b) If the dealer principal, who is a party to a contract agreement, dies or becomes incompetent, the supplier shall, at the option of the personal representative or guardian, repurchase the inventory as if the agreement had been terminated. The personal representative or guardian has one year from the date of the death or incompetency of the dealer principal to exercise the option under this subchapter.

(c) The subchapter does not apply to a supplier that does not require the dealer to order and maintain an inventory in excess of \$25,000.00 at current net price from the supplier."

§2723. Repurchase terms.

(a) The supplier shall repurchase from the dealer within 90 days after termination of the contract agreement all inventory previously purchased from the supplier that remains unsold on the date of termination of the agreement.

(b) The supplier shall pay the dealer:

(1) One hundred percent (100%) of the net cost of all new, unused, undamaged, and complete inventory except repair parts, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location.

(2) Eighty-five percent (85%) of the current net price of all new, unused, and undamaged repair parts that are currently listed in the supplier's price book. The supplier may perform the handling, packing, and loading of repair parts returned and withhold five percent (5%) of the current net price of the repair parts returned for their services.

(c) The inventory shall be returned FOB to the dealership. The dealer and the supplier may each furnish a representative to inspect all inventory and certify acceptability before being returned.

(d) The supplier shall pay the full repurchase amount to the dealer not later than 60 days after receipt of the inventory.

§2724. Exceptions to repurchase requirements.

This subchapter does not require the repurchase from a dealer of:

(1) A repair part with a limited storage life or otherwise subject to deterioration, such as gaskets or batteries.

(2) Multiple packaged repair parts when the package has been broken.

(3) A repair part that, because of its condition, is not resalable as a new part without repackaging or reconditioning.

(4) Any inventory that the dealer chooses to keep.

(5) Any inventory that was acquired by the dealer from a source other than the supplier.

(6) Any tractors, implements, attachments or equipment that the dealer purchased from the supplier more than 36 months before date of the notice of termination.

§2725. Uniform commercial practice.

(a) This subchapter does not affect a security interest of the supplier in the inventory of the dealer.

(b) A repurchase of inventory under this subchapter shall not be subject to the bulk sales provisions of Article 6, Title 6.

§2726. Warranty claims.

If after the termination of a contract agreement, the dealer submits a warranty claim to the supplier for work performed prior to the effective date of the termination, the supplier shall accept or reject the claim within a maximum of forty-five days from the day that the supplier received the claim. A claim not rejected before the deadline shall be deemed accepted. The supplier shall pay an accepted claim not later than sixty days after the day that the supplier received the claim.

§2727. Civil remedy for failure to repurchase.

(a) If a supplier fails or refuses to repurchase any inventory covered under the provisions of this subchapter within the time periods established, the supplier is civilly liable for one hundred percent (100%) of the "current net price" of the inventory, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus reasonable cost of assembly performed by the dealer, and plus the dealer's reasonable attorney's fee and court costs, and interest on the "current net price" of the inventory computed at the legal rate of interest, but not to exceed 18% annual percentage rate, from the 91st day after termination of the contract agreement.

(b) Notwithstanding any agreement to the contrary, and in addition to any other legal remedies available, any person who suffers monetary loss due to a violation of this subchapter or because he refuses to accede to a proposal for an arrangement that, if consummated, is in violation of this subchapter, may bring a civil action to enjoin further violations and to recover damages sustained by him together with the costs of the suit, including a reasonable attorney's fee.

(c) A civil action commenced under the provisions of this subchapter shall be brought within four years after the violation complained of is or reasonably should have been discovered, whichever occurs first.

(d) In the event of failure to provide required notice of termination or otherwise comply with provisions of the law, the supplier is civilly liable for the dealers loss of business for the time period the supplier is in violation of the notice termination provisions of this subchapter, plus reasonable attorney's fees and court costs.

(e) The provisions of this Section are in addition to all legal or equitable remedies available at law, as well as any agreement between the supplier and dealer."

Approved July 16, 1987.

CHAPTER 174

FORMERLY

HOUSE BILL NO. 63
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 11, DELAWARE CODE RELATING TO RESTITUTION.

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

Section 1. Amend §4106(d), Chapter 41, Title 11, Delaware Code by adding after the period the following:

"Such procedures shall at minimum include the following:

(1) All restitution payments shall be disbursed to victims within 90 days of receipt or whenever the accumulated amount of the restitution payments received is \$50.00 or more, whichever event first occurs.

(2) Where there are multiple victims disbursements shall be in proportion to the amounts owed to each victim, with individuals to receive disbursements in full before insurance companies receive any disbursements.

(3) Any and all interest earned on deposited restitution payments shall be set aside and deposited on at least a quarterly basis to the Victim Compensation Fund."

Section 2. This Act shall be effective January 1, 1988.

Approved July 16, 1987.

CHAPTER 175

FORMERLY

HOUSE BILL NO. 64
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 35 OF TITLE 18 OF THE DELAWARE CODE RELATING TO GROUP AND BLANKET HEALTH INSURANCE.

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

Section 1. Amend Chapter 35, Title 18 of the Delaware Code by deleting the Chapter in its entirety and substituting in lieu thereof the following new Chapter which shall read as follows:

"CHAPTER 35. GROUP AND BLANKET HEALTH INSURANCE

Subchapter 1. Group Health Insurance

§3501. Group policies must meet group requirements

Except as provided in §3509 herein, no policy of group health insurance shall be delivered in this State unless it conforms to one of the descriptions contained in §3502 through §3508.

§3502. Employee groups

(a) A policy may be issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials. The policy may provide that the term "employee" does not include farm laborers employed in agriculture.

(2) The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in Subsection (3), a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing.

(3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

§3503. Debtor groups

(a) A policy may be issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the creditors with respect to their indebtedness, subject to the following requirements:

(1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, or all of any class or classes thereof. The policy may provide that the term "debtors" shall include:

a. borrowers of money or purchasers of lessees of goods, services, or property for which payment is arranged through a lease or credit transaction;

b. the debtors or one or more subsidiary corporations; and

c. the debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of such affiliated corporations, proprietorships or partnerships is under common control.

(2) The premium for the policy shall be paid either from the creditor's funds, or from charges collected from the insured debtors, or from both. Except as provided in Subsection (3), a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors.

(3) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) The total amount of insurance payable with respect to an indebtedness shall not exceed the greater of the total of scheduled payments or actual amount of unpaid indebtedness as to the creditor. The insurer may exclude any payments which are delinquent on the date the debtor becomes disabled as defined in the policy.

(5) The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of each such payment and any excess of the insurance shall be payable to the insured or the estate of the insured.

(6) Notwithstanding the preceding provisions of this Section, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment. Insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

§3504. Labor union, employee organization groups

(a) A policy may be issued to a labor union, or similar employee organization which shall be deemed to be the policyholder, to insure members of such union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agent, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof.

(2) The premium for the policy shall be paid either from funds of the union or organization, or from funds contributed by the insured members specifically for their insurance, or from both. Except as provided in Subsection (3), a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing.

(3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

§3505. Trustee groups

(a) A policy may be issued to a trust, or to the trustee(s) of a fund, established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustee(s) shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated

corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(2) The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons, or by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons from both the insured persons and the employer(s) or union(s) or similar employee organizations(s). Except as provided in Subsection (3), a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

(3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

§3506. Association groups

(a) A policy may be issued to an association or to a trust or to the trustee(s) of a fund established, created, or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of 100 persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least one year; and shall have a constitution and by-laws, statement of organization or substantially similar document which provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members, (ii) except for credit unions, the association or associations collect dues or solicit contributions from members, and (iii) the members have voting privileges and representation on the governing board of committees. The policy shall be subject to the following requirements:

(1) The policy may insure members of such association or associations, employees thereof or employees of members, or one or more of the preceding or all of any class or classes thereof for the benefit of persons other than the employees' employer.

(2) The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members.

(3) Except as provided in Subsection (4), a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

(4) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

§3507. Credit union groups

(a) A policy may be issued to a credit union or to a trustee or trustees or agent designated by two or more credit unions, which credit union, trustee, trustees, or agent shall be deemed the policyholder, to insure members of such credit unions for the benefit or persons other than the credit union or credit unions, trustee or trustees, or agent or any of their officials, subject to the following requirements:

(1) The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof.

(2) The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in Subsection (3), must insure all eligible members.

a. borrowers of money or purchasers of lessees of goods, services, or property for which payment is arranged through a lease or credit transaction;

b. the debtors or one or more subsidiary corporations; and

c. the debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of such affiliated corporations, proprietorships or partnerships is under common control.

(2) The premium for the policy shall be paid either from the creditor's funds, or from charges collected from the insured debtors, or from both. Except as provided in Subsection (3), a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors.

(3) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) The total amount of insurance payable with respect to an indebtedness shall not exceed the greater of the total of scheduled payments or actual amount of unpaid indebtedness as to the creditor. The insurer may exclude any payments which are delinquent on the date the debtor becomes disabled as defined in the policy.

(5) The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of each such payment and any excess of the insurance shall be payable to the insured or the estate of the insured.

(6) Notwithstanding the preceding provisions of this Section, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment. Insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

§3504. Labor union, employee organization groups

(a) A policy may be issued to a labor union, or similar employee organization which shall be deemed to be the policyholder, to insure members of such union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agent, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof.

(2) The premium for the policy shall be paid either from funds of the union or organization, or from funds contributed by the insured members specifically for their insurance, or from both. Except as provided in Subsection (3), a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing.

(3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

§3505. Trustee groups

(a) A policy may be issued to a trust, or to the trustee(s) of a fund, established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustee(s) shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated

corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(2) The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons, or by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons from both the insured persons and the employer(s) or union(s) or similar employee organizations(s). Except as provided in Subsection (3), a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

(3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

§3506. Association groups

(a) A policy may be issued to an association or to a trust or to the trustee(s) of a fund established, created, or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of 100 persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least one year; and shall have a constitution and by-laws, statement of organization or substantially similar document which provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members, (ii) except for credit unions, the association or associations collect dues or solicit contributions from members, and (iii) the members have voting privileges and representation on the governing board of committees. The policy shall be subject to the following requirements:

(1) The policy may insure members of such association or associations, employees thereof or employees of members, or one or more of the preceding or all of any class or classes thereof for the benefit of persons other than the employees' employer.

(2) The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members.

(3) Except as provided in Subsection (4), a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

(4) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

§3507. Credit union groups

(a) A policy may be issued to a credit union or to a trustee or trustees or agent designated by two or more credit unions, which credit union, trustee, trustees, or agent shall be deemed the policyholder, to insure members of such credit unions for the benefit or persons other than the credit union or credit unions, trustee or trustees, or agent or any of their officials, subject to the following requirements:

(1) The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof.

(2) The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in Subsection (3), must insure all eligible members.

(3) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer.

§3508. Discretionary Groups

A policy may be issued to any other substantially similar group, which in the discretion of the Commissioner, may be subject to the issuance of a group health policy or contract.

§3509. Requirements for other groups: out-of-state groups

(a) Group health insurance offered to a resident of this State under a group health insurance policy issued to a group other than those described in §§3502 through 3508 shall be subject, where applicable, to the requirements of Subsections (b) through (e) of this Section.

(b) No such group health insurance policy shall be delivered in this State unless the Commissioner finds that:

(1) the issuance of such group policy is not contrary to the best interest of the public;

(2) the issuance of the group policy would result in economies of acquisition or administration; and

(3) the benefits are reasonable in relation to the premiums charged.

(c) No such group health insurance coverage may be offered in this State by an insurer under a policy issued in another state unless this state or another state having requirements substantially similar to those contained in Subsections (b) (1), (2), and (3), has made a determination that such requirements have been met.

(d) The premium for the policy shall be paid either from the policyholders funds or from funds contributed by the covered persons or from both.

(e) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

§3510. Disclosure requirements for other groups

(a) With respect to a program of insurance which if issued on a group basis would not qualify under §§3502 through 3508 of this Chapter, if compensation of any kind will or may be paid to, (1) a policyholder or sponsoring or endorsing entity in the case of a group policy, or (2) a sponsoring or endorsing entity in the case of individual blanket or franchise policies marketed by means of direct response solicitation, then in such cases the insurer shall cause to be distributed to prospective insureds a written notice that compensation will or may be paid.

(b) The written notice required by §3510(a) shall be distributed

(1) whether compensation is direct or indirect, and

(2) whether such compensation is paid to or retained by the policyholder or sponsoring or endorsing entity, or paid to or retained by a third party at the direction of the policyholder or sponsoring or endorsing entity, or any entity affiliated therewith by way of ownership, contract or employment.

(c) The notice required by §3510(a) shall be placed on or accompany any application or enrollment form provided prospective insureds.

(d) As used in this Section, the following terms shall have the meanings indicated:

(1) 'direct response solicitation' means a solicitation through a sponsoring or endorsing entity through the mails, telephone or other mass communications media;

(2) 'sponsoring or endorsing entity' means an organization which has arranged for the offering of a program of insurance in a manner which communicates that eligibility for participation in the program is dependent upon affiliation with such organization or that it encourages participation in the program.

§3511. Dependents coverage

(a) Except for a policy issued under §3503, a group health insurance policy may be extended to insure the employees or members with respect to their family members or dependents, or any class or classes thereof, subject to the following:

(1) The premium for the insurance shall be paid either from funds contributed by the employer, union, association, or other person to whom the policy has been issued, or from funds contributed by the covered person, or from both. Except as provided in paragraph (a)(2), a policy on which no part of the premium for the family members or dependents coverage is to be derived from funds contributed by the covered persons must insure all eligible employees or members with respect to their family members or dependents, or any class or classes thereof.

(2) An insurer may exclude or limit the coverage on any family member or dependent as to whom evidence of individual insurability is not satisfactory to the insurer.

§3512. Group health insurance standard provisions

No policy of group health insurance shall be delivered in this State unless it contains in substance the provisions set forth in §§3513 through 3527 or provisions which in the opinion of the Commissioner are more favorable to persons insured, or at least as favorable to the persons insured and more favorable to the policyholder, provided, however, (a) that §3517, §3519, §3524, §3528 and §3529 shall not apply to policies insuring persons under §3503; (b) that the standard provisions required for individual health insurance policies shall not apply to group health insurance policies; and (c) that if any provision of this Section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the Commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

§3513. Grace period

A group health insurance policy shall contain a provision that the policyholder is entitled to a grace period of thirty-one days for the payment of any premium due except the first, during which grace period the policy shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro-rata premium for the time the policy was in force during such grace period.

§3514. Incontestability

A group health insurance policy shall contain a provision that the validity of the policy shall not be contested except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any person covered under the policy relating to insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by the person making such statement; provided, however, that no such provision shall preclude the assertion at any time of defenses based upon the person's ineligibility for coverage under the policy or upon other provisions in the policy.

§3515. Application; statements deemed representations

A group health insurance policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or, in the event of the death or incapacity of the insured person, to the individual's beneficiary or personal representative.

§3516. Insurability

A group health insurance policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the individual's coverage.

§3517. Pre-existing conditions; limits

A group health insurance policy shall contain a provision specifying the additional exclusions or limitations, if any, applicable under the policy with respect to a disease or physical condition of a person, not otherwise excluded from the person's coverage by name or specific description effective on the date of the person's loss, which existed prior to the effective date of the person's coverage under the policy. Any such exclusion or limitation may only apply to a disease or physical condition for which medical advice or treatment was received by the person during the 12 months prior to the effective date of the person's coverage. In no event shall such exclusion or limitation apply to loss incurred or disability commencing after the earlier of (a) the end of a continuous period of 12 months commencing on or after the effective date of the person's coverage during all of which the person has received no medical advice or treatment in connection with such disease or physical condition; and (b) the end of the two-year period commencing on the effective date of the person's coverage.

§3518. Mismatch of age

If the premiums of benefits vary by age, there shall be a provision specifying an equitable adjustment of premiums or of benefits, or both, to be made in the event the age of a covered person has been mismatched, such provision to contain a clear statement of the method of adjustment to be used.

§3519. Certificate

A group health insurance policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured a certificate setting forth a statement as to the insurance protection to which that person is entitled, to whom the insurance benefits are payable, and a statement as to any family member's or dependent's coverage.

§3520. Notice of claim

A group health insurance policy shall contain a provision that written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

§3521. Claim forms

A group health insurance policy shall contain a provision that the insurer will furnish to the person making claim, or to the policyholder for delivery to such person, such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of 15 days after the insurer receives notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which claim is made.

§3522. Proofs of loss; disability

When applicable, a group health insurance policy shall contain a provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within 90 days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it was not reasonably possible to furnish

such proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity of the claimant, later than one year from the time proof is otherwise required.

§3523. Time for payment of benefits

A group health insurance policy shall contain a provision that all benefits payable under the policy other than benefits for loss of time will be payable not more than 60 days after receipt of proof, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period will be paid as soon as possible after receipt of such proof.

§3524. Payment of benefits

A group health insurance policy shall contain a provision that benefits for loss of life of the person insured shall be payable to the beneficiary designated by the person insured. However, if the policy contains conditions pertaining to family status the beneficiary may be the family member specified by the policy terms. In either case, payment of these benefits is subject to the provisions of the policy in the event no such designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy shall be payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person, or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay such benefit, up to an amount not exceeding \$5,000, to any relative by blood or connection by marriage of such person who is deemed by the insurer to be equitably entitled thereto.

§3525. Physical examinations

A group health insurance policy shall contain a provision that the insurer shall have the right and opportunity to examine the person or the individual for whom claim is made when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy in the case of death where it is not prohibited by law.

§3526. Legal actions

A group health insurance policy shall contain a provision that no action at law or in equity shall be brought to recover on the policy prior to the expiration or 90 days after proof of loss has been filed in accordance with the requirements of the policy and that no such action shall be brought at all unless brought within three years from the expiration of the time within which proof of loss is required by the policy.

§3527. Information to debtors

In the case of a policy insuring debtors, such as a group health insurance policy shall contain a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a certificate of insurance describing the coverage and specifying that the benefits payable shall first be applied to reduce or extinguish the indebtedness.

§3528. Direct payment of hospital, medical services

Any group health policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services, but the policy may not require that the service be rendered by a particular hospital or person. Payments so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

§3529. Readjustment of premiums; dividends

Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder. If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued for the first or any subsequent year of insurance under any policy of group health insurance heretofore or hereafter issued to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance

under such policies made from funds contributed by the policyholder, or by an employer of insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

Subchapter II. Blanket Health Insurance

§3540. 'Blanket health insurance' defined

Blanket health insurance is hereby declared to be that form of health insurance covering groups of persons as enumerated in one of the following subdivisions:

(1) Under a policy or contract issued to any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group of persons who may become passengers defined by reference to their travel status on such common carrier or such means of transportation;

(2) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering any group of employees, dependents or guests, defined by reference to specified hazards incident to an activity or activities or operation of the policyholder;

(3) Under a policy or contract issued to a college, school or other institution of learning, a school district or districts, or school jurisdictional unit, or to the head, principal or governing board of any such educational unit, who or which shall be deemed the policyholder, covering students, teachers, or employees;

(4) Under a policy or contract issued to any religious, charitable, recreational, educational or civic organization, or branch thereof, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to any activity or activities or operations sponsored or supervised by such policyholder;

(5) Under a policy or contract issued to a sports team, camp or sponsor thereof, which shall be deemed the policyholder, covering members, campers, employees, officials or supervisors;

(6) Under a policy or contract issued to any volunteer fire department, first aid, civil defense or other such volunteer organization, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder;

(7) Under a policy or contract issued to a newspaper or other publisher, which shall be deemed the policyholder, covering its carriers;

(8) Under a policy or contract issued to an association, including a labor union, which has a constitution and bylaws, statement of organization or substantially similar document and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder;

(9) Under a policy or contract issued to cover any other risk or class of risks which, in the discretion of the Commissioner, may be properly eligible for blanket health insurance. The discretion of the Commissioner may be exercised on an individual risk basis or class of risks, or both.

§3541. Filing and required provisions in blanket policies

Any insurer authorized to write health insurance in this State shall have the power to issue blanket health insurance. No such blanket policy, except as provided in §2712 of this Title, may be issued or delivered in this State unless a copy of the form thereof shall have been filed in accordance with such §2712. Every such blanket policy shall contain provisions which in the opinion of the Commissioner are not less favorable to the policyholder and the individual insured than the following:

(1) A provision that the policy, including endorsements, copies of the applications, if any, of the policyholder and the persons insured shall constitute the entire contract between the parties, and that any statement made by the policyholder or by a person insured shall, in absence of fraud, be deemed a representation and not a warranty and that no such statements shall be used in defense to a claim under the policy, unless contained in a written application. Such person, his beneficiary, or assignee, shall have the right to make written request to the insurer for a copy of such application and the insurer shall, within 15 days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request a copy of such application. Such written request shall provide the insurer with the full name and address of the insured, the policyowner and the policy number if known, or the written request shall contain such information that the insurer can reasonably be expected to locate the application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action based upon or involving any statements contained therein.

(2) A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when such sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(3) A provision that the insurer will furnish either to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of 15 days after giving of such notice, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

(4) A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurers may reasonably require and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within 90 days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible.

(5) A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of due written proof of such loss, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

(6) A provision that the insurer at its own expense shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

(7) A provision that no action at law or in equity shall be brought to recover under the policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action shall be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

§3542. Application and certificates not required

An individual application need not be required from a person covered under a blanket health policy or contract nor shall it be necessary for the insurer to furnish each person a certificate.

§3543. Payments of benefits under blanket policy

All benefits under any blanket health policy or contract shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except that if the person insured be a minor or otherwise not competent to give a valid release, such benefits may be made payable to his parent, guardian or other person actually supporting him. Except, however, that the policy may provide that all or a portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the option of the insurer, and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services, but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the obligation of the insurer with respect to the amount of insurance so paid.

Subchapter III. Provisions Applicable to Group and Blanket Health Insurance

§3550. Newborn children

All group and blanket health insurance policies providing coverage for a family member of the insured or a subscriber shall, as to such family member's coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth in accordance with §3335 of this Title.

§3551. Filing of rates

Except for credit health insurance, the rates of group health insurance and blanket health insurance shall be filed pursuant to and be subject to the requirements of Chapter 25 of this Title. Rates for credit health insurance shall be filed pursuant to the requirements of Chapter 37 of this Title.

Section 2. This Act shall not apply to any group or blanket health insurance policies entered into or issued before the effective date of this Act, nor to any extension, renewals, modifications or amendments to such policies, whenever made.

Section 3. This Act shall become effective 180 days after its enactment into law.

Approved July 16, 1987.

CHAPTER 176

FORMERLY

HOUSE BILL NO. 102
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TO AMEND CHAPTER 38, TITLE 18 OF THE DELAWARE CODE, RELATING TO DENTAL SERVICE BENEFITS BY DENTAL PLAN ORGANIZATIONS, TO ASSURE FREEDOM OF CHOICE FOR DENTAL SERVICE CONSUMERS AND OPEN ENROLLMENT IN DENTAL PLANS FOR QUALIFIED DENTISTS, AND CERTAIN OTHER IMPROVEMENTS, INCLUDING AN ADVISORY COUNCIL.

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

Section 1. Amend §3804(a), Chapter 38, Title 18, Delaware Code, by adding thereto a new subsection (10) to read as follows:

"(10)(a) Each employer or other organization which employs or has 25 or more employees or members during the full preceding calendar year and which contributes to a dental plan organization contract which restricts the covered persons in selecting the providers of dental services to a single provider or limited number of providers, shall also offer its employees and their eligible dependents and members' eligible dependents at the time a dental benefits plan is offered or renewed the option of selecting alternative coverage which permits covered persons to obtain dental services from any licensed dentist.

(b) An employer or other organization shall be required to pay for or contribute towards the provision of alternative coverage an amount equal to the premium or cost which it pays or contributes to the dental plan organization contract which limits the number of providers of dental services.

(c) Within 120 days of the effective date of this Act, the Commissioner of the Department of Insurance shall promulgate rules and regulations necessary to effectuate the purpose of this Act, including procedures for notice to covered persons, employers and other organizations of the provisions of this Act."

Section 2. Amend Chapter 38, Title 18, Delaware Code, by adding a new §3823 to read as follows:

§3823. Advisory Council

To assist the Commissioner in drafting appropriate rules and regulations and in generally administering and enforcing the purposes and provisions of this Chapter, the Governor shall appoint an Advisory Council. The Advisory Council shall consist of three dentists admitted to the practice of dentistry in this State and three other State residents, one of whom shall be an employer; one of whom shall be a representative of the insurance industry and one of whom shall be a consumer, each of whom shall serve a term of three years. The Governor shall consult with the Commissioner and the Delaware State Dental Society before making any appointment to the Advisory Council. The members shall serve without compensation other than reimbursement of necessary expenses by the Insurance Department. The Advisory Council shall meet at such times and places as the members deem necessary and as requested by the Commissioner."

Section 3. If all or any part of these Amendments to Chapter 38, Title 18, Delaware Code, shall be found invalid for any reason, such determination shall not affect, impair or invalidate any other Section, term or provision of said Chapter, and the remaining Sections, terms and provisions shall remain in full force and effect.

Section 4. This Act shall become effective ninety days subsequent to enactment, during which interim period the Insurance Commissioner shall promulgate those rules and regulations immediately necessary to effectuate the purposes of this Act. This Act and such rules and regulations shall apply to all new dental plans reviewed thereafter and to all existing dental plans at the time of the next annual review of the applicable certificate of authority pursuant to §3804(c), Chapter 38, Title 18, Delaware Code.

Approved July 16, 1987.

CHAPTER 177

FORMERLY

HOUSE BILL NO. 176
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND VOLUME 63, CHAPTER 272, LAWS OF DELAWARE, RELATING TO THE TOWN OF CAMDEN.

WHEREAS, it is deemed advisable that the Charter of the Town of Camden, contained in Chapter 272, Volume 63, Laws of Delaware, as amended, be 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):

Section 1. Amend Section 4, Chapter 272, Volume 63, Laws of Delaware, by striking said Section in its entirety and substituting in lieu thereof the following:

"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 a town council composed of a mayor, whose term shall be for a period of two (2) years, and four council 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 or her election and continuing until his or her successor is duly elected and qualified. A member of town council must resign his or her council seat if he or she files to run for the office of mayor and the terms overlap."

Section 2. Amend Section B(b), Chapter 272, Volume 63, Laws of Delaware, by striking said subsection in its entirety and substituting in lieu thereof the following:

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

Section 3. Amend Section 15, Chapter 272, Volume 63, Laws of Delaware, by striking said Section in its entirety and substituting in lieu thereof the following:

"DUTIES OF THE MAYOR

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 Camden 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 Camden 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 Camden or by any ordinance of the Town Council."

Section 4. Amend Section 19, Chapter 272, Volume 63, Laws of Delaware, by striking said Section in its entirety and substituting in lieu thereof the following:

"TREASURER

Section 19. The Treasurer shall be 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 Mayor.

The Town Treasurer, before entering upon the duties of his office, shall also give bond to the Town of Camden, 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 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 and petition shall be annexed a warrant of attorney for the confession of judgment for said penalty.

The Treasurer shall pay all orders drawn on him by order of said Council and be signed by the Mayor and Secretary thereof, 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, or at such other times as Council may require.

Section 5. Amend Chapter 272, Volume 63, Laws of Delaware, by striking each reference to "President" and "President of Council" and substituting in lieu thereof the word "Mayor".

Section 6. This Act shall not effect the terms presently being served by Council members.

Approved July 16, 1987.

CHAPTER 178

FORMERLY

HOUSE BILL NO. 187 AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 5, TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS LICENSURE.

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

Section 1. Amend subsection (g), Section 543, subchapter III, Chapter 5, Title 4, Delaware Code by striking said subsection in its entirety.

Section 2. This Act shall only be effective for those license applications received by the Alcoholic Beverage Control Commission after May 15, 1987.

Approved July 16, 1987.

CHAPTER 179

FORMERLY

HOUSE BILL NO. 223

AN ACT TO AMEND CHAPTERS 13 AND 49, TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE COMPANY SUBSIDIARIES.

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

Section 1. Amend §1313, Title 18 of the Delaware Code by striking the first sentence thereof and substituting in lieu thereof the following:

"§1313. Stock of subsidiaries.

An insurer may invest in the stock of subsidiary insurance corporations formed or acquired by it, or, in addition to the right to own stock in other corporations given insurers in §1305(2) of this title; it may also invest in not less than a majority of the voting stock of a business corporation formed under the laws of this or another state or a foreign nation and the activities of which corporation are primarily supplementary and complementary to the convenient operation of the insurer's business or to the administration of its affairs and, corporations engaged or organized to engage in the marketing of financial, insurance or service products, the products to be subject to the approval of the Insurance Commissioner. As used in this title, a subsidiary insurance corporation shall include, in addition to those such corporations where the insurer owns a majority of their stock, those corporations formed or acquired by an insurer where it owns less than a majority of such corporation's voting stock due to the laws of a foreign nation which require the insurer to own less than a majority of the voting stock of such subsidiary insurance corporation if it is to operate in that nation. All of the insurer's investments under this section, together with its investments in insurance stock under §1312(b) of this title, shall not at any time exceed the amount of the investing insurer's surplus, if a life insurance, or its policyholders' surplus (as defined in §511(2) of this title) if other than a life insurer."

Section 2. Amend §4904, Title 18 of the Delaware Code by changing Subparagraph (3) to Subparagraph (4) and adding thereto a new subparagraph (3) which shall be as follows:

"(3) It may invest in corporations engaged or organized to engage in the marketing of financial, insurance or service products, in accordance with §1313 of this title."

Approved July 16, 1987.

CHAPTER 180

FORMERLY

HOUSE BILL NO. 231

AN ACT TO AMEND CHAPTER 158, VOLUME 34, LAWS OF DELAWARE, BEING "AN ACT CHANGING THE NAME OF 'THE TOWN OF DOVER' TO 'THE CITY OF DOVER' AND ESTABLISHING A CHARTER THEREFOR", AS AMENDED BY CHAPTER 219, VOLUME 47, LAWS OF DELAWARE, AND CHAPTER 98, VOLUME 59, LAWS OF DELAWARE, AND CHAPTER 147, VOLUME 61, LAWS OF DELAWARE, AND CHAPTER 5, VOLUME 64, RELATING TO A COUNCILMAN RUNNING FOR THE OFFICE OF MAYOR AND TO NOMINATION OF CANDIDATES FOR THE OFFICES OF MAYOR AND COUNCIL.

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

Section 1. Amend Section 5, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 219, Volume 47, Laws of Delaware, and Chapter 147, Volume 61, Laws of Delaware, and Chapter 5, Volume 64, Laws of Delaware, by inserting at the end of Section 5 a new paragraph to read as follows:

"If a Councilman files and runs for Mayor whether or not he is elected to said office, the term as Councilman shall automatically expire on the second Monday of May on the year of the election and if he has a year remaining on his term, then his office as Councilman shall be filled at the same annual election in which he has filed to run for the office of Mayor."

Section 2. Amend Section 7, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 98, Volume 59, Laws of Delaware, and Chapter 147, Volume 61, Laws of Delaware, by striking the second paragraph thereof in its entirety and substituting in lieu thereof a new paragraph to read as follows:

"The mode of nomination of candidates for the Council and for Mayor after 1979 shall be by petition signed by not less than ten nor more than twenty-five electors of the City, filed with the Clerk of Council on or before 4:00 p.m. o'clock on the second Friday of February of 1980 and on or before 4:00 p.m. o'clock on the second Friday of February of each year thereafter for candidates for Council and on or before 4:00 p.m. o'clock on the last working day in January for candidates for Mayor in the years when a Mayor is to be elected. Should the second Friday of February fall on a legal holiday, the filing date shall be 4:00 p.m. o'clock on the next working day thereafter which is not a legal holiday."

Approved July 16, 1987.

CHAPTER 181

FORMERLY

HOUSE BILL NO. 234

AN ACT TO AMEND CHAPTER 1, TITLE 17, DELAWARE CODE, RELATING TO GOVERNING THE USE OF OR CONDUCT ON STATE LANDS OWNED, CONTROLLED OR IN THE CUSTODY OF THE DEPARTMENT OF TRANSPORTATION.

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

Section 1. Amend subchapter III, Chapter 1, Title 17, Delaware Code, by adding a new Section which shall read as follows:

"§149. Authority for Department of Transportation to adopt regulations governing State land.

(a) The Department of Transportation shall have the authority to adopt rules, regulations or restrictions governing the use of or the conduct on those lands owned, controlled or in the custody of the Department of Transportation. Such rules, regulations or restrictions adopted pursuant hereto may be adopted to control such behavior as but not limited to loud and tumultuous behavior, the sale or consumption of alcoholic beverages, or sales of goods or services for profit or vending operation of any kind without a permit issued by the Department of Transportation.

(b) Any violation of any rule, regulation or restriction adopted pursuant here to posted on the property by the Department of Transportation, shall constitute a class C misdemeanor as defined in Title 11 of the Delaware Code and any person found to be in violation thereof shall receive a penalty in accordance therewith."

Approved July 16, 1987.

CHAPTER 182

FORMERLY

HOUSE BILL NO. 270

AN ACT TO AMEND CHAPTER 59, TITLE 29, DELAWARE CODE RELATING TO THE HIRING PRACTICES OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

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

Section 1. Amend §5903(17), Chapter 59, Title 29 of the Delaware Code by adding a new sentence at the end of §5903(17) to read as follows:

"Temporary, casual and seasonal employees of the Department of Natural Resources and Environmental Control may be allowed to work at State Parks for no more than 195 working days in any fiscal year upon the approval of the Secretary of the Department of Natural Resources and Environmental Control."

Approved July 16, 1987.

CHAPTER 183

FORMERLY

HOUSE BILL NO. 275
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 48, TITLE 29 OF THE DELAWARE CODE TO ENABLE THE STATE OF DELAWARE TO ENTER A TRI-STATE LOTTO COMPACT AND SPECIFYING THE TERMS OF THE COMPACT.

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 40, Title 29 of the Delaware Code by deleting subchapter II in its entirety and adding a new subchapter II to read as follows:

"Subchapter II. Tri-State Lotto Compact.

§4820. Short title.

This compact shall be known and may be cited as the 'Tri-State Lotto Compact.'

§4821. Compact.

The State of Delaware is hereby authorized to enter into the following compact with the states of Vermont, Maine and New Hampshire subject to the terms and conditions stated in the compact.

§4822. General provisions.

(a) Statement of policy and purpose. The State of Delaware enters this compact to implement the operation of Tri-State Lotto, for the purpose of raising additional revenue for each of the party states. Tri-State Lotto is not intended to replace any existing lottery game in the party states, but, rather, to be run in addition to these games. Tri-State Lotto tickets will be sold in each area to be determined by the commission. Fifty percent of the gross sales from each state will be aggregated in a common prize pool, and operating costs will be charged proportionally to the sales made by each of the party states. The remaining revenues generated within each state will remain in that particular state.

(b) Definitions.

(1) "Tri-State Lotto" means a combined lotto game for all member states, with common tickets, common advertising and a common prize pool;

(2) "Party states" means the states of New Hampshire, Maine, Vermont, and Delaware;

(3) "Commission" means the Tri-State Lotto Commission or its successor, created and established by this compact; and

(4) "Concurrent legislation" means legislation enacted by one of the party states which is concurred in by the other party states in the form of enactments having like effect;

(5) "Lotto" means a game of lotto as prescribed by the commission.

§4824. Procedures and conditions governing the Tri-State Lottery.

(a) Creation of the Tri-State Lotto Commission. The party states, for the purpose of operating Tri-State Lotto, establish the Tri-State Lotto Commission.

(b) Nature of the Commission. The commission shall be an interstate body, both corporate and politic, serving as a common agency of the party states and representing them both collectively and individually in the exercise of its powers and duties.

(c) Organization of the commission. The commission shall be composed of one member from each of the party states. Each party state Lottery Director, Sweepstakes Commission or State Lottery Commission shall appoint one of its members to serve on the Tri-State Lotto Commission. Each member shall hold office at the

pleasure of the appointing authority. The commission shall elect a chairman from among its members annually.

(d) Functioning of the commission.

(1) The commission's functions shall be performed and carried out by its members and by advisory committees or panels as the commission may establish, and by officers, independent contractors, agents, employees and consultants as may be appointed by the commission. All officers, independent contractors, agents, consultants and employees shall hold office at the pleasure of the commission, unless the commission otherwise decides, and the commission shall prescribe their powers, duties and qualifications and fix their compensation and other terms of their employment.

(2) No action of the commission shall be effective or binding unless there is a unanimous decision by all of the representatives of the various party states.

(3) The members of the commission shall receive compensation for their services pursuant to this compact and in accordance with the policies of the respective states, and they shall be reimbursed for the expenses they naturally and necessarily incur in the performance of their duties.

(4) No member of the commission who is otherwise a public officer or employee shall suffer a forfeiture of his or her office or employment, or any loss or diminution in the rights and privileges pertaining to their office or employment, by reason of membership on the commission.

(e) Powers and duties of the commission.

(1) The commission shall have the power and it shall be its duty to operate and administer Tri-State Lotto and to promulgate rules and regulations governing the establishment and operation of the lotto, including but not limited to the following topics:

- a. the design of the game;
- b. the price of the tickets;
- c. the number and size of the prizes on the winning tickets;
- d. the manner of selecting the winning tickets and paying the prizes;
- e. the frequency of the drawings;
- f. the type or types of locations at which tickets may be sold;
- g. the method to be used in selling tickets;
- h. the compensation required to be paid to Tri-State Lotto sales agents in order to assure adequate availability of tickets and public convenience in purchasing tickets; and
- i. the development of an internal security plan designed to prevent player fraud.

(2) The commission, or its designee, shall also have the power and it shall be its duty to license sales agents to sell Tri-State Lotto tickets, in accordance with subsection (g) of this Section. The Commission may require a bond from any licensed agent, in an amount to be determined by the commission.

(3) The commission shall make monthly and year-end reports to the state Lottery Director, Sweepstakes Commission or State Lottery Commission of the party states, which shall include a complete statement of Tri-State Lotto revenues, prize disbursements and other expenses, and any other information the party states may require.

(4) All Tri-State Lotto accounts and transactions shall be subject to annual post-audits conducted by independent auditors retained by the commission for this purpose.

(5) In addition to the powers enumerated above, the commission shall have the power to adopt a corporate seal and enter into contracts, including but not limited to contracts with other governments or agencies, to hire, lease, acquire and dispose of property to the extent necessary to carry out its functions, powers and duties as set forth in this Section, and to expend or authorize expenditures of monies for the purpose of operating Tri-State Lotto pursuant to this compact. The party states each shall have the right to require an audit as a party state may from time to time consider proper.

(6) The commission shall also have additional powers, incidental to the express powers granted to it by this compact, as may be necessary or proper for the effective performance of its functions.

(f) Cooperation and assistance of other agencies. To avoid duplication of effort and in the interests of economy, the commission may make use of existing studies, plans, data and other materials in the possession of the governmental agencies of the party states and their respective political subdivisions. Each agency is authorized to make these materials available to the commission and otherwise to assist it in the performance of its functions. The officers and personnel of these agencies, and of any other government or agency, may serve at the request of the commission upon advisory committees and panels as the commission creates; and the officers and personnel may serve upon the committees and panels without forfeiture of office or employment and with no loss or diminution in the status, rights and privileges which they otherwise enjoy.

(g) Licensing of Tri-State Lotto sales agents

(1) The commission or its designee, may license as agents to sell Tri-State Lotto tickets, those persons as in its opinion will best serve the public convenience except that no license shall be issued to any person to engage in business exclusively as a sales agent.

(2) For purposes of this Section the term "person" shall be construed to mean and include an individual, partnership, association, organization, club, company, corporation, trust, estate, society, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include agencies and instrumentalities of the state, and counties, cities, towns and villages.

(3) Before issuing a license to any person, the commission shall consider with respect to the person:

- a. financial responsibility and the security of the business or activity in which the person is engaged;
- b. accessibility of the place of business or activity to the public;
- c. sufficiency of existing licenses to serve public convenience;
- d. whether the place of business or activity is predominantly frequented by persons under the age of eighteen years;
- e. volumes of expected sales; and
- f. the possession of a valid party state lottery license.

(h) Suspension and revocation of license.

(1) The commission may suspend or revoke, after Notice and hearing, any license issued pursuant to this compact. The license may, however, be temporarily suspended by the commission without prior notice, pending any prosecution, investigation or hearing. A license may be suspended or revoked by the commission for just cause, including but not limited to one or more of the following reasons:

- a. failure to account for tickets received or the proceeds of the sale of tickets or to file a bond if required by the commission or to comply with instructions of the commission concerning the licensed activity;
- b. conviction of any criminal offense;

c. failure to file any return or report, to keep records, or to pay any tax

d. engaging in fraud, deceit, misrepresentation or conduct prejudicial to public confidence;

e. insufficiency of the number of tickets sold by the sales agent; and

f. a material change, since issuance of the license with respect to any of the matters required to be considered by the commission under subsection (g) 3 of this Section.

(2) Any suspension or revocation of a state license to sell lottery tickets shall automatically result in suspension of the Tri-State license.

(i) Inapplicability of conflicting statutes.

(1) Any law providing for any penalty or disability for the sale of lottery tickets or any acts done in conjunction with a lottery which conflicts with the provisions of the compact shall not apply to the sale of tickets or acts performed pursuant to this compact.

(2) The provisions of this compact shall apply and take precedence in the event of any conflict between the provisions contained in this compact and the provisions of other laws of any of the party states.

(j) Sale of tickets prohibited.

(1) No ticket shall be sold at a price greater than those fixed by the commission; nor shall a sale be made to any person other than a licensed sales agent. Any person who violates any of these provisions shall be subject to the sanctions of each respective party state's lottery statutes.

(2) No ticket shall be sold to any person under the age of eighteen years, but this shall not be deemed to prohibit the purchase of a ticket for the purpose of making a gift by a person eighteen years of age or older to a person less than that age. Any licensee or the employee or agent of any licensee who sells or offers to sell a ticket to any person under the age of eighteen shall be subject to the sanctions of each respective party state's lottery statutes.

(3) No ticket shall be sold to and no prize shall be paid to any of the following persons:

a. any member, officer or employee of the commission; or

b. any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons.

(k) Collection and disposition of revenue.

(1) All monies received by any and all Tri-State Lotto sales agents from the sales of Tri-State Lotto tickets, less the amount, if any, retained pursuant to subsection (e)(1)g and (e)(1)h of this Section shall be delivered weekly to the state Lottery Director, Sweepstakes Commission or State Lottery Commission of the party state in which sales were made.

(2) Within one week after a Tri-State Lotto drawing has been held, the party states shall pay to the commission, who in turn shall promptly pay to an account known as the Tri-State Lotto Prize Account, monies as are necessary for the payment of prizes, less actual prizes paid by the respective party state in the preceding week, but not to exceed 50 percent of the total amount for which tickets have been sold.

(3) Interest earned by the Tri-State Lotto Prize Account shall accrue to the party states in direct proportion to their contribution to the account. Distribution shall be made at least semi-annually.

(4) The withdrawals, pursuant to subsection (1) of this Section, of monies from the Tri-State Lotto Prize Account deposited by the commission shall be subject to a check signed by a member of the commission or such officer.

employee or agent of the commission as the commission may designate. The monies in the Prize Payment Account shall be paid out of the account on vouchers certified or approved by the commission or its designated officer, agent or employee.

(5) The commission shall receive from party states, within one week after a Tri-State Lotto drawing, an additional sum of monies not to exceed 15 percent of the total amount for which tickets have been sold. The monies shall be deposited in a bank, banking house or trust company selected by the commission in an account to be named the Tri-State Lotto Operations Account. The operations account shall be used to pay Tri-State Lotto current operating costs which shall be charged proportionally to the sales made by each of the party states. If operating costs exceed or fall short of the amount obtained in the account, appropriate adjustments shall be made on a quarterly basis within thirty days at the end of each quarter.

(6) Interest earned by the Tri-State Lotto Operations Account shall accrue to the party states in direct proportion to their contribution to the account. Distribution shall be made at least semi-annually.

(1) Certification of prize winners and payment of prizes.

(1) All prizes over five thousand dollars shall be awarded to holders of winning tickets provided in this Section. Within one week after any drawing selection of prize winning tickets, the commission shall deliver to each of the party states a certified list of the tickets to which the prizes are awarded and amount of each prize. Upon delivery of the certified list and voucher of the commission, monies sufficient for the payment of the prizes may be withdrawn from the prize account established in subsection (k) 2 of this Section. The commission shall each month provide each party state with a record of all withdrawals. Payment of prizes shall be made by the commission, or its designee, to holders of the tickets to which prizes are awarded, except that a payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The commission, its officers, agents and employees shall be discharged of all further liability upon payment of a prize pursuant to this subsection.

2. If the person entitled to a prize on any winning ticket is under the age of eighteen years, and the prize is less than five thousand dollars, the commission may make payment by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of the minor. If the person entitled to a prize of any winning ticket is under the age of eighteen years and if the prize is five thousand dollars or more, the commission may make payment to the minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a guardian of the minor as custodian for the minor. The commission shall be discharged of all further liability upon payment of a prize to a minor pursuant to this subdivision.

3. Prizes may be paid in such manner as the commission may direct in its rules and regulations as long as the rules and regulations are not inconsistent with this compact.

(m) Unclaimed prize money. Unclaimed prize money for the prize on a winning ticket shall be retained by the commission for payment of the person entitled for one year after the drawing in which the prize was won. If no claim is made for the prize within one year from the date of the drawing, the prize money shall be credited to the prize pool. Upon the expiration of one year from the drawing date, the ticket holder shall forfeit any claim or entitlement to the prize monies.

(n) Duration of commission and Tri-State Lotto. The commission and Tri-State Lotto shall continue in existence until this compact is revoked by all of the party states. The withdrawal of one party state shall not render the compact invalid between the remaining states.

(o) Interpretation. This compact shall be construed liberally to accomplish its purpose.

(p) Amendments. Amendments and supplements to this compact may be adopted by concurrent legislation of the party states.

(q) The commission and the party states shall be immune from:

1. any claim based upon an act or omission of an employee exercising due care, in the execution of a statute or regulation, whether or not the statute or regulation is valid, or based upon the exercise or performance or failure to exercise or perform a discretionary function or duty on the part of the employee whether or not the discretion involved is abused;

2. any claim arising in respect to the assessment or collection of any fee or commission or the levy upon or detention of any goods or merchandise by a law enforcement officer;

3. any claim for damages caused by the fiscal operations of the department;

4. any claim arising out of alleged assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, fraud, interference with contractual rights, or invasion of the right of privacy; or

5. any other claim for which a remedy is provided or which is governed specifically by other statutory enactment.

(r) Fiscal year. The fiscal year of the Tri-State Lotto commission shall be from July 1 of one calendar year to June 30 of the succeeding calendar year.

(s) State tax exemption. The prizes received pursuant to this compact shall be exempt from all state, county, municipal and local taxes within the party state.

§4825. Penalties

(a) No person shall sell a ticket or share in a ticket at a price greater than that fixed by the commission. No person other than a lottery agent can sell lottery tickets. Nothing in this Section shall be construed to prevent any individual purchaser from giving lottery tickets or shares to another as a gift. Any person convicted of violating this Article may be punished by imprisonment for six months and a fine of \$1,000.00.

(b) Any person who falsely or fraudulently makes, forges, alters, or counterfeits or causes or procures to be made, forged, altered, or counterfeited, any commission ticket or any part thereof, or any person who knowingly and willfully utters, publishes, passes or tenders as true, any forged, altered or counterfeited commission lottery tickets may be punished by imprisonment for six months and a fine of \$5,000.00.

(c) Any subsequent offense may be punished by imprisonment for two years and \$20,000.00 fine for each offense.

§4826. Allocation of profits.

The profits received by the State of Delaware through the sale of Tri-State Lotto tickets shall be deposited in the general fund in accordance with Section 4815 of this Chapter."

Approved July 16, 1987.

CHAPTER 184

FORMERLY

HOUSE BILL NO. 279
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 (Two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend §901, Chapter 9, Title 24 of the Delaware Code by striking the present §901 in its entirety and substituting in lieu thereof a new §901 to read as follows:

"§901. Necessity for license; exceptions.

No person shall engage in the business of selling any pistol or revolver, or stiletto, steel or brass knuckles, or other deadly weapon made especially for the defense of one's person without first having obtained a license therefor, which license shall be known as 'special license to sell deadly weapons'. No person licensed or unlicensed shall possess, sell or offer for sale any switchblade knife.

This section shall not apply to toy pistols, pocket knives, or knives used for sporting purposes and in the domestic household, or surgical instruments or tools of any kind."

Section 2. Amend §903, Chapter 9, Title 24 of the Delaware Code by striking the word "minor" where it appears between the words "to a" and "or any" therein, and substituting in lieu thereof the words "person under the age of 21".

Section 3. Amend §904, Chapter 9, Title 24 of the Delaware Code by striking the present §904 in its entirety and substituting in lieu thereof a new §904 to read as follows:

"§904. Record; data to be recorded.

Any person desiring to engage in the business described in this chapter shall keep and maintain in his place of business at all times a record. In such record he shall enter the date of the sale, the name and address of the person purchasing any deadly weapon, the number and kind of deadly weapon so purchased, the age of the purchaser, and the mode of identification bearing a picture which shall include but is not limited to a driver's license. The record shall at all times be open for inspection by any judge, justice of the peace, police officer, constable or other peace officer of this State."

Section 4. Amend §905, Chapter 9, Title 24 of the Delaware Code by striking the numbers "\$100" where they appear between the words "than" and "or imprisoned" in the first sentence therein and substituting in lieu thereof the numbers "\$250".

Approved July 16, 1987.

CHAPTER 185

FORMERLY

HOUSE BILL NO. 282

AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 9, 10, AND 29 OF THE DELAWARE CODE RELATING TO THE PROTHONOTARY OFFICES, TRANSFERRING RESPONSIBILITY AND AUTHORITY FOR PROTHONOTARY OFFICES FROM COUNTY GOVERNMENT TO THE STATE OF DELAWARE.

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

Section 1. Amend §9101, Chapter 91, Part VI, Title 9, Delaware Code, by deleting said Section in its entirety and substituting in lieu thereof, a new §9101 to read as follows:

"§9101. Definitions.

As used in this chapter:

"County offices" or "county officers" means the elected or appointed public officers of the respective counties and includes county councilmen, Levy Court Commissioners, clerks of the peace, members of the boards of assessment, receivers of taxes and county treasurers, collectors of delinquent taxes, county comptrollers, Registers in Chancery, registers of wills, sheriffs, recorders, coroners, and any other officer, board, commission, department or agency (other than a court or judge) whose jurisdiction is limited to a single county, provided, however, that the Prothonotaries of New Castle County, Kent County and Sussex County, shall not be considered to be county offices."

Section 2. Amend §1914(a), Chapter 91, Part VI, Title 9, Delaware Code, by deleting the word "Prothonotary" wherever it appears in the heading or text of said Section.

Section 3. Amend §1925(a), Chapter 91, Part VI, Title 9, Delaware Code, by deleting the word "Prothonotary" wherever it appears therein.

Section 4. Amend §1966, Subchapter IV, Chapter 19, Part I, Title 10, Delaware Code, by deleting the words "of any record of the Superior Court in and for Kent County," or where they appear following the words "Whenever the index or indices", at the beginning of the section, and further amend §1966 by deleting the words "Superior Court", where they appear following the words "for any of the records of the".

Section 5. Amend Delaware Code, Title 10, Part I, Chapter 19, Subchapter IV, by deleting §1971 in its entirety.

Section 6. Amend Delaware Code, Title 10, Part I, Chapter 19, Subchapter V, §1973, by deleting the words "of any record of the Superior Court in and for New Castle County, or" where they appear following the words "Whenever index or indices", at the beginning of the Section, and further amend §1973 by deleting the words "Superior Court", where they appear following the words "For any of the records of the".

Section 7. Amend Delaware Code, Title 10, Part I, Chapter 19, Subchapter V, by deleting §1978 in its entirety.

Section 8. Amend Delaware Code, Title 10, Part I, Chapter 19, Subchapter VI, §1980, by deleting the words "of any record of the Superior Court, or" where they appear following the words "Whenever the index", at the beginning of the Section.

Section 9. Amend Chapter 19, Part I, Title 10, Delaware Code, by adding a new Subchapter VI-A to read as follows:

"Subchapter VI-A. Judicial Records and Indices; Superior Court and Prothonotary

§1984. Revision of indices of court records.

Where the index or indices of any record of the Superior Court, or the office of the Prothonotary needs renewing, revising, altering or recopying, or any of such records are not sufficiently indexed or are in need of a new or better system of ascertaining their contents, or need renewing for preservation purposes, the Superior Court may order that a renewed, revised, altered, recopied or sufficient index be made of any such records.

§1985. Omission of satisfied liens from new indices.

Whenever a new index is made under this subchapter for the records of judgments, mechanics' liens, foreign or domestic attachments, or other records of the Superior Court or Prothonotary, the new index shall omit all such as have been fully and legally satisfied. No other change shall be made in the manner or system of keeping any index except by order of the Superior Court.

§1986. Officer in charge; preparation.

Whenever an order is made under this subchapter for the making of any index or indices, the Prothonotary in the County in which such records are kept shall make the index or indices or cause the same to be made pursuant to the provisions of this subchapter and such order. He may procure all books necessary for such purpose, the cost of which shall be paid by the Prothonotary.

§1987. Appointment of commissioners to examine new indices.

Whenever it is directed that any index or indices shall be made as provided in this subchapter, the Judges of the Superior Court shall appoint 2 commissioners. The commissioners shall examine such index or indices, and, if they approve of the execution and exactness thereof, they shall certify the same to be a true and correct index or indices. After such certification, the index or indices shall become and be the index and indices in lieu of those theretofore in use.

§1988. Compensation of commissioners.

After the commissioner appointed under §1987 of this title have certified the indices, the State Treasurer shall, upon application by the commissioners, pay to the commissioners a just and reasonable compensation for their services at the rate which shall have been established by rule of the Superior Court prior to the commencement of work by the commissioners. With each application, there shall be presented to the State Treasurer, a sworn, itemized account of the time spent and disbursement made, if any by the commissioners in connection with the examination of the indices.

§1989. Examination of judgment satisfactions by commissioners.

The Judges of the Superior Court of the State in and for each County, during the month of May in each year, shall appoint two(2) commissioners who shall examine all entries of the satisfaction of judgments entered in the Superior Court in and for such County, and who shall enter in the index opposite the record of each and every judgment which they find to be legally and fully satisfied the word 'Satisfied,' together with the signature of one of them as commissioner. The term of office of the commissioners shall be for one year commencing on the first day of June after their appointment. Any vacancy occurring in such office by reason of death, resignation, removal from the County in which the commissioner was appointed or otherwise, shall be filled by the Judges of the Superior Court of the State in and for that County for the unexpired term. The commissioners shall receive for their services a just and reasonable compensation for their services at the rate which shall have been established by rule of the Superior Court prior to the commencement of the commissioner's term."

Section 10. Amend Subchapter VII, Chapter 19, Part I, Title 10, Delaware Code, by re-numbering existing Sections 1987, 1988, 1989, 1990, 1991, and 1992, as Sections 1990, 1991, 1992, 1993, 1994, and 1995, respectively.

Section 11. Amend Delaware Code, Title 10, Part II, Chapter 23, §2301, by deleting said Section in its entirety and substituting a new Section to read as follows:

"The salaries of the Prothonotaries in each county shall be established in accordance with the provisions of Title 29 Delaware Code, Chapter 33."

Section 12. Amend Delaware Code, Title 10, Part II, Chapter 23, §2302(a), by deleting said subsection in its entirety and substituting in lieu thereof, a new subsection (a) as follows:

"(a) In each county the Judges of the Superior Court resident in the county shall name a chief deputy Prothonotary who shall perform such duties as shall from time to time be assigned by such Judges. The compensation of each such chief deputy shall be established by the Judges of the Superior Court resident in the county."

CHAPTER 185

FORMERLY

HOUSE BILL NO. 282

AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 9, 10, AND 29 OF THE DELAWARE CODE RELATING TO THE PROTHONOTARY OFFICES, TRANSFERRING RESPONSIBILITY AND AUTHORITY FOR PROTHONOTARY OFFICES FROM COUNTY GOVERNMENT TO THE STATE OF DELAWARE.

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

Section 1. Amend §9101, Chapter 91, Part VI, Title 9, Delaware Code, by deleting said Section in its entirety and substituting in lieu thereof, a new §9101 to read as follows:

"§9101. Definitions.

As used in this chapter:

"County offices" or "county officers" means the elected or appointed public officers of the respective counties and includes county councilmen, Levy Court Commissioners, clerks of the peace, members of the boards of assessment, receivers of taxes and county treasurers, collectors of delinquent taxes, county comptrollers, Registers in Chancery, registers of wills, sheriffs, recorders, coroners, and any other officer, board, commission, department or agency (other than a court or judge) whose jurisdiction is limited to a single county, provided, however, that the Prothonotaries of New Castle County, Kent County and Sussex County, shall not be considered to be county offices."

Section 2. Amend §9114(a), Chapter 91, Part VI, Title 9, Delaware Code, by deleting the word "Prothonotary" wherever it appears in the heading or text of said Section.

Section 3. Amend §9125(a), Chapter 91, Part VI, Title 9, Delaware Code, by deleting the word "Prothonotary" wherever it appears therein.

Section 4. Amend §1966, Subchapter IV, Chapter 19, Part I, Title 10, Delaware Code, by deleting the words "of any record of the Superior Court in and for Kent County," or where they appear following the words "Whenever the index or indices", at the beginning of the section, and further amend §1966 by deleting the words "Superior Court", where they appear following the words "for any of the records of the".

Section 5. Amend Delaware Code, Title 10, Part I, Chapter 19, Subchapter IV, by deleting §1971 in its entirety.

Section 6. Amend Delaware Code, Title 10, Part I, Chapter 19, Subchapter V, §1973, by deleting the words "of any record of the Superior Court in and for New Castle County, or" where they appear following the words "Whenever index or indices", at the beginning of the Section, and further amend §1973 by deleting the words "Superior Court", where they appear following the words "for any of the records of the".

Section 7. Amend Delaware Code, Title 10, Part I, Chapter 19, Subchapter V, by deleting §1978 in its entirety.

Section 8. Amend Delaware Code, Title 10, Part I, Chapter 19, Subchapter VI, §1980, by deleting the words "of any record of the Superior Court, or" where they appear following the words "Whenever the index", at the beginning of the Section.

Section 9. Amend Chapter 19, Part I, Title 10, Delaware Code, by adding a new Subchapter VI-A to read as follows:

"Subchapter VI-A. Judicial Records and Indices; Superior Court and Prothonotary

§1984. Revision of indices of court records.

Where the index or indices of any record of the Superior Court, or the office of the Prothonotary needs renewing, revising, altering or recopying, or any of such records are not sufficiently indexed or are in need of a new or better system of ascertaining their contents, or need renewing for preservation purposes, the Superior Court may order that a renewed, revised, altered, recopied or sufficient index be made of any such records.

§1985. Omission of satisfied liens from new indices.

Whenever a new index is made under this subchapter for the records of judgments, mechanics' liens, foreign or domestic attachments, or other records of the Superior Court or Prothonotary, the new index shall omit all such as have been fully and legally satisfied. No other change shall be made in the manner or system of keeping any index except by order of the Superior Court.

§1986. Officer in charge; preparation.

Whenever an order is made under this subchapter for the making of any index or indices, the Prothonotary in the County in which such records are kept shall make the index or indices or cause the same to be made pursuant to the provisions of this subchapter and such order. He may procure all books necessary for such purpose, the cost of which shall be paid by the Prothonotary.

§1987. Appointment of commissioners to examine new indices.

Whenever it is directed that any index or indices shall be made as provided in this subchapter, the Judges of the Superior Court shall appoint 2 commissioners. The commissioners shall examine such index or indices, and, if they approve of the execution and exactness thereof, they shall certify the same to be a true and correct index or indices. After such certification, the index or indices shall become and be the index and indices in lieu of those theretofore in use.

§1988. Compensation of commissioners.

After the commissioner appointed under §1987 of this title have certified the indices, the State Treasurer shall, upon application by the commissioners, pay to the commissioners a just and reasonable compensation for their services at the rate which shall have been established by rule of the Superior Court prior to the commencement of work by the commissioners. With each application, there shall be presented to the State Treasurer, a sworn, itemized account of the time spent and disbursement made, if any by the commissioners in connection with the examination of the indices.

§1989. Examination of judgment satisfactions by commissioners.

The Judges of the Superior Court of the State in and for each County, during the month of May in each year, shall appoint two(2) commissioners who shall examine all entries of the satisfaction of judgments entered in the Superior Court in and for such County, and who shall enter in the index opposite the record of each and every judgment which they find to be legally and fully satisfied the word 'Satisfied,' together with the signature of one of them as commissioner. The term of office of the commissioners shall be for one year commencing on the first day of June after their appointment. Any vacancy occurring in such office by reason of death, resignation, removal from the County in which the commissioner was appointed or otherwise, shall be filled by the Judges of the Superior Court of the State in and for that County for the unexpired term. The commissioners shall receive for their services a just and reasonable compensation for their services at the rate which shall have been established by rule of the Superior Court prior to the commencement of the commissioner's term."

Section 10. Amend Subchapter VII, Chapter 19, Part I, Title 10, Delaware Code, by re-numbering existing Sections 1987, 1988, 1989, 1990, 1991, and 1992, as Sections 1990, 1991, 1992, 1993, 1994, and 1955, respectively.

Section 11. Amend Delaware Code, Title 10, Part II, Chapter 23, §2301, by deleting said Section in its entirety and substituting a new Section to read as follows:

"The salaries of the Prothonotaries in each county shall be established in accordance with the provisions of Title 29 Delaware Code, Chapter 33."

Section 12. Amend Delaware Code, Title 10, Part II, Chapter 23, §2302(a), by deleting said subsection in its entirety and substituting in lieu thereof, a new subsection (a) as follows:

"(a) In each county the Judges of the Superior Court resident in the county shall name a chief deputy Prothonotary who shall perform such duties as shall from time to time be assigned by such judges. The compensation of each such chief deputy shall be established by the Judges of the Superior Court resident in the county."

Section 13. Amend §2324, Chapter 23, Part II, Title 10, Delaware Code by striking subsections (a) and (b) and substituting in lieu thereof the following:

"The Prothonotary shall deposit any sums of money held by him for costs or fees in accordance with policies and guidelines established by the State Treasurer."

Section 14. Amend Part VIII, Title 29, Delaware Code by adding a new Chapter 90A, as follows:

"CHAPTER 90A. PROTHONOTARIES

Subchapter I. General Provisions

§9001A. Assumption of Authority by State.

The offices of the Prothonotaries of New Castle County, Kent County, and Sussex County, as heretofore established shall hereafter be under the authority and jurisdiction of the State of Delaware.

§9002A. Definitions.

As used in this subchapter, "state row offices" or "state row officers" means the Prothonotaries of New Castle County, Kent County and Sussex County.

§9003A. Location of offices.

The State shall provide and assign office space for the respective state row offices and, whenever occasion requires, may change such space and assign different space. The state row officers shall occupy, and their offices shall be located, in the space assigned to them from time to time by the State.

§9004A. Record books and supplies.

The State shall provide for the state row offices, the necessary record books, cases, seals and supplies for the use of the offices, for the preservation and security of the public records, the convenience of business, and for public accommodation.

§9005A. Records.

The state row officers shall keep all records, books, papers, and other things belonging to their offices, in their respective offices.

§9006A. Row offices; days open; penalties.

(a) State row offices shall be open each day except legal holidays, Saturdays and Sundays.

(b) State row offices shall not refuse or neglect to attend at his office for the transaction of business, as required in subsection (a) of this Section.

(c) A deputy of any state row officer may attend for the performance of such services as required in subsection (a) of this Section, as are strictly ministerial.

§9007A. Disposition of fees.

All the fees, costs, allowances and other perquisites which are taxable and paid to any state row offices for any official service rendered by any such offices, shall be for the sole use of the State, and when received shall be paid to the State Treasurer.

§9008A. Duty to account for fees.

(a) Every state row officer in each of the counties, shall collect all fees, costs and allowances by law taxable by or payable to such officer, without any deduction, abatement or remission, except fees, costs and allowances payable by the State to such officers, and shall keep in a properly indexed record an itemized account showing the amount of each fee, item of cost and allowance by law taxable by or payable to such officer, and the service for which the same was rendered or charged, the date of payment and the name of the person paying the same. On or before the fifteenth day of each month, every such officer shall file with the

State Treasurer an account of all fees, costs and allowances received by him in the preceding month, which account shall be so itemized that it may be compared with the fees, costs and allowances as entered in the record.

(b) The correctness of the accounts so rendered shall be verified by the affidavit of the officer rendering the same. Each of the officers shall also, on or before the fifteenth day in each month, pay over to the State Treasurer all the fees, costs and allowances so received from any source, which shall be payable to the State Treasurer as provided in §9007A of this title.

§9009A. Fee records; inspection and examination.

The fee records mentioned in this chapter shall be a part of the records of the office for which it is kept, and shall be at all times open to inspection and examination.

§9010A. Audit of fees.

The state auditor shall, not less than biannually, audit, inspect and examine the books, accounts, papers, records, and dockets of the several state row officers and ascertain the amount due to the State in fees.

§9011A. Liability for fees.

Each state row officer is made liable upon his respective official bond, for the payment to the State Treasurer of all the fees which he shall collect. All the official bonds to be entered into by the officers shall contain the following condition: 'And if the said.....shall truly and without delay pay over to the State Treasurer all of the fees which it shall be his duty to collect and which are to be paid to the State Treasurer.' The State shall cause proceeding to be brought on any of the bonds for the breach of the foregoing condition for the recovery of the penalty therein.

§9012A. Penalties for failure to collect and pay over fees.

If any state row officer fails, neglects or refuses for 10 days to pay over all fees, costs, allowances and perquisites he receives and collects for use of the State, or fails to collect the fees required to be paid by law, or demands or receives from any person any fee or allowance greater than is provided by law, he shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. Such officer shall also be liable in a civil action for the amount of such fees, costs, allowances and perquisites as he may have thus illegally withheld.

Whenever any officer is convicted under this Section, it shall operate as a forfeiture of his office, and he shall be removed from office by the Governor within 10 days from the date of such conviction.

§9013A. Bonds of State Row Officers.

(a) Every state row officer elected or appointed for any county shall, at the next term of the Superior Court in that county, after his election or appointment, before entering upon the duties of his office, become bound to the State with sufficient surety by a joint and several obligation in the penalty of \$3,000 with condition 'that if the above named.....who has been duly elected (or appointed) to be.....shall and do well and diligently execute his office of.....as aforesaid and duly and faithfully fulfill and perform all the trusts and duties to the said office appertaining, and truly and without delay deliver to his successor in office, the seal and all the books, records and papers belonging to said office safe and undefaced, and if the said.....shall truly and without delay pay over to the State Treasurer all the fees which it shall be his duty to collect and which are to be paid to the State Treasurer, then this obligation shall be void and of no effect, or else shall remain in full force and virtue'.

(b) The obligations required by this Section shall be forthwith delivered to the recorder of deeds in and for the County in which such officer sits to be recorded and filed.

§9014A. Cancellations of bonds.

The several bonds and recognizances of the several officers provided for in this subchapter shall be cancelled 3 years after the expiration of the terms of

office of the several officers and shall after such time cease to be a lien on any property of any kind of the several officers or their respective bondsmen.

§9015A. Satisfaction of bonds.

The bonds filed and recorded in the offices of the recorders of deeds in this State shall at the time designated in this subchapter be marked by him "cancelled" and under the word "cancelled" he shall sign his name as recorder and shall affix the official seal of his office. The bond filed and recorded in the offices of the Prothonotaries of the Superior Courts in this State shall at the time designated in this subchapter be marked by him "cancelled" and under the word "cancelled" he shall sign his name as Prothonotary and shall affix the official seal of his office, and the original bonds shall be returned to the obligors, or if they are dead, to their legal representatives.

§9016A. Violation of bond requirements; penalty.

Whoever, being an officer within the provisions of this subchapter, neglects to comply with such Sections, shall be fined not less than \$500 nor more than \$1,000, and shall, ipso facto, forfeit his office.

§9017A. Uniform mileage payments.

The authorized mileage rate for officers or employees of the several counties who receive mileage from the State shall be 20 cents per mile.

§9018A. Posting of fee lists.

Every state row officer who keeps a public office, shall post in some convenient and conspicuous place therein, a printed or written list of the fees prescribed in this part, as they relate to him.

§9019A. Deputy Prothonotaries.

(a) The state row officers each may select and employ 1 deputy prothonotary who shall serve at the pleasure of the appointing officeholder. The provisions of this Section shall not authorize any elected officeholder to increase the number of employees in any of the state row offices.

(b) The compensation to be paid the deputy prothonotary shall be set by the appointing officeholder.

§9020A. Jurisdiction.

The Superior Court shall have jurisdiction of offenses under this Chapter.

Subchapter II. Deputies and Clerks

§9031A. Duties and responsibilities of officers appointing deputies and clerks.

All deputies and clerks shall be under the control of the officer by whom they are selected and employed, who may discharge any such deputy or clerk at any time, subject to the provisions of any applicable collective bargaining agreement or personal rules. The officer shall be responsible for all the official acts, neglects and defaults of all deputies and clerks he employs.

§9032A. Powers and duties of chief deputies.

The chief deputy or, if there is no chief deputy, the deputy employed by each of the officers shall be possessed of all the authority of their respective offices, and in the absence or disability of the duly elected officer, the chief deputy of such officer shall perform all duties of the office, until the vacancy so created shall be filled as required by the Constitution of the State."

Section 15. Amend §8705, Chapter 87, Title 10 of the Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"The fees of the Prothonotary for services provided shall be established by the Rule of the Superior Court and shall be uniform among the three counties."

Section 16. Amend §8706, Chapter 87, Title 10 of the Delaware Code by striking the said Section in its entirety and substituting in lieu thereof the following:

"The fees of the Prothonotary for services provided shall be established by Rule of the Superior Court and shall be uniform among the three counties."

Section 17. Amend subsection (a), §3303, Chapter 33, Part IV, Title 29, Delaware Code, by inserting the phrase ", the Prothonotaries in each of the three counties," immediately preceding the phrase "and the Public Defender" where it appears in said subsection.

Section 18. The foregoing provisions of this Bill shall become effective October 1, 1987.

Section 19. From and after October 1, 1987, each of the offices of the Prothonotaries of the three counties shall be independent agencies of the Government of the State of Delaware.

Section 20. All fees assessed by any Prothonotary prior to October 1, 1987, shall be collected by said Prothonotary and shall, within 30 days of receipt thereof, be paid over to the Treasurer or Director of Finance of the county government of the county in which said Prothonotary sits.

Section 21. Until acted upon by the Delaware Compensation Commission in accordance with the terms of this Bill, the salaries of the Prothonotaries in each of the three counties shall remain as established by state statute prior to the date of the adoption of this legislation.

Section 22. All property of each county, exclusive of real property which is assigned to or used in the office of the Prothonotary thereof as of September 30, 1987, including but not limited to all files, supplies, furniture and equipment, shall, as of October 1, 1987, become the property of the State of Delaware, provided, however, that no such property shall be assigned to any other State office without the approval of the Prothonotary of the county wherein such property was originally located. This paragraph shall not apply to any data processing hardware or software owned by or licensed to New Castle County.

Section 23. From and after October 1, 1987, the employees in the offices of the Prothonotaries shall be governed by the merit system of the State of Delaware, and shall be assigned to such classifications as the State Director of Personnel may direct.

Section 24. Until such time as the Secretary of Labor of the State of Delaware shall otherwise direct in accordance with the provisions of Title 19 of the Delaware Code, the State shall recognize and accept Council 81, AFSCME, as the bargaining agent for employees in the office of the Prothonotary in and for New Castle County, provided, however, that nothing herein shall be construed to require the State to negotiate wages with said bargaining agent and provided further that nothing herein shall prevent the said employees from exercising any rights available them under state law with respect to election and certification of bargaining units.

Section 25. All employees employed in the office of the Prothonotary in New Castle County as of August 15, 1987, shall be offered the option of becoming a State employee in the office of the Prothonotary or of remaining a County employee and being offered available employment with New Castle County. No later than August 15, 1987, each current employee shall deliver to the State Director of Personnel and to the Director of Personnel of New Castle County written notice of his or her election to become a state employee or to remain in the employ of New Castle County. Employees failing to give timely written notice shall be deemed to have elected to remain in the employ of New Castle County.

Section 26. Any individual employed in the office of the Prothonotary of New Castle, Kent or Sussex County as of August 15, 1987, who elects to become a state employee continuing in the office of said Prothonotary, shall be entitled, at his or her election, to remain as a member of any county pension plan in which he or she is enrolled as of September 30, 1987. New Castle County shall continue to make employer contributions to such plan based on such employee's actual compensation as if the employee had remained in the employ of New Castle County, provided, however, that the State shall deduct from such employee's state compensation and remit to the New Castle County Pension Fund the employee's contribution which would have been required had such employee remained in the employ of New Castle County. With respect to those employees in the offices of the Kent and Sussex County Prothonotaries who elect to remain as members of their respective County Pension Plans, the State shall make the annual contribution to such plan based upon actuarial estimates on a pro rata basis. Any employee transferring to State employment with the Prothonotary of New Castle, Kent or Sussex County may, in the alternative elect to terminate membership in any applicable county pension plan, and to exercise any rights existing under the provisions thereof with respect to a refund of contributions or receipt of pension benefits.

Section 27. Amend paragraph (3), subsection (a), §5501, Part V, Title 29, Delaware Code by deleting said paragraph in its entirety and substituting in lieu thereof a new paragraph to read as follows:

"(3) a. Is not a member of any other state or municipal retirement system which is financed in whole or in part by the State unless the state pension plan provides for a unified state service pension and the member is not concurrently accruing nor collecting benefits under that system; and

b. Is not a member of a county pension plan with respect to which the employee is accruing credited service, and to which the employee and/or the State is making contributions on account of employment with the State."

Section 28. New Castle County shall pay directly to any individual employed in the office of the Prothonotary of New Castle County as of August 15, 1987, who elects to become a state employee continuing in the office of said Prothonotary, a percentage of the amount by which the actual cost to the employee for his or her health insurance coverage obtained through the State, exceeds the cost which would have been incurred by such employee to obtain equivalent coverage had he or she remained in the employ of the County. The percentage to be paid by the County shall be:

One hundred percent (100%) for the fiscal year ending June 30, 1988;

Seventy five percent (75%) for the fiscal year ending June 30, 1989;

Fifty percent (50%) for the fiscal year ending June 30, 1990; and

Twenty five percent (25%) for the fiscal year ending June 30, 1991.

Payments in accordance with the foregoing schedule shall be made by the County not more than quarterly, upon application together with appropriate documentation from eligible employees.

Section 29. Any individual employed in the office of the Prothonotary of New Castle, Kent or Sussex County as of August 15, 1987, who elects to become a state employee continuing in the office of said Prothonotary, may transfer his or her entire balance of accrued vacation to the State. The balance of vacation to be transferred shall include a pro rata portion of the vacation which the employee would have earned for the calendar year had he or she remained in the employ of that County for the full year. Any employee transferring to State employment with the Prothonotary of New Castle County may elect not to transfer his or her vacation to the State, and nothing in this Section shall preclude any employee electing not to transfer vacation from exercising any rights existing under county law or union contract with respect to receipt of severance pay for accrued vacation actually credited by New Castle County as of September 30, 1987.

Section 30. With respect to any individual employed in the office of the Prothonotary of New Castle, Kent or Sussex County as of August 15, 1987, who elects to become a state employee continuing in the office of said Prothonotary, all years of employment with that County shall be credited in the calculation of "aggregate service" as that term is applied in the merit system of the State of Delaware.

Section 31. Any individual employed in the office of the Prothonotary of New Castle, Kent or Sussex County as of August 15, 1987, who elects to become a state employee continuing in the office of said Prothonotary, may transfer his or her entire balance of accrued sick leave to the State. Any employee hired by New Castle County prior to July 1, 1977 who transfers to State employment with the Prothonotary of New Castle County shall, upon separation from state employment, be entitled to payment from New Castle County for sick leave accrued at the time of separation (including transferred sick leave) up to seven hundred hours less any sick leave pay which the employee is entitled to receive from the State upon separation. Any employee transferring to State employment with the Prothonotary of New Castle County may elect not to transfer his or her sick leave to the state, and nothing in this Section shall preclude any employee electing not to transfer sick leave from exercising any rights existing under county law or union contract with respect to receipt of severance pay for accrued sick leave actually credited by New Castle County as of September 30, 1987.

Section 32. On October 1, 1987, New Castle County shall pay to any individual employed in the office of the Prothonotary of New Castle County as of August 15, 1987, who elects to become a state employee continuing in the office of said Prothonotary, a lump sum equal to 130 hours multiplied by the employee's hourly rate of pay with the County on September 30, 1987. On October 1, 1988, New Castle County shall pay to any individual who was employed in the office of the Prothonotary of New Castle County as of August 15, 1987, who has

elected to become a state employee continuing in the office of said Prothonotary, and who is still employed in the office of the Prothonotary of New Castle County on October 1, 1988, a lump sum equal to 130 hours multiplied by the employee's hourly rate of pay with the County on September 30, 1987.

Section 33. On October 1, 1988, and on each succeeding October 1, through October, 1992, New Castle County shall pay to any individual employed in the office of the Prothonotary of New Castle County as of August 15, 1987, who has elected to become a state employee continuing in the office of said Prothonotary, and who is still employed in the office of the Prothonotary of New Castle County on such date, a lump sum equal to the amount by which such employee's annual salary with the County on September 30, 1987, exceeds the average annual salary (exclusive of overtime) paid by the State to such employee during the preceding twelve month period. Should any such employee separate from state employment prior to any of the payment dates specified in this Section, New Castle County shall pay to such employee a pro rata portion of the lump sum payment which would have become payable to such employee had he or she remained in the employ of the State until the next October 1.

Section 34. Any individual employed in the office of the Prothonotary of New Castle County as of August 15, 1987, who elects not to become a state employee continuing in the office of said Prothonotary, shall be offered employment by New Castle County at no reduction in pay, provided, however, that nothing herein shall require New Castle County to offer employment to such individuals in the event of a county-wide reduction in force resulting from events or circumstances other than the passage of this legislation.

Section 35. 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 the Act are declared to be severable.

Section 36. To the extent that the provisions of this Act conflict with or contradict the provisions of any existing laws of the State of Delaware, the provisions of this Act shall govern.

Approved July 16, 1987.

CHAPTER 186

FORMERLY

HOUSE BILL NO. 319

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 29 OF THE DELAWARE CODE RELATING TO NOTARY PUBLIC FEES.

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

Section 1. Amend Section 4306, Chapter 43, Title 29, Delaware Code, by striking the words "the fee for a 4 year term will be \$60" and should be restated to read as follows:

"The fee for a 4-year term will be \$75"

Section 2. Amend §4306, Title 29, Delaware Code by inserting after the sentence "Notaries public shall be commissioned for a term of 2 years." the following:

"The fee for a 2 year term will be \$50."

Section 3. Amend §4307, Title 29, Delaware Code by deleting the following sentence in its entirety:

"Notaries shall each pay to the Secretary of State for the use of the State a fee of \$30."

Approved July 16, 1987.

CHAPTER 187

FORMERLY

HOUSE BILL NO. 331
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 74, TITLE 7 OF THE DELAWARE CODE RELATING TO DELAWARE UNDERGROUND STORAGE TANK ACT.

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

Section 1. Amend §7402, Chapter 74, Title 7, of the Delaware Code by adding the following new paragraph (17):

"(17) 'FUND' means the Delaware Underground Petroleum Storage Tank Response Fund."

Section 2. Amend §7404, Chapter 74, Title 7, of the Delaware Code by inserting the words "and Section 7409" after the word "Section 7406" in line 2 thereof.

Section 3. Amend §7409, Chapter 74, Title 7, Delaware Code by striking said Section in its entirety and substituting in lieu thereof a new Section 7409 to read as follows:

"§7409. Delaware Underground Petroleum Storage Tank Response Fund.

(a) The Delaware Underground Petroleum Storage Tank Response Fund is hereby established as a nonlapsing revolving fund to be used by the Department for the investigation and remediation of petroleum underground storage tank release. All expenses, costs and judgments recovered pursuant to this Section, and all monies received as reimbursement in accordance with applicable provisions of federal law, shall be and hereby are appropriated to the fund. Interest earned on the fund shall be credited to the fund. No monies shall be credited to the balance in the fund until they have been received by the fund. The fund shall be established in the accounts of the State Treasurer and any funds remaining in such fund at the end of the fiscal year shall not revert to the general fund but shall remain in the fund.

The fund shall be administered by the Department of Natural Resources and Environmental Control consistent with the provisions of Subtitle I of the Federal Solid Waste Disposal Act. (P.L. 98-616, SS 9001 et seq.). The fund shall be maintained in a separate account. An accounting of monies received and disbursed shall be kept, and furnished upon request to the Governor or the General Assembly.

(b) Disbursements from the fund may be made only in accordance with regulations promulgated by the Department and for the following purposes.

(1) Costs incurred in investigation and assessment of a site otherwise eligible hereunder.

(2) Costs associated with restoration or replacement of potable water supplies.

(3) Costs incurred in taking corrective action for any release of petroleum into the environment from an underground storage tank which are in excess of the minimum financial responsibility requirement imposed up to \$1 million per occurrence per facility.

(4) Costs incurred in compensating third parties, for bodily injury and property damage caused by release of petroleum into the environment from an underground storage tank, up to \$1 million per occurrence per facility.

(5) Costs incurred in taking immediate corrective action to contain or mitigate the effects of any release of petroleum into the environment from an underground storage tank if such action is necessary, in the judgment of the Department to protect human health and the environment.

(6) Costs associated with maintenance and monitoring of contamination sites.

(7) Costs incurred in inspection and supervision of cleanup activities.

(8) The 'cost share' of corrective action with respect to any release of petroleum into the environment from underground storage tanks undertaken under a cooperative agreement with the Administrator of the United States Environmental Protection Agency, as determined by the Administrator of the United States Environmental Protection Agency SS 9003 (h) (7) (8) of the United States Public Law 98-616 (as amended in 1986 by United States Public Law 99-662).

(c) Disbursements from the fund may not be made for any purpose not identified in subsection (b) of this Section including, but not limited to:

(1) Costs incurred in the Department's administration of the underground storage tank program.

(2) Costs incurred by the State to recover from any party costs charged to the fund.

Such expenses will be funded by the tank registration fee established pursuant to §7418 of this Title."

Section 4. Amend Chapter 74, Title 7, Delaware Code by adding a new §7417 to read as follows:

"§7417. Rehabilitation; Participation in reimbursement plan.

The General Assembly finds and declares that in order to provide for rehabilitation of as many contaminated sites as possible, as soon as possible, voluntary rehabilitation of contaminated sites should be encouraged, provided that such rehabilitation is conducted in a manner and to a level of completion which will protect the public health, safety and welfare. To accomplish this purpose, any person conducting site rehabilitation under this Act, either through his own or by contract, shall be entitled to reimbursement from the fund in accordance with regulations promulgated by the Department for the costs defined in §7409 of this title provided such person notifies the Department of such contamination within eighteen months after signature by the Governor, and begins all remediation work within one year after notification. Persons already engaged in site rehabilitation as of the date of enactment of this statute shall be entitled to reimbursements of all expenses incurred on or after the effective date of this Act, provided the person is otherwise eligible for participation in accordance with this Section, and reimbursements expenses are limited to those defined in §7409 of this title. Participation in the reimbursement plan is subject to the following conditions:

(1) The first \$2,500 in costs as described in §7409(b)(1) through (7) are not to be reimbursed by the fund.

(2) The facility owner shall not be the Federal Government or any agency or subdivision thereof.

(3) Contamination results from normal aging and/or corrosion, and is not result of intentional damage, or improper handling or installation.

(4) Contamination results from a release from an underground tank containing petroleum.

(5) Reimbursement for site rehabilitation either through a person's own personnel or through responsible response action contractors or subcontractors shall not be considered a state contract or subject to state bid requirements.

(6) Site rehabilitation shall be completed in accordance with criteria established by the Department.

(7) Nothing in this Section shall be construed to authorize any payments for the repair or replacement of any tank or equipment.

(8) Procedural rules of this Section shall have been met.

(9) The release did not result from any gross negligence, including, but not limited to the following:

- a. willful intent to conceal existence of a serious discharge,
- b. falsified inventory or reconciliation records,

- c. intentional damage to a petroleum storage system,
- d. willful failure to perform the inventory and reconciliation of records required pursuant to regulations promulgated under this Chapter,
- e. failure to meet retrofitting requirements contained in the regulations promulgated pursuant to this Chapter,
- f. willful failure to make monthly monitoring system checks required pursuant to regulations promulgated under this Chapter,
- g. violation of the Department's regulations."

Section 5. Amend §7410, Chapter 74, Title 7, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§7410. Financial Responsibility.

(a) The Department shall adopt regulations for maintaining evidence of financial responsibility for taking corrective action by all owners and operators, in an amount of not less than \$100,000 per occurrence, and for compensating third parties for bodily injury and property damages by all owners and operators in an amount of not less than \$300,000 per occurrence in cases of releases arising from operating an underground storage tank. Financial responsibility may be established in accordance with regulations promulgated by the Department by any one or any combination of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer in accordance with regulations promulgated by the Insurance Commissioner.

(b) Any claim arising out of conduct for which evidence of financial responsibility must be provided under this Section may be asserted directly against the person guaranteeing or providing evidence of financial responsibility. In such a case, the person against whom the claim is made shall be entitled to invoke all rights and defenses which would have been available to the owner or operator had such action been brought directly against the owner or operator.

(c) This Section shall not limit any other state or federal statutory, contractual, or common law liability of the guarantor for bad faith in negotiating or in failing to negotiate the settlement of any claim. This Section does not diminish the liability of any person under §107 or §111 of the Comprehensive Environmental Response Compensation and Liability Act of 1980, or other applicable law."

Section 6. Amend Chapter 74, Title 7, Delaware Code by adding thereto §7418, Tank Registration, as follows:

"§7418. Tank Registration.

(a) All owners/operators of underground storage tanks shall pay to the Department an annual per tank registration fee of fifty dollars (\$50) on or before February 1 of each calendar year. Registration fees not received by the Department by February 1 shall be subject to a late charge of thirty dollars (\$30). Payment shall be made in accordance with regulations established by the Department.

(b) Underground storage tanks owned or operated by the State of Delaware, or counties or municipalities or agencies or subdivisions thereof, shall be exempt from payment of the registration fee defined in subsection (a) above.

(c) The tank registration fee established in subsection (a) above shall be used solely for the purpose of administering the Department's programs implementing Chapter 74, Title 7, Delaware Code and the regulations promulgated thereunder.

(d) The tank registration fee shall be credited to a dedicated administration fund established in the accounts of the Treasurer. Any money remaining in such fund at the end of the fiscal year shall not revert to the general fund, but shall remain in the dedicated administration fund. The fund shall be maintained in a separate account and shall be administered by the Department. An accounting of monies received and disbursed shall be kept, and furnished upon request to the Governor or the General Assembly."

Section 7. Amend Chapter 74, Title 7, Delaware Code by adding a new §7419 to read as follows:

"§7419. Recovery of expenditures.

The Department shall seek recovery of monies expended from the fund for corrective action under this Chapter where the owner or operator has violated substantive regulations pertaining to underground storage tanks which have been promulgated by the Department or has engaged in grossly negligent conduct."

Approved July 16, 1987.

CHAPTER 188

FORMERLY

HOUSE BILL NO. 339
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 14 OF THE DELAWARE CODE RELATING TO CIVIL AND CRIMINAL LIABILITY OF SCHOOL EMPLOYEES OR SUPERINTENDENTS FOR PROVIDING INFORMATION TO CERTAIN AUTHORITIES CONCERNING STUDENT VIOLENCE AND STUDENT POSSESSION OF WEAPONS AND UNLAWFUL DRUGS.

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

Section 1. Amend subsection (d), Section 4112, Chapter 41, Title 14, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection to read as follows:

"(d) Immunity from civil liability: review of criminal complaint. A school employee, superintendent, or his designee who in good faith provides information to police and/or the State Department of Public Instruction under subsection (b) or (c) of this Section shall not be held civilly liable for providing such information. Prior to lodging any criminal charges against a school employee, superintendent or his designee who provides information to police and/or the State department of Public Instruction under subsection (b) or (c) of this Section the Attorney General's Office shall be consulted to determine the appropriateness of the charges."

Approved July 16, 1987.

CHAPTER 189

FORMERLY

HOUSE BILL NO. 343

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO THE CRIMINAL JURISDICTION OF THE FAMILY COURT OF THE STATE OF DELAWARE.

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 §922, Subchapter II., Chapter 9, Title 10 of the Delaware Code by striking the word "The" appearing before the phrase "Court shall have exclusive original jurisdiction" in said Section, and inserting in lieu thereof the following:

"(a) Except as provided in subsection (b) of this section, the".

Section 2. Amend §922, Subchapter II., Chapter 9, Title 10 of the Delaware Code by creating a new subsection (b) of said Section, to read as follows:

"(b) The Court shall have concurrent criminal jurisdiction with the Municipal Court of the City of Wilmington in all proceedings concerning alleged curfew violations, under 2 Wilm. C. Sections 39-14 through 39-16."

Approved July 16, 1987.

CHAPTER 190

FORMERLY

HOUSE BILL NO. 354
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT ENTITLED "THE DELAWARE STATE HOUSING AUTHORITY REORGANIZATION ACT OF 1987", AMENDING TITLES 29 AND 31 OF THE DELAWARE CODE TO TRANSFER THE DELAWARE STATE HOUSING AUTHORITY FROM THE DEPARTMENT OF COMMUNITY AFFAIRS TO THE DELAWARE DEVELOPMENT OFFICE AND TRANSFERRING THE FUNCTIONS OF THE DIVISION OF HOUSING TO THE DELAWARE STATE HOUSING AUTHORITY AND TRANSFERRING SUPERVISION OF THE DELAWARE STATE HOUSING AUTHORITY FROM THE SECRETARY OF COMMUNITY AFFAIRS TO THE DIRECTOR OF THE DELAWARE STATE HOUSING AUTHORITY, AND RELATING TO THE BOND-ISSUING POWER OF THE DELAWARE STATE HOUSING AUTHORITY AND TO THE FUNDS AND ACCOUNTS OF THE STATE HOUSING AUTHORITY.

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

Section 1. Amend Chapter 50, Title 29 of the Delaware Code by adding a new subchapter IA as follows:

"Subchapter IA. Delaware State Housing Authority.

§5020. Findings and purpose.

The General Assembly finds and declares that:

(1) The efficiency, effectiveness and performance of housing development in the State will be enhanced by transferring the Delaware State Housing Authority from the Department of Community Affairs to the Delaware Development Office, by transferring the functions of the Division of Housing from the Department of Community Affairs to the Delaware State Housing Authority and by transferring the supervision of the Delaware State Housing Authority from the Secretary of Community Affairs to the Director of the Delaware State Housing Authority, in order to meet the increased responsibility placed upon the states to solve housing problems for low and moderate income citizens without substantial assistance from the federal government, because henceforth the Delaware State Housing Authority will have to (a) compete in an entrepreneurial environment, recognizing the need for constant innovation, (b) be particularly sensitive to changes in the tax laws and their impact on housing development, (c) develop a public-private partnership for low and moderate income housing development with housing-related private enterprise and the financial community in the private sector, and (d) promote low and moderate income housing development as an integral part of the State's overall economic development.

(2) All contractual obligations of the Delaware State Housing Authority to its bondholders and others shall be preserved.

(3) The integration and coordination of two agencies of State government which participate in bond financing and other activities for economic development in the State of Delaware will be enhanced by having the Delaware State Housing Authority located administratively within the Delaware Development Office.

§5021. Definitions.

(a) 'Housing Director' means the Director or Acting Director of the Delaware State Housing Authority.

(b) 'Issuing Officer' or 'issuing officer' means the Housing Director.

(c) 'State Authority' or 'State Housing Authority' means the Delaware State Housing Authority.

§5022. Transfer and establishment; Powers and duties.

(a) There is hereby transferred to and thereby established within the Delaware Development Office the Delaware State Housing Authority which shall have all of the rights, powers and duties heretofore granted to the Delaware State Housing Authority in Chapter 40 of Title 31 of this Code.

(b) The Delaware State Housing Authority shall have the power to perform and shall be responsible for the performance of all of the powers, duties and functions heretofore vested in the Division of Housing pursuant to Section 8608 of this Title, heretofore vested in the Department of Housing pursuant to Chapters 40, 43 and 45 of Title 31 of this Code, and heretofore vested in the State Bureau of Housing pursuant to Section 4303, 4315 and 4317 Title 31 of this Code.

§5023. Housing director.

(a) The administrator and head of the Delaware State Housing Authority shall be the Housing Director. The Housing Director shall be appointed by the Director of the Delaware Development Office with the written approval of the Governor. The Housing Director shall be a person qualified by training and experience to perform the duties of the office. The Housing Director shall be paid an annual salary established by the Director of the Delaware Development Office within the limitation of the funds appropriated therefor. The Housing Director shall serve at the pleasure of the Director of the Delaware Development Office, who may remove the Housing Director from office with the written approval of the Governor.

(b) In the event of the death, resignation, temporary incapacity or removal of the Housing Director, and prior to the appointment of a successor, the Director of the Delaware Development Office may appoint any qualified employee of the Delaware State Housing Authority to serve as Acting Housing Director. During an absence from the State, the Housing Director may appoint any qualified employee of the Delaware State Housing Authority to serve as Acting Housing Director during such absence. In either case, the Acting Housing Director shall have all the powers and shall perform all the duties and functions of the Housing Director during absence or incapacity or until a successor is duly appointed.

(c) The Delaware State Housing Authority shall consist of the Housing Director who shall serve ~~ex officio~~. The Housing Director shall hold office as the Housing Authority for the term of appointment as Housing Director. Should a vacancy occur in the office of Housing Director, the Housing Authority shall consist of the Acting Housing Director until a successor Housing Director is duly appointed.

(d) The Housing Director shall be the Chairman and Issuing Officer of the Delaware State Housing Authority. The powers of the Delaware State Housing Authority and all duties heretofore vested in the Secretary of Community Affairs as related to the Delaware State Housing Authority shall be vested in the Housing Director, and all action taken by the Delaware State Housing Authority shall be taken by the Housing Director or by a designee acting on behalf of the Housing Director as provided in this subchapter.

(e) All references to the Secretary of the Department of Community Affairs and Economic Development in Chapter 40 of Title 31 of this code shall be deemed to refer to and mean the Housing Director.

(f) The Housing Director shall report to and be supervised by the Director of the Delaware Development Office regarding administrative matters and annually shall prepare and submit to the Director of the Delaware Development Office a proposed budget for the operations of the Delaware State Housing Authority.

(g) The Housing Director shall not be subject to Chapter 59 of this Title.

§5024. Division of housing.

(a) All functions of the Division of Housing are transferred to the Delaware State Housing Authority.

(b) All employees of the Division of Housing shall be employed by the Delaware State Housing Authority. All such employees and their successors shall continue to retain all rights, protections and privileges of the State classified service pursuant to Chapter 59 of this Title.

§5025. Council on housing.

(a) The Council on Housing is continued and shall serve in an advisory capacity to the Housing Director and shall consider matters relating to housing in this State and such other matters as may be referred to it by the Governor or the Housing Director. The Council may study, research, plan and advise the Housing Director and the Governor on matters it deems appropriate to enable the State Housing Authority to function in the best possible manner.

(b) The Council on Housing shall be composed of 9 members. The term of appointment to the Council shall be 3 years, and no person shall be appointed for more than two consecutive 3-year terms. Those members of the Council on Housing appointed pursuant to Section 8609 of this Title, whose terms have not expired as of the effective date of this subchapter, shall continue to hold their memberships on the Council until their current terms expire.

(c) At least 4, but no more than 5, members of the Council shall be affiliated with 1 of the major political parties and at least 3, but no more than 4, members shall be affiliated with the other major political party; provided, however, that there shall be no more than a bare majority representation of 1 major political party over the other major political party. Any person who declines to announce his political affiliation shall 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 1 year and shall be eligible for reelection.

(f) Any appointment pursuant to 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. Any person appointed to serve out the remainder of an unexpired term shall be eligible for appointment to two consecutive full 3-year terms.

§5026. Transition provisions.

(a) All property, including all books, records, papers, maps, charts, plans, equipment and other materials owned by or in the possession of any agency of the State and used in connection with a function transferred by this subchapter to the Delaware State Housing Authority shall on the effective date hereof be delivered into the custody of the Delaware State Housing Authority. All investigations, petitions, hearings and legal proceedings pending before, or instituted by, any agency from which functions are transferred by this subchapter and which are not concluded prior to the effective date hereof shall continue unabated and remain in full force and effect, notwithstanding the passage of this subchapter and, where necessary, may be completed before, by or in the name of the Delaware State Housing Authority. All orders, rules and regulations made by any agency from which functions are transferred by this subchapter and which govern such functions and which are in effect upon the effective date hereof shall remain in full force and effect until revoked or modified in accordance with law by the Delaware State Housing Authority. All contracts and obligations of any agency made or undertaken in the performance of a function transferred by this subchapter to the Delaware State Housing Authority and being enforced on the effective date hereof shall, notwithstanding this subchapter, remain in full force and effect and shall be performed by the Delaware State Housing Authority.

(b) All definitions and references to any commission, board, department, council or agency which appear in any other Act or law, to the extent that they are consistent with this subchapter and in connection with any function transferred by this subchapter to the Delaware State Housing Authority shall be construed as referring and relating to the Delaware State Housing Authority.

(c) All definitions and references to any director, commissioner, executive secretary, commission, board or a council member or other similar person which appear in any other Act or law, to the extent they are consistent with this subchapter and in connection with the function transferred by this subchapter to the Delaware State Housing Authority, shall be construed as referring to or relating to the equivalent person or persons and their powers, duties and functions as established and created in this subchapter.

(d) All contracts and obligations of the Delaware State Housing Authority prior to the effective date hereof shall remain in full force and effect.

(e) All other laws or parts of laws now in effect inconsistent with this subchapter are hereby repealed, superseded, modified or amended so far as necessary to conform to, and give full force and effect to, this subchapter."

Section 2. Further amend Chapter 50, Title 29 of the Delaware Code by adding to Section 5005 the following subdivision:

"(15) To supervise the administration of the Delaware State Housing Authority."

Section 3. Amend Chapter 86, Section 8603, Title 29 of the Delaware Code by striking paragraph a., paragraph (2) in its entirety and renumbering the present subparagraphs b., c., d., and e. as subparagraphs a., b., c., and d. respectively.

Section 4. Further amend Chapter 86, Title 29 of the Delaware Code by striking Section 8608 in its entirety.

Section 5. Amend Chapter 86, Title 29 of the Delaware Code by striking Section 8609 in its entirety.

Section 6. Amend Section 8616, Chapter 86, Title 29 of the Delaware Code by striking subsection (2) and renumbering the remaining subsections as "(2)", "(3)", "(4)", "(5)", and "(6)" respectively.

Section 7. Amend Chapter 40, Title 31 of the Delaware Code by striking the words and phrases "Secretary", "Secretary of the Department", "Secretary of the Department of Community Affairs", "Secretary of the Department of Community Affairs and Economic Development" and "Secretary of Community Affairs & Economic Development" where they appear in that Chapter and substituting in lieu thereof the phrase "Housing Director".

Section 8. Amend Chapter 40, Title 31 of the Delaware Code by striking from Sections 4002 and 4015 the word "Department" where it appears in those Sections and substituting in lieu thereof the phrase "Delaware State Housing Authority".

Section 9. Amend Section 4050, Chapter 40, Title 31 of the Delaware Code by striking the phrase "in the Department of Community Affairs and Economic Development" and substituting in lieu thereof the phrase "in the Delaware Development Office," and by further striking from Section 4050 the phrase "4305, 4306, 4314, 4317, and 4318" and substituting in lieu thereof the phrase "4304, 4306, 4307, 4314, and 4317".

Section 10. Amend Chapter 40, Section 4053, Title 31 of the Delaware Code by inserting in paragraph a. of subdivision (17), following the phrase "direct obligations" and before the phrase "of the United States or the State", a comma and the phrase "or obligations guaranteed by,".

Section 11. Amend Section 4053, Chapter 40, Title 31 of the Delaware Code by adding to subsection (17) of Section 4053 the following paragraphs:

"j. Contracts for the purchase and sale of obligations described in paragraphs a. through e. and in paragraph i. of this subsection;

k. Interest-bearing notes issued by a bank, trust company, national banking association or other depository institution or by a bank holding company, an insurance company or other financial institution;

l. Shares of any investment company that (i) is registered under the Investment Company Act of 1940, as amended, (ii) invests substantially all of its assets in short-term high-quality money-market instruments, limited to obligations issued or guaranteed by the United States Government, and (iii) maintains a constant net asset value per share; and

m. Other investment arrangements made pursuant to an investment agreement authorized by a resolution of the Authority."

Section 12. Amend Section 4053 (18), Chapter 40, Title 31 of the Delaware Code by inserting, following the phrase "hereinafter shown" and before the first semicolon, the phrase "without regard to the treatment of interest thereon for federal income tax purposes".

Section 13. Amend Section 4054 (a), Chapter 40, Title 31 of the Delaware Code by inserting following the phrase "with the approval of the issuing officer", and before the phrase "issue bonds", the phrase "and subject to the authorization required by Section 7402 of Title 29.

Section 14. Amend Section 4061, Title 31 of the Delaware Code by striking the word "fares" where it appears and substituting in lieu thereof the word "fees".

Section 15. Amend Section 6102 (h), Title 29 of the Delaware Code by striking the phrase "or the Department of Community Affairs and Economic Development" and the phrase "or Department", and inserting after the phrase "for such purposes" the phrase "; provided, further, that any interest or other earnings which accrue on balances in any accounts managed by the Delaware State Housing Authority shall not be deposited in the General Fund".

Section 16. Insofar as the provisions of this Act are inconsistent with any general, special or local laws, or parts thereof, this Act shall be controlling.

Section 17. If any Section, part, phrase or provision of this Act or the application thereof shall be held invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to that Section, part or phrase, provision or application thereof directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof.

Section 18. This Act shall be effective July 1, 1987.

Approved July 16, 1987.

CHAPTER 191

FORMERLY

HOUSE BILL NO. 357 AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 3, TITLE 9 OF THE DELAWARE CODE RELATING TO THE CAPITATION TAX IN KENT COUNTY.

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

Section 1. Amend Subsection (a), Section 305, Title 9 of the Delaware Code by striking the present Subsection (a) and substituting in lieu thereof a new Subsection (a) to read as follows:

"(a)(1) The government of Kent County annually at a meeting held during the month of June may fix and determine the amount of the capitation tax which the Board of Assessment may assess for the following year.

(2) The government of Sussex County annually at a meeting held during the month of February shall fix and determine the amount of capitation tax which the Board of Assessment shall assess for the following year."

Section 2. Amend subsection (b), §305, Title 9 of the Delaware Code by striking the present subsection (b) and substituting in lieu thereof a new subsection (b) to read as follows:

"(b) (1) In Kent County such capitation tax if so fixed and determined shall in no case exceed the sum of \$5, and shall be uniform throughout the county if levied and assessed.

(2) In Sussex County such capitation tax shall in no case exceed the sum of \$10, nor be less than the sum of \$3, and shall be uniform throughout the county when levied and assessed."

Approved July 16, 1987.

CHAPTER 192

FORMERLY

HOUSE BILL NO. 358
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 83, TITLE 11 OF THE DELAWARE CODE RELATING TO THE ELIGIBILITY FOR PENSIONS OF MEMBERS OF THE DELAWARE STATE POLICE, MANDATORY RETIREMENT, AND A CAREER DEVELOPMENT PROGRAM FOR THE MEMBERS OF THE DELAWARE STATE POLICE.

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

Section 1. Amend Section 8323(a), Chapter 83, Title 11 of the Delaware Code by striking the phrase "20 years, or who has reached the age of 55 years, shall be retired and" and substituting in lieu thereof the phrase "20 years may retire, or any member who has reached the age of 55 years shall be retired; in either event, the retired member".

Section 2. Further amend Chapter 83, Title 11 of the Delaware Code by striking Section 8361 in its entirety and substituting in lieu thereof the following:

"§8361. Mandatory retirement.

A member may retire after accumulating 25 years of credited service as defined in §8351(3)a. of this Title, or shall be retired upon reaching the age of 55 years."

Section 3. The Superintendent of the Delaware State Police and F.O.P. Lodge Number 6 shall, within six (6) months of the enactment of this Act, develop a Career Development Program for members of the Delaware State Police and the Superintendent of the Delaware State Police shall, within that six (6) month period, submit that Plan to the Budget Office of the State of Delaware and the Joint Finance Committee.

Section 4. This Act shall become effective upon its enactment into law; provided, however, that this Act shall terminate and its provisions shall no longer have any effect unless in the Fiscal Year 1989 Budget Act the General Assembly appropriates funds sufficient to implement a Career Development Program for members of the Delaware State Police.

Approved July 16, 1987.

CHAPTER 193

FORMERLY

HOUSE BILL NO. 5
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND TITLE 23 OF THE DELAWARE CODE BY CREATING A NEW CHAPTER 22 RELATING TO BOATING SAFETY.

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

Section 1. Amend Title 23 of the Delaware Code by adding thereto a new Chapter, designated as Chapter 22, which shall read as follows:

"Chapter 22. BOATING SAFETY

§2201. Definitions

(a) 'Vessel' - includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

(b) 'Recreational Boat' - means any vessel manufactured or used primarily for noncommercial use; or leased, rented or chartered to another for the latter's noncommercial use. Charter boats, head boats, or other vessels under the command of a person who is licensed by the United States Coast Guard to carry passengers for hire shall be defined as commercial and therefore exempt from this definition of 'Recreational Boat'.

(c) 'Waters of this State' - means any waters within the territorial limits of this State, the marginal sea adjacent to this State, and the high seas when navigated as part of a journey or ride to or from the shores of this State.

(d) 'Use' - means operate, navigate or employ.

(e) 'Operator' - means that person in control or in charge of the vessel while the vessel is in use.

§2202. Child Safety on Recreational Boats

Every operator of a recreational boat shall be responsible for providing for the protection of any child 12 years of age or under, by having any such child who is aboard a recreational boat upon the waters of this State, properly wear a Type I, II, III or Type V Coast Guard approved personal flotation device which is in good serviceable condition and of the proper size. This Section shall not apply to any child who is below deck or in an enclosed cabin or while said recreational boat is anchored or moored.

2203. Penalties

A violation of this Chapter shall be an offense punishable by a fine of no more than \$25 for each violation. The failure to provide a flotation device for more than one child in the same recreational boat at the same time, as required by this Chapter, shall be treated as separate offenses."

Approved July 17, 1987.

CHAPTER 194

FORMERLY

HOUSE BILL NO. 50

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO THE OATH OF OFFICE FOR MEMBERS OF THE GENERAL ASSEMBLY AND PUBLIC OFFICERS.

WHEREAS, an Amendment to the Constitution of the State of Delaware was proposed in the 133rd General Assembly, being Chapter 309, Volume 65, Laws of Delaware, as follows:

"AN ACT PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO THE OATH OF OFFICE FOR MEMBERS OF THE GENERAL ASSEMBLY AND 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 Article XIV of the Constitution of the State of Delaware by striking §1 in its entirety, and substituting in lieu thereof a new Section which shall read as follows:

'§1. Form of oath for members of General Assembly and public officers. Members of the General Assembly and all public officers executive and judicial, except such inferior officers as shall be by law exempted, shall, before they enter upon the duties of their respected offices, take and subscribe the following oath or affirmation:

'I, (name), do proudly swear (or affirm) to carry out the responsibilities of the office of (name of office) to the best of my ability, freely acknowledging that the powers of this office flow from the people I am privileged to represent. I further swear (or affirm) always to place the public interest above any special or personal interests, and to respect the right of future generations to share the rich historic and natural heritage of Delaware. In doing so I will always uphold and defend the Constitutions of my Country and my State, so help me God.'

No other oath, declaration or test shall be required as a qualification for any office of public trust."

NOW, THEREFORE:

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

Section 1. The said proposed Amendment is hereby concurred in and adopted, and shall forthwith become a part of the Constitution of the State of Delaware.

Approved July 1, 1987.

CHAPTER 195

FORMERLY

HOUSE BILL NO. 389

AN ACT TO AMEND CHAPTERS 26, 30, 48, 49, 68 AND 69, TITLE 9 OF THE DELAWARE CODE REQUIRING NOTICE TO LOCAL SCHOOL DISTRICTS BEFORE APPROVAL OF ZONING CHANGES OR SUBDIVISION PLANS.

WHEREAS, increased development in Delaware can affect the quality of life, including the quality of education; and

WHEREAS, county governments can make decisions concerning the planning and development of the three counties; and

WHEREAS, school districts are one of the major systems most effected by development and need to know the proposed impact of new constructions; and

WHEREAS, the county government should work together with the school districts before any new development occurs, as this allows for input from educators, lessening the possibility of too rapid growth for the existing area schools; and

WHEREAS, preserving the quality of life, while allowing for a manageable growth is the goal for all parties involved.

NOW, THEREFORE:

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

Section 1. Amend Chapters 26, 49 and 69 of Title 9 of the Delaware Code by adding new Sections 2613, 4924 and 6924 respectively to read as follows:

"Notice to Local School Districts of Residential Zoning Changes.

With respect to any proposed residential zoning change the County government shall notify the local school district for the area at least seven (7) days prior to the initial hearing upon such residential zoning change."

Section 2. Amend Chapters 30, 48 and 68 of Title 9 of the Delaware Code by adding new Sections 3012, 4819 and 6820 respectively to read as follows:

"Notice to Local School Districts of Residential Subdivision Plans or Changes in Residential Subdivision Plans that Increase Density.

With respect to the initial approval of a residential subdivision plan or any change in a residential subdivision plan that increases residential density, the county government shall notify the local school district for the area at least seven (7) days prior to any such approval process."

Approved December 17, 1987.

CHAPTER 196

FORMERLY

HOUSE BILL NO. 390

AN ACT TO AMEND TITLE 7, CHAPTER 40, OF THE DELAWARE CODE, RELATING TO ENFORCEMENT BY CRIMINAL PENALTY, ADDING A LESSER CRIMINAL PENALTY, AND CONCILIATION.

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

Section 1. Amend Chapter 40, Title 7, Delaware Code by striking §4014 in its entirety.

Section 2. Amend Chapter 40, Title 7, Delaware Code by adding the following new §4014 to read as follows:

"§4014. Penalties

(a) Any person who violates any rule, regulation, order, condition within an approved plan or provision of this Chapter shall be fined not less than \$50 or more than \$500 for each offense. Each day the violation continues shall constitute a separate offense. The Justice of the Peace Courts shall have jurisdiction of offenses under this subsection.

(b) Any person who intentionally violates any notice to comply issued pursuant to §4010(a) of this Chapter shall be fined not less than \$500 or more than \$10,000 for each offense. Each day the violation continues shall constitute a separate offense. The Superior Court shall have jurisdiction of offenses under this subsection.

(c) In its discretion, and with the approval of the Department, a district may endeavor to obtain compliance with all requirements of this Chapter in accordance with conciliation procedures established by regulation."

Approved December 17, 1987.

CHAPTER 197

FORMERLY

HOUSE BILL NO. 392

AN ACT TO AMEND CHAPTER 13, TITLE 9 OF THE DELAWARE CODE RELATING TO THE JURISDICTION OF THE NEW CASTLE COUNTY BOARD OF ADJUSTMENT; APPROVAL BY COUNTY COUNCIL OF USE VARIANCES REQUIRED.

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

Section 1. Amend Section 1352, Chapter 13, Title 9 of the Delaware Code by adding new subsections (b), (c) and (d) and relettering subsection (b) to (e) to read as follows:

"(b) A variance which permits a use otherwise prohibited by any zoning ordinance, code, or regulation shall not be valid unless approved by resolution of County Council. Use variances to be approved by Council shall be advertised and affected State agencies, including but not necessarily limited to the Departments of Transportation and Natural Resources and Environmental Control, shall be notified by registered mail, return receipt requested, at least thirty (30) days prior to hearing scheduled before the Board of Adjustment. Said use variance shall thereafter be presented to Council at the next scheduled meeting following approval by the Board of Adjustment, advertisement, and notification as provided herein.

(c) County Council shall approve or disapprove the use variance or return the matter to the Board of Adjustment for further hearings and findings consistent with this section.

(d) Appeals from decisions of the County Council shall be to Superior Court as heretofore provided for appeals from decisions of the Board of Adjustment."

Approved December 17, 1987.

CHAPTER 195

FORMERLY

HOUSE BILL NO. 389

AN ACT TO AMEND CHAPTERS 26, 30, 48, 49, 68 AND 69, TITLE 9 OF THE DELAWARE CODE REQUIRING NOTICE TO LOCAL SCHOOL DISTRICTS BEFORE APPROVAL OF ZONING CHANGES OR SUBDIVISION PLANS.

WHEREAS, increased development in Delaware can affect the quality of life, including the quality of education; and

WHEREAS, county governments can make decisions concerning the planning and development of the three counties; and

WHEREAS, school districts are one of the major systems most effected by development and need to know the proposed impact of new constructions; and

WHEREAS, the county government should work together with the school districts before any new development occurs, as this allows for input from educators, lessening the possibility of too rapid growth for the existing area schools; and

WHEREAS, preserving the quality of life, while allowing for a manageable growth is the goal for all parties involved.

NOW, THEREFORE:

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

Section 1. Amend Chapters 26, 49 and 69 of Title 9 of the Delaware Code by adding new Sections 2613, 4924 and 6924 respectively to read as follows:

"Notice to Local School Districts of Residential Zoning Changes.

With respect to any proposed residential zoning change the County government shall notify the local school district for the area at least seven (7) days prior to the initial hearing upon such residential zoning change."

Section 2. Amend Chapters 30, 48 and 68 of Title 9 of the Delaware Code by adding new Sections 3012, 4819 and 6820 respectively to read as follows:

"Notice to Local School Districts of Residential Subdivision Plans or Changes in Residential Subdivision Plans that Increase Density.

With respect to the initial approval of a residential subdivision plan or any change in a residential subdivision plan that increases residential density, the county government shall notify the local school district for the area at least seven (7) days prior to any such approval process."

Approved December 17, 1987.

CHAPTER 196

FORMERLY

HOUSE BILL NO. 390

AN ACT TO AMEND TITLE 7, CHAPTER 40, OF THE DELAWARE CODE, RELATING TO ENFORCEMENT BY CRIMINAL PENALTY, ADDING A LESSER CRIMINAL PENALTY, AND CONCILIATION.

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

Section 1. Amend Chapter 40, Title 7, Delaware Code by striking §4014 in its entirety.

Section 2. Amend Chapter 40, Title 7, Delaware Code by adding the following new §4014 to read as follows:

"§4014. Penalties

(a) Any person who violates any rule, regulation, order, condition within an approved plan or provision of this Chapter shall be fined not less than \$50 or more than \$500 for each offense. Each day the violation continues shall constitute a separate offense. The Justice of the Peace Courts shall have jurisdiction of offenses under this subsection.

(b) Any person who intentionally violates any notice to comply issued pursuant to §4010(a) of this Chapter shall be fined not less than \$500 or more than \$10,000 for each offense. Each day the violation continues shall constitute a separate offense. The Superior Court shall have jurisdiction of offenses under this subsection.

(c) In its discretion, and with the approval of the Department, a district may endeavor to obtain compliance with all requirements of this Chapter in accordance with conciliation procedures established by regulation."

Approved December 17, 1987.

CHAPTER 197

FORMERLY

HOUSE BILL NO. 392

AN ACT TO AMEND CHAPTER 13, TITLE 9 OF THE DELAWARE CODE RELATING TO THE JURISDICTION OF THE NEW CASTLE COUNTY BOARD OF ADJUSTMENT; APPROVAL BY COUNTY COUNCIL OF USE VARIANCES REQUIRED.

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

Section 1. Amend Section 1352, Chapter 13, Title 9 of the Delaware Code by adding new subsections (b), (c) and (d) and relettering subsection (b) to (e) to read as follows:

"(b) A variance which permits a use otherwise prohibited by any zoning ordinance, code, or regulation shall not be valid unless approved by resolution of County Council. Use variances to be approved by Council shall be advertised and affected State agencies, including but not necessarily limited to the Departments of Transportation and Natural Resources and Environmental Control, shall be notified by registered mail, return receipt requested, at least thirty (30) days prior to hearing scheduled before the Board of Adjustment. Said use variance shall thereafter be presented to Council at the next scheduled meeting following approval by the Board of Adjustment, advertisement, and notification as provided herein.

(c) County Council shall approve or disapprove the use variance or return the matter to the Board of Adjustment for further hearings and findings consistent with this section.

(d) Appeals from decisions of the County Council shall be to Superior Court as heretofore provided for appeals from decisions of the Board of Adjustment."

Approved December 17, 1987.

CHAPTER 198

FORMERLY

SENATE BILL NO. 301

AN ACT TO AMEND CHAPTERS 26, 49, AND 69 OF TITLE 9 AND CHAPTER 92 OF TITLE 29 OF THE DELAWARE CODE RELATING TO INFORMATION CONSIDERED BY THE SUSSEX, KENT, AND NEW CASTLE COUNTY GOVERNMENTS IN THE ZONING, SUBDIVISION, AND LAND USE PROCESS; AND THE PROCESS FOR INTERGOVERNMENT COORDINATION IN LAND USE PLANNING.

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

Section 1. Amend Chapters 26, 49, and 69 of Title 9 of the Delaware Code by adding new sections 2659, 4959, and 6959 thereto, respectively, which sections shall read as follows:

"Information from State and Local Agencies and School Districts.

(a) All subdivision plans approved by the county government shall be filed with the Office of the Recorder of Deeds, and with such other State and local agencies as the County may by ordinance require.

(b) As part of its review of a rezoning or subdivision application, the county government through its designated local planning agency shall request and review information from all State and local agencies and local school districts identified on a list prepared by the county and shall file as part of the record any written information provided by such State and local agencies or local school districts with respect to the rezoning or subdivision application. If the planning agency makes recommendations that are in conflict with the information supplied by State and local agencies or local school districts, it must explain its reasons for doing so in writing.

(c) Any State or local agency or local school district which delivers to the head of county government a written request that it be notified of rezoning and subdivision applications shall be included on the county's list of agencies and school districts from which information shall be requested and reviewed in accordance with subsection (b) of this section."

Section 2. Amend Chapter 92 of Title 29 of the Delaware Code by adding a new Section 9245 which shall read as follows:

"§9245. Information to be provided by State Agencies

All State agencies, including those enumerated in §9202(11) of this chapter, shall provide information, including technical information, available to such agencies, when requested to do so by any County or municipality during the review of any rezoning or subdivision application, or any other land use application. The request to the State agency shall be made and the information shall be supplied to the County or municipality within a time period agreed upon between the parties, but the County shall not request such information less than thirty (30) days prior to, nor shall the State respond less than five (5) days prior to, the date upon which the County or municipal planning agency must finalize recommendations or reach a decision upon said application. In the event the State agency does not respond, the County or municipal planning agency may proceed in the absence of such information."

Approved December 17, 1987.

CHAPTER 199

FORMERLY

SENATE BILL NO. 302

AN ACT TO AMEND CHAPTER 26, TITLE 9 OF THE DELAWARE CODE RELATING TO ZONING IN NEW CASTLE COUNTY.

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

Section 1. Amend §2603(a), Title 9 of the Delaware Code by adding the following after the words "Regulations adopted by the county government, pursuant to the provisions of this chapter, shall be":

"in accordance with a comprehensive development plan adopted pursuant to Chapter 13 of this Title, and shall be".

Section 2. Amend §2607(a), Title 9 of the Delaware Code by adding the following after the words "The county government may, from time to time, make amendments, supplements, changes, modifications (herein called "changes")":

", in accordance with a comprehensive development plan adopted pursuant to Chapter 13 of this Title,,".

Approved December 17, 1987.

CHAPTER 200

FORMERLY

SENATE BILL NO. 303

AN ACT TO AMEND CHAPTERS 26, 43, AND 69 OF TITLE 9 OF THE DELAWARE CODE RELATING TO ZONING AND SUBDIVISION IN SUESS, KENT, AND NEW CASTLE COUNTIES; AND PROVIDING A LIMITATION ON THE LIABILITY OF CERTAIN PARTIES SEEKING JUDICIAL REVIEW OF ZONING, SUBDIVISION, AND LAND USE DECISIONS.

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

WHEREAS, there is concern among members of the General Assembly that citizens and associations of citizens, in the exercise of their legitimate rights to seek judicial review of zoning, subdivision, and land use decisions, might be subjected to unjustifiable threats of retaliatory litigation, that would inhibit the exercise of those rights and thereby have serious detrimental effects upon citizens, and their enjoyment of life and the environment, and

WHEREAS, the General Assembly therefore deems it desirable to enact a law to be known as the "Citizens' Bill of Rights Act" to protect citizens from such threats and to assure that citizens will not be inhibited in the exercise of their rights to judicial review of land use decisions, so that there will be a full and fair opportunity for citizens to be heard;

NOW, THEREFORE:

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

Section 1. Amend Chapters 26, 49, and 69 of Title 9 of the Delaware Code by adding thereto new sections 2699, 4999, and 6999, respectively, which sections shall read as follows:

"Court Review of Land Use Actions; Limitations on Liability of Individuals and Associations"

Any individual or association of individuals that challenges or opposes a zoning, subdivision, or other land use application, and seeks judicial review of a decision concerning the application in a manner prescribed by statute, shall not be liable to any other party to the judicial review for seeking such a review, except for such costs as are expressly provided for by the rules of court."

Approved December 17, 1987.

CHAPTER 201

FORMERLY

SENATE BILL NO. 304

AN ACT TO AMEND CHAPTERS 26 AND 49 OF TITLE 9 OF THE DELAWARE CODE RELATING TO ZONING IN NEW CASTLE AND KENT COUNTIES.

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

Section 1. Amend §2607(c), Chapter 26, Title 9 of the Delaware Code by striking the language "30 days" in the first sentence thereof, and by substituting in lieu thereof "45 days".

Section 2. Amend §4910(c), Chapter 49, Title 9 of the Delaware Code by striking the language "30 days" in the last sentence thereof, and by substituting in lieu thereof "45 days".

Section 3. Amend §4911(c), Chapter 49, Title 9 of the Delaware Code by striking the language "30 days" in the first sentence thereof, and by substituting in lieu thereof "45 days".

Approved December 17, 1987.

CHAPTER 202

FORMERLY

SENATE BILL NO. 305

AN ACT TO AMEND CHAPTER 40, TITLE 7 OF THE DELAWARE CODE RELATING TO INSPECTION RESPONSIBILITIES IN CONTROLLING EROSION AND SEDIMENTATION.

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

Section 1. Amend Section 4010, Subchapter IV, Chapter 40, Title 7, Delaware Code by striking subsection (a) in its entirety and by adding a new subsection (a) to read as follows:

"(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, District or Department as appropriate, 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 erosion and sediment control plan certification. If the permit issuing authority, District or Department as appropriate, determines that the permittee has failed to comply with the plan, the permit issuing authority, District or Department as appropriate, shall immediately serve upon the permittee by registered mail to the address specified by the permittee in the plan certification 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."

Approved December 17, 1987.

CHAPTER 203

FORMERLY

SENATE BILL NO. 319
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 87, TITLE 29 OF THE DELAWARE CODE RELATING TO THE INTERIM POWERS OF A DEPUTY BANK COMMISSIONER.

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

Section 1. Amend §8718(e), Chapter 87, Title 29, Delaware Code by adding thereto the following:

"In the event of the death, resignation, disability or removal of the Commissioner all the powers necessary to perform all the duties and functions of the Commissioner during his incapacity or until his successor is duly appointed and qualified shall be conferred upon the senior Deputy Commissioner appointed by the Commissioner pursuant to 5 Del. C. §103. The senior Deputy Commissioner shall be the Deputy Commissioner who has served the longest as a Deputy Commissioner."

Approved January 27, 1988.

CHAPTER 204

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 396
AS AMENDED BY HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 1, TITLE 8, DELAWARE CODE RELATING TO THE GENERAL CORPORATION LAW.

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 VI, Chapter 1, Title 8, Delaware Code, by adding a new section to read as follows:

§203. Business Combinations With Interested Stockholders

(a) Notwithstanding any other provisions of this chapter, a corporation shall not engage in any business combination with any interested stockholder for a period of 3 years following the date that such stockholder became an interested stockholder, unless (1) prior to such date the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder, or (2) upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer, or (3) on or subsequent to such date the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66-2/3% of the outstanding voting stock which is not owned by the interested stockholder.

(b) The restrictions contained in this section shall not apply if:

(1) the corporation's original certificate of incorporation contains a provision expressly electing not to be governed by this section;

(2) the corporation, by action of its board of directors, adopts an amendment to its bylaws within 90 days of the effective date of this section, expressly electing not to be governed by this section, which amendment shall not be further amended by the board of directors;

(3) the corporation, by action of its stockholders, adopts an amendment to its certificate of incorporation or bylaws expressly electing not to be governed by this section, provided that, in addition to any other vote required by law, such amendment to the certificate of incorporation or bylaws must be approved by the affirmative vote of a majority of the shares entitled to vote. An amendment adopted pursuant to this paragraph shall not be effective until 12 months after the adoption of such amendment and shall not apply to any business combination between such corporation and any person who became an interested stockholder of such corporation on or prior to such adoption. A bylaw amendment adopted pursuant to this paragraph shall not be further amended by the board of directors;

(4) the corporation does not have a class of voting stock that is (i) listed on a national securities exchange, (ii) authorized for quotation on an inter dealer quotation system of a registered national securities association or (iii) held of record by more than 2,000 stockholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested stockholder or from a transaction in which a person becomes an interested stockholder;

(5) a stockholder becomes an interested stockholder inadvertently and (i) as soon as practicable divests sufficient shares so that the stockholder ceases to be an interested stockholder and (ii) would not, at any time within the 3 year period immediately prior to a business combination between the corporation and such stockholder, have been an interested stockholder but for the inadvertent acquisition, or

(6) the business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required hereunder of a proposed transaction which (i) constitutes one of the transactions described in the second sentence of this paragraph; (ii) is with or by a person who either was not an interested stockholder during the previous 3 years or who became an interested stockholder with the approval of the corporation's board of directors; and (iii) is approved or not opposed by a majority of the members of the board of directors then in office (but not less than 1) who were directors prior to any person becoming an interested stockholder during the previous 3 years or were recommended for election or elected to succeed such directors by a majority of such directors. The proposed transactions referred to in the preceding sentence are limited to (x) a merger or consolidation of the corporation (except for a merger in respect of which, pursuant to section 251 (f) of the chapter, no vote of the stockholders of the corporation is required); (y) a sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation (other than to any direct or indirect wholly-owned subsidiary or to the corporation) having an aggregate market value equal to 50% or more of either that aggregate market value of all of the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation; or (z) a proposed tender or exchange offer for 50% or more of the outstanding voting stock of the corporation. The corporation shall give not less than 20 days notice to all interested stockholders prior to the consummation of any of the transactions described in clauses (x) or (y) of the second sentence of this paragraph. Notwithstanding paragraphs (1), (2), (3) and (4) of this subsection, a corporation may elect by a provision of its original certificate of incorporation or any amendment thereto to be governed by this section, provided that any such amendment to the certificate of incorporation shall not apply to restrict a business combination between the corporation and an interested stockholder of the corporation if the interested stockholder became such prior to the effective date of the amendment.

(c) As used in this section only, the term:

(1) 'affiliate' means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

(2) 'associate,' when used to indicate a relationship with any person, means (i) any corporation or organization of which such person is a director, officer or partner or is, directly or indirectly, the owner of 20% or more of any class of voting stock, (ii) any trust or other estate in which such person has at least a 20% beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same residence as such person.

(3) 'business combination,' when used in reference to any corporation and any interested stockholder of such corporation, means:

(i) any merger or consolidation of the corporation or any direct or indirect majority-owned subsidiary of the corporation with (A) the interested stockholder, or (B) with any other corporation if the merger or consolidation is caused by the interested stockholder and as a result of such merger or consolidation subsection (a) of this section is not applicable to the surviving corporation;

(ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a stockholder of such corporation, to or with the interested stockholder, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation which assets have an aggregate market value equal to 10% or more of either the aggregate market value of all the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation.

(iii) any transaction which results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of such subsidiary to the interested stockholder, except (A) pursuant to the exercise, exchange or

conversion of securities exercisable for, exchangeable for or convertible into stock of such corporation or any such subsidiary which securities were outstanding prior to the time that the interested stockholder became such, (B) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of such corporation or any such subsidiary which security is distributed, pro rata to all holders of a class or series of stock of such corporation subsequent to the time the interested stockholder became such, (C) pursuant to an exchange offer by the corporation to purchase stock made on the same terms to all holders of said stock, or (D) any issuance or transfer of stock by the corporation, provided however, that in no case under (B) - (D) above shall there be an increase in the interested stockholder's proportionate share of the stock of any class or series of the corporation or of the voting stock of the corporation;

(iv) any transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation which has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, of the corporation or of any such subsidiary which is owned by the interested stockholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the interested stockholder; or

(v) any receipt by the interested stockholder of the benefit, directly or indirectly (except proportionately as a stockholder of such corporation) of any loans, advances, guarantees, pledges, or other financial benefits (other than those expressly permitted in subparagraphs (i)-(iv) above) provided by or through the corporation or any direct or indirect majority owned subsidiary.

(4) 'control,' including the term 'controlling,' 'controlled by' and 'under common control with,' means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract, or otherwise. A person who is the owner of 20% or more of a corporation's outstanding voting stock shall be presumed to have control of such corporation. In the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding the foregoing, a presumption of control shall not apply where such person holds voting stock, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such corporation.

(5) 'interested stockholder' means any person (other than the corporation and any direct or indirect majority-owned subsidiary of the corporation) that (i) is the owner of 15% or more of the outstanding voting stock of the corporation, or (ii) is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting stock of the corporation at any time within the 3-year period immediately prior to the date on which it is sought to be determined whether such person is an interested stockholder; and the affiliates and associates of such person, provided, however, that the term 'interested stockholder' shall not include (x) any person who (A) owned shares in excess of the 15% limitation set forth herein as of, or acquired such shares pursuant to a tender offer commenced prior to, December 23, 1987 or pursuant to an exchange offer announced prior to the aforesaid date and commenced within 90 days thereafter and continued to own shares in excess of such 15% limitation or would have but for action by the corporation or (B) acquired said shares from a person described in (A) above by gift, inheritance or in a transaction in which no consideration was exchanged; or (y) any person whose ownership of shares in excess of the 15% limitation set forth herein in the result of action taken solely by the corporation provided that such person shall be an interested stockholder if thereafter he acquires additional shares of voting stock of the corporation, except as a result of further corporate action not caused, directly or indirectly, by such person. For the purpose of determining whether a person is an interested stockholder, the voting stock of the corporation deemed to be outstanding shall include stock deemed to be owned by the person through application of paragraph (8) of this subsection but shall not include any other unissued stock of such corporation which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(6) 'person' means any individual, corporation, partnership, unincorporated association or other entity.

(7) 'voting stock' means stock of any class or series entitled to vote generally in the election of directors.

(8) 'owner' including the terms 'own' and 'owned' when used with respect to any stock means a person that individually or with or through any of its affiliates or associates:

(i) beneficially owns such stock, directly or indirectly; or

(ii) has (A) the right to acquire such stock (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; provided, however, that a person shall not be deemed the owner of stock tendered pursuant to a tender or exchange offer made by such person or any of such person's affiliates or associates until such tendered stock is accepted for purchase or exchange; or (B) the right to vote such stock pursuant to any agreement, arrangement or understanding; provided, however, that a person shall not be deemed the owner of any stock because of such person's right to vote such stock if the agreement, arrangement or understanding to vote such stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(iii) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in item (B) of clause (ii) of this paragraph), or disposing of such stock with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such stock.

(d) No provision of a certificate of incorporation or bylaw shall require, for any vote of stockholders required by this section a greater vote of stockholders than that specified in this section.

(e) The Court of Chancery is hereby vested with exclusive jurisdiction to hear and determine all matters with respect to this section."

Section 2. The provisions of this Act are severable and any provision held invalid shall not affect or impair any of the remaining provisions of this Act.

Approved February 2, 1988.

CHAPTER 205

FORMERLY

HOUSE BILL NO. 167

AN ACT TO AMEND CHAPTER 52, TITLE 30 OF THE DELAWARE CODE, RELATING TO MOTOR CARRIER REPORTING REQUIREMENTS.

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

Section 1. Amend subsection (a), Section 5204, Chapter 52, Title 30, Delaware Code by striking the third sentence in its entirety and substituting in lieu thereof the following sentence:

"When the amount of the credit to which a motor carrier is entitled for any reporting period exceeds the amount of the tax for which such carrier is liable for that same period, such excess shall, upon application within two years from the end of said period and supported by such evidence as the Department may require, be allowed as a credit against the tax for which such carrier would be otherwise liable or at the carrier's request be refunded."

Section 2. Amend subsection (b), Section 5204, Chapter 52, Title 30, Delaware Code by striking the first sentence in its entirety and substituting in lieu thereof the following:

"The Department of Public Safety shall allow such refund only upon receipt of a bona fide claim subject to criteria established under promulgated regulations."

Approved February 2, 1988

CHAPTER 206

FORMERLY

HOUSE BILL NO. 409

AN ACT TO AMEND VOLUME 66, CHAPTER 92, LAWS OF DELAWARE RELATING TO THE FISCAL YEAR 1988 CAPITAL BUDGET, TO AMEND VOLUME 65, CHAPTER 385, LAWS OF DELAWARE, RELATING TO THE FISCAL YEAR 1987 CAPITAL BUDGET, TO AMEND VOLUME 65, CHAPTER 212, LAWS OF DELAWARE, RELATING TO THE FISCAL YEAR 1986 STATE CAPITAL BUDGET AND TO AMEND SECTION 5082, TITLE 29 OF THE DELAWARE CODE, RELATING TO THE FIRST STATE IMPROVEMENT FUND.

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

Section 1. Appropriation of General Funds.

(a) Amend Section 6, Volume 66, Chapter 92, Laws of Delaware by deleting its title "Appropriation of General Funds" and insert in lieu thereof "Appropriation and Allocation of General Funds".

(b) Amend Section 6, Volume 66, Chapter 92, Laws of Delaware by deleting the first sentence and inserting in lieu thereof the following:

"(a) It is the intent of the General Assembly that Six Million Seven Hundred Fifty-Five Thousand Three Hundred Thirty-Nine Dollars (\$6,755,339) be appropriated from the General Fund to the following departments, agencies and instrumentalities of the State and in the following amounts for the purposes set forth in the Fiscal Year 1988 Capital Improvements Schedule attached hereto and made a part hereof."

(c) Also in Subsection 6, Volume 66, Chapter 92, Laws of Delaware add the following subsection:

"(b) It is the intent of the General Assembly that Twenty-One Million Eight Hundred Forty Seven Thousand Dollars (\$21,847,000) be appropriated from the General Fund to the Department of Transportation, Transportation Trust Fund for the purposes set forth in the Fiscal Year 1988 Capital Improvements Schedule attached hereto and made a part hereof."

(d) Also in Section 6, Volume 66, Chapter 92, Laws of Delaware add the following subsection:

"(c) The State Treasurer and the Secretary of Finance are hereby authorized and directed to transfer Six Million Dollars (\$6,000,000) from the General Fund to the Department of Transportation Transportation Trust Fund for the purposes set forth in the Fiscal Year 1988 Capital Improvements Project Schedule attached hereto and made a part hereof. This Six Million Dollars (\$6,000,000) has been appropriated by the General Assembly to the Department of Transportation in the Fiscal Year 1988 Budget Act.

Section 2. Reversion of Fund Balances. Amend Section 8, Volume 66, Chapter 92, Laws of Delaware by deleting the line "Department of Administrative Services 65/385 30-05-001-5720 40,032", the line "Department of Health and Social Services 65/385 35-12-001-5713 50,000" and the line "State Fire Prevention Commission 65/385 75-02-001-5715 444" in their entirety. Also in Section 8 delete the figure "\$1,670,453" and insert in lieu thereof the figure "\$1,579,977".

Section 3. Repeal of Prior General Obligation Bond Authorizations.

(a) Amend Section 4, Volume 66, Chapter 92, Laws of Delaware by adding the following lines after the line "Department of Natural Resources and Environmental Control 65/385 40-06-001-8012 \$500,000": "Department of Administrative Services 65/385 30-05-001-5720 40,032", "Department of Health and Social Services 65/385 35-12-001-5713 50,000" and "State Fire Prevention Commission 65/385 75-02-001-5715 444".

(b) Also in Section 4 delete the figure "\$500,000" after the word "TOTAL" and replace in lieu thereof the figure "\$590,476".

Section 4. Authorization of Twenty-Year Bonds

(a) Amend Section 1, Volume 66, Chapter 92, Laws of Delaware by deleting "Twenty-Four Million One Hundred Fifty-Four Thousand Five Hundred Thirty-Two Dollars (\$24,154,532)"

wherever it appears and insert in lieu thereof "Twenty-Four Million Two Hundred Forty-Five Thousand Eight Dollars (\$24,245,008)".

(b) Also amend this Section 1 by deleting the figure "\$4,360,806" after the phrase "Department of Administrative Services" and insert in lieu thereof the figure "\$4,451,282".

(c) Also amend this Section 1 by deleting the figure "\$24,154,532" after the word "TOTAL" and insert in lieu thereof the figure "\$24,245,008".

Section 5. Transfers from Reversion Account.

(a) Amend Section 9, Volume 66, Chapter 92, Laws of Delaware by deleting "Four Million One Hundred Fifty-Six Thousand Five Hundred Forty-Two Dollars (\$4,156,542)" and insert in lieu thereof "Five Million Eighty-Four Thousand Sixty-Six Dollars (\$5,084,066)".

(b) Also amend Section 9, Volume 66, Chapter 92, Laws of Delaware by deleting the figure "\$2,156,181" and inserting in lieu thereof the figure "\$2,065,705".

(c) Also amend Section 9, Volume 66, Chapter 92, Laws of Delaware by adding the phrase "Department of Transportation 1,018,000" after the phrase "Department of Natural Resources & Environmental Control 2,000,361".

(d) Also amend Section 9 by deleting "\$4,156,542" after the word "TOTAL" and insert in lieu thereof "\$5,084,066".

Section 6. Twenty-Year Bonds and Reversion Account.

(a) Amend Volume 66, Chapter 92, Laws of Delaware by deleting "\$500,000" contained in the "Fiscal Year 1988 Capital Improvements Project Schedule" beside the project "Tatnall Building Interior Renovations" for the "Department of Administrative Services" and insert in lieu thereof the figure "\$590,476".

(b) Also amend Volume 66, Chapter 92, Laws of Delaware by deleting "\$652,093" contained in the "Fiscal Year 1988 Capital Improvements Project Schedule" beside the project "Tatnall Building Interior Renovations" for the "Department of Administrative Services" and insert in lieu thereof the figure "\$561,617".

Section 7. Additions to the First State Improvement Fund. Amend Section 14, Volume 66, Chapter 92, Laws of Delaware by deleting subsection (a) in its entirety and replacing it with the following new subsection:

"(a) There is hereby appropriated from the General Fund the sum of Seven Million Two Hundred Thousand Dollars (\$7,200,000) to the First State Improvement Fund."

Section 8. Transportation Trust Fund.

(a) Amend Section 15(b), Volume 66, Chapter 92, Laws of Delaware by deleting "Twenty Million Dollars (\$20,000,000)" and insert in lieu thereof "Twenty Million Four Hundred Sixty Thousand Dollars (\$20,460,000)".

(b) Also in Section 15(b), Volume 66, Chapter 92, Laws of Delaware delete "Five Million Five Hundred Eleven Thousand Dollars (\$5,511,000)" wherever it appears and insert in lieu thereof "Five Million Nine Hundred Seventy-One Thousand Dollars (\$5,971,000)".

Section 9. Transportation Projects.

(a) Amend the "Fiscal Year 1988 Capital Improvements Project Schedule" contained in Volume 66, Chapter 92, Laws of Delaware by deleting the figure "2,249,000" under "DTA Road Improvement" and within the agency "Department of Transportation" for the program "Pave. & Rehab. [4R](64/00)" and insert in lieu thereof the figure "280,500". Also within the agency "Department of Transportation" and for the program "Pave. & Rehab. [4R](64/00)" under "New G.O. Bond Authorizations", delete the figure "-0-" and insert in lieu thereof the figure "1,968,500*".

(b) Amend the "Fiscal Year 1988 Capital Improvements Project Schedule" contained in Volume 66, Chapter 92, Laws of Delaware by deleting the figure "1,968,500*" under "New G.O. Bond Authorizations" and within the agency "Department of Transportation" for the program "Maintenance (68/00)" and insert in lieu thereof the figure "-0-". Also within the agency "Department of Transportation" and for the program "Maintenance (68/00)" under "DTA Road Improvement", delete the figure "31,500" and insert in lieu thereof the figure "2,000,000".

(c) Amend the "Fiscal Year 1988 Capital Improvements Project Schedule" contained in Volume 66, Chapter 92, Laws of Delaware by deleting the figure "\$133,045,056" after "Grand Total" and insert in lieu thereof the figure "\$133,046,056".

Section 10. Correctional Facilities.

(a) Amend Volume 65, Chapter 385, Laws of Delaware by deleting the initials "DCC-" contained within the "Fiscal Year 1987 Capital Improvements Project Schedule" before the phrase "150 Bed Women's Facility", for the "Department of Correction".

(b) Also amend Volume 65, Chapter 385, Laws of Delaware by deleting the figure "900,000", contained within the "Fiscal Year 1987 Capital Improvements Project Schedule" after the phrase "DCC-150 Bed Women's Facility" under the "New G.O. Bond Authorizations" for the "Department of Correction" and insert in lieu thereof the figure "525,000".

(c) Also amend Volume 65, Chapter 385, Laws of Delaware by deleting the figure "\$400,000", contained within the "Fiscal Year 1987 Capital Improvements Project Schedule" after the phrase "200 Bed Minimal Security Facility - Sussex" under the "New G.O. Bond Authorizations" for the "Department of Correction" and insert in lieu thereof the figure "775,000".

Section 11. First State Improvement Fund. Amend Section 5082(c), Title 29 of the Delaware Code by deleting the last two sentences of said subsection and inserting in lieu thereof the following: "Funds so encumbered and disbursed shall be recorded by the State Treasurer in the same manner as projects authorized to be completed by the State with the proceeds of bonds. To the extent cash available in the Fund is insufficient to pay the costs of projects authorized for expenditure from the Fund, funds may be advanced from either the Capital Improvement Fund or the General Fund, subsequently reimbursed as the Fund's invested monies become available."

Section 12. Christina Boat Ramp. Amend Section 39, Volume 66, Chapter 92, Laws of Delaware by deleting the figures "40-05-02-5514" and insert in lieu thereof the figures "40-05-02-5613".

Section 13. Shoreline Stabilization.

(a) Amend Section 38(a), Volume 65, Chapter 212, Laws of Delaware by deleting "Five Hundred Thousand Dollars (\$500,000)" wherever it appears in said Section and inserting in lieu thereof "Two Hundred Twenty Thousand Dollars (\$220,000)".

(b) Amend the Fiscal Year 1986 Capital Project Schedule contained in Volume 65, Chapter 212, Laws of Delaware by deleting "500,000" listed under "All Other Funds" and "Total Funds" under the "Department of Natural Resources and Environmental Control" for the "Shoreline Stabilization - Indian River Inlet" project and inserting in lieu thereof "220,000".

Section 14. Bypass System - Indian River Inlet.

(a) Amend the Fiscal Year 1986 Capital Projects Schedule contained in Volume 65, Chapter 212, Laws of Delaware by deleting the figure "0" listed under "All Other Funds" under the "Department of Natural Resources and Environmental Control" for the "Bypass System - Ind. River Inlet" project and inserting in lieu thereof the figure "280,000". Also amend the Fiscal Year 1986 Capital Projects Schedule contained in Volume 65, Chapter 212, Laws of Delaware by deleting the figure "320,000" listed under "Total Funds" under the "Department of Natural Resources and Environmental Control" for the "Bypass System - Ind. River Inlet" project and inserting in lieu thereof the figure "600,000".

Approved February 2, 1988.

CHAPTER 207

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 391
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2
AND SENATE AMENDMENT NOS. 1, 2, 3 AND 4

AN ACT TO AMEND TITLE 9, CHAPTERS 26, 49, AND 69, DELAWARE CODE RELATING TO COUNTIES AND COMPREHENSIVE PLANNING AND LAND DEVELOPMENT.

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

Section 1. Amend Chapter 26, 49 and 69 of Title 9 of the Delaware Code by a new sub-heading at the beginning of said Chapters to read "Subchapter I" and by adding a new Subchapter II being new Sections 2651 through 2657, Sections 4951 through 4957, and Sections 6951 through 6957 to Chapter 26, 49 and 69 respectively of Title 9 of the Delaware Code which shall read as follows:

"SUBCHAPTER II. THE QUALITY OF LIFE ACT

§01. Short Title; Intent and Purpose

This Chapter shall be known and may be cited as the Quality of Life Act of 1988. It is the purpose of this Act to utilize and strengthen the existing role, processes, and powers of County governments in the establishment and implementation of comprehensive planning programs to guide and control future development. It is the intent of this Act to encourage the most appropriate use of land, water, and resources, consistent with the public interest and to deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of County government can preserve, promote, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

It is also the intent of this Act to encourage and assure cooperation between and among municipalities, counties and the State and to encourage and assure coordination of planning and development activities of units of County government, municipalities, regional agencies and state government in accord with applicable provisions of law. A growth management plan or policy plan that meets the standards and requirements of this Act shall be an acceptable comprehensive plan. The land use map or map series forming part of the comprehensive plan as required by this Act shall have the force of law, and no development, as defined in this Act, shall be permitted except in conformity with the land use map or map series and with County land development regulations enacted to implement the other elements of the adopted comprehensive plan.

§51. Definitions

(1) 'Area' or 'area of jurisdiction' means the total area qualifying under the provisions of this Act, being all unincorporated lands within a county.

(2) 'Comprehensive plan' or 'comprehensive development plan' shall mean, from and after the respective dates by which the counties must be in compliance with this Act, a plan that meets the requirements of this Act. Wherever in this chapter land use regulations are required to be in accordance with the comprehensive plan, such requirements shall mean only that such regulations must be in conformity with the applicable maps or map series of the comprehensive plan. Whenever in this chapter land use orders, permits, or zoning district changes are required to be in accordance with the comprehensive plan, such requirements shall mean only that such orders, permits, and changes must be in conformity with the map or map series of the comprehensive plan and county land use regulations enacted to implement the other elements of the adopted comprehensive plan.

(3) 'County' means Kent, New Castle, or Sussex County.

(4) 'Developer' means any person, including a governmental agency, undertaking any development as defined in this Act.

(5) 'Development' means any construction or reconstruction of any new or existing commercial or residential building(s) or structure(s) upon lands which are not owned by the State or its agencies or its political subdivisions, or are not within the jurisdictional control of the State or its agencies or its political subdivisions.

(6) 'Development order' means any order granting, denying, or granting with conditions an application for a development permit.

(7) 'Development permit' includes any building permit, zoning permit, subdivision approval, rezoning, certificate of occupancy, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

(8) 'Governing body' means the chief governing body of County government, however designated, or the combination of such bodies where joint utilization of the provision of this Act is accomplished as provided herein.

(9) 'Governmental agency' means:

(a) The United States or any department, commission, agency, or other instrumentality thereof.

(b) This State or any department, commission, agency, or other instrumentality thereof.

(c) Any local government, as defined in this Section, or any department, commission, agency, or other instrumentality thereof.

(d) Any school board or other special district, authority, or governmental entity.

(10) 'Land' means the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

(11) 'Land use' means the development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under an adopted comprehensive plan.

(12) 'Local government' means any municipality.

(13) 'Local planning agency' means the agency designated to prepare the comprehensive plan required by this Act.

(14) A 'newspaper of general circulation' means a newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

(15) 'Parcel of land' means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer as land to be used, or developed, as a unit or which has been used or developed as a unit.

(16) 'Person' means an individual, corporation, governmental agency, business trust, estate/trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(17) 'Public notice' or 'due public notice' as used in connection with the phrase 'public hearing', 'hearing to be held after due public notice' or 'public meeting' means publication of notice of the time, place, and purpose of such hearing at least twice in a newspaper of general circulation in the area.

(18) 'Land development regulation commission' means a commission designated by a County government to develop and recommend, to the local governing body, land development regulations which implement the adopted comprehensive plan and to review land development regulations, or amendments thereto, for consistency with the adopted plan and to report to the governing body regarding its findings. The responsibilities

of the land development regulation commission may be performed by the local planning agency.

(19) 'Land development regulations' means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any County government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.

(20) 'Public facilities' means major capital improvements over which the county has jurisdiction.

§52. Scope of Act

(1) Counties shall have power and responsibility:

(a) To plan for their future development and growth.

(b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future developments and growth.

(c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.

(d) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this Act.

(2) Each County government shall prepare a comprehensive plan of the type and in the manner set out in this Act or amend its existing comprehensive plan to conform to the requirements of this Act.

§53. Areas under this Act

A county shall exercise authority under this Act for the total unincorporated area under its jurisdiction.

§54. Local planning agency

(1) The governing body of each County government shall designate and by ordinance establish a 'local planning agency'. The governing body may designate itself as the local planning agency pursuant to this subsection. The local planning agency shall prepare the comprehensive plan after meetings to be held after due public notice and shall make recommendations regarding the adoption of such plan or element or portion thereof. The agency may be a local planning commission, the planning department of the County government, or other instrumentality, including a countywide planning entity established by special act or council of local government officials, provided the composition of the council is fairly representative of all the governing bodies in the county.

(2) The governing body or bodies shall appropriate funds for salaries, fees, and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purpose and activities authorized by this Act, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(3) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan and shall make recommendations regarding the adoption of such plan or element or portion thereof consistent with existing county laws or regulations. During the preparation of the plan, and prior to any recommendation for adoption, the local planning agency shall hold at least one public hearing or public meeting, on the proposed plan or element or portion thereof. The local planning agency, may designate any agency, committee, department, or person to prepare, revise, monitor and oversee the effectiveness and status of the comprehensive plan or any element thereof. Prior to adoption of the proposed comprehensive plan, the governing body shall hold at least one public hearing, with due public notice, on the proposed plan or element thereof. Final recommendation of the adoption of such plan to the

governing body shall be in accordance with existing County procedures, or absent such procedures, shall be the responsibility of the local planning agency.

(b) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan.

(c) Perform any other functions, duties, and responsibilities assigned to it by the governing body or special law.

§55. Required and optional elements of comprehensive plan; studies and surveys

(1) The comprehensive plan shall consist of materials in such descriptive form, either written or graphic, as may be appropriate to the prescription of principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area.

(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process.

(3) A capital improvements plan covering at least a five year period shall be developed in accordance with the adoption of, and be consistent with, the comprehensive plan. The capital improvements plan shall be designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

(a) Principles for construction, extension, or increase in capacity of public facilities, as well as principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan.

(b) Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.

(c) Standards to ensure the availability of public facilities and the adequacy of those facilities.

(d) The capital improvements plan shall be reviewed on an annual basis and modified as necessary. Corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications which are consistent with the plan; or the date of construction of any facility enumerated in the capital improvements plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All proposed improvements to public facilities shall be consistent with the capital improvements plan.

(4) Coordination of the comprehensive plan with the comprehensive plans of municipalities within the county, adjacent counties, and applicable state regulations and policy shall be an objective of the comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the planning agency shall include a specific policy statement or coordinated mapping element indicating the relationship of the proposed development of the area to the comprehensive plans of municipalities within the county, adjacent counties, and applicable state regulations and policy as the case may require.

(5) The comprehensive plan and its elements shall contain policy recommendations for the implementation of the plan and its elements

(6) The comprehensive plan shall include.

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected

population of the area; the character of undeveloped land; the availability of public services. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this Act. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection.

(b) A circulation element which examines transportation routes and has been received and reviewed by the Department of Transportation. The element shall contain a map series depicting the locations of existing and proposed major thoroughfares and transportation routes as proposed by the Delaware Department of Transportation's long-range plan.

(c) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County government, in conjunction with the state, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element should be consistent with approved areawide wastewater treatment plans.

(d) A conservation element for the conservation, use, and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, wood uplands, habitat areas, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils, and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable State laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate.

(e) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces, and other recreational facilities. A County recreation and open space plan is acceptable in lieu of a recreation and open space element. Said County recreation and open space plan should be consistent, however, with the comprehensive land use plan.

(f) A housing element that is consistent with County housing plans, standards, and principles. Such housing plans shall be in accordance with State and Federal rules and regulations and the housing plan or housing element of the Comprehensive Plan shall include the following:

(1) The provision of housing for existing residents and the anticipated growth of the area.

(2) The elimination of substandard dwelling conditions.

(3) The structural and aesthetic improvement of existing housing.

(4) The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.

(5) Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.

(6) The formulation of housing implementation programs.

(g) An intergovernmental coordination element of the comprehensive plan shall demonstrate consideration of the particular effects of the plan, when adopted, upon the development of municipalities within the county, adjacent counties, or on the applicable state regulations.

(8) The comprehensive plan may include the following additional elements, or portions or phases thereof:

(a) A public buildings and related facilities element showing locations and arrangements of civic and community centers, public schools, hospitals, libraries, police and fire stations, and other public buildings. This plan element should show particularly how it is proposed to effect coordination with governmental units, such as school boards or hospital authorities, having public development and service responsibilities, capabilities, and potential but not having land development regulatory authority. This element may include plans for architecture and landscape treatment of their grounds.

(b) A recommended community design element which may consist of design recommendations for land subdivision, neighborhood development and redevelopment, design of open space locations, and similar matters to the end that such recommendations may be available as aids and guides to developers in the future planning and development of land in the area.

(c) A general area redevelopment element consisting of plans and programs for community redevelopment, including housing sites, business and industrial sites, public buildings sites, recreational facilities, and other purposes authorized by law.

(d) A safety element for the protection of residents and property of the area from fire, hurricane, or man-made or natural catastrophe, including such necessary features for protection as evacuation routes and their control in an emergency, water supply requirements, minimum road widths, clearances around the elevations of structures, and similar matters.

(e) A historical and scenic preservation element setting out plans and programs for those structures of lands in the area having historical, archaeological, architectural, scenic, or similar significance.

(f) An economic element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and manpower utilization within the area. The element may detail the type of commercial and industrial development sought, correlated to the present and projected employment needs of the area and to other elements of the plans, and may set forth methods by which a balanced and stable economic base will be pursued.

(g) A mass transit element showing proposed methods for the moving of people, rights-of-way, existing and proposed rail facilities, terminals, related facilities, and fiscal considerations for the accomplishment of the element.

(h) Such other elements as may be peculiar to, and necessary for, the area concerned and as are added to the comprehensive plan by the governing body upon the recommendation of the local planning agency.

(9) All elements of the comprehensive plan shall be based upon data appropriate to the element involved. State agencies shall provide to each County upon request existing data or information necessary to expedite the development and preparation of the comprehensive plan and elements of this section. Surveys and studies utilized in the preparation of the comprehensive plan shall not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys, and supporting documents shall be made available to public inspection, and shall be made available to the public upon payment of reasonable charges for reproduction. The county shall be relieved of any requirement to comply with the data and information requirements of this Act when the State is unable to supply the necessary data and information to implement that requirement, except when such data or information is currently available or readily accessible to the County within budgetary limitations.

§56. Evaluation and appraisal of comprehensive plans

(1) The planning programs shall be a continuous and ongoing process. The local planning agency shall prepare periodic reports on the comprehensive plan, which shall be sent to the Cabinet Committee on State Planning Issues once every two (2) years after the adoption of the comprehensive plan. The Cabinet Committee and its Advisory Panel shall meet no later than six months after receipt of such reports to consider land use trends and changing conditions as they impact upon existing pertinent County and State policies. It is the intent of this Act that periodic updates on amendments to and the implementation of adopted comprehensive plans be communicated through the evaluation and appraisal reports to ascertain trends, monitor implementation and foster on-going coordination.

(2) The report shall present an assessment and evaluation of the success or failure of the comprehensive plan or element or portion thereof, and shall contain appropriate statements (using words, maps, illustrations, or other forms) related to:

(a) The major problems of development, physical deterioration, and the location of land uses and the social and economic effects of such uses in the area.

(b) The condition of each element in the comprehensive plan at the time of adoption and at date of report.

(c) The comprehensive plan objectives as compared with actual results at date of report.

(d) The extent to which unanticipated and unforeseen problems and opportunities occurred between date of adoption and date of report.

(3) The report shall include reformulated objectives, policies, and standards in the comprehensive plan or elements or portions thereof.

§57. Legal status of comprehensive plan

(a) After a comprehensive plan or element or portion thereof has been adopted by County Council or Levy Court in conformity with this Act, the land use map or map series forming part of the comprehensive plan as required by this Act shall have the force of law, and no development, as defined in this Act, shall be permitted except in conformity with the land use map or map series and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.

(b) Nothing in this Act shall serve to invalidate any comprehensive plan, land development regulation, land use, development, development order or development permit which presently exists or which hereafter validly comes into existence prior to the date when full compliance with this Act is required.

(c) Any application for a development permit filed or submitted prior to adoption or amendment under this Act of a comprehensive plan or element thereof shall be processed under the comprehensive plan, ordinances, standards and procedures existing at the time of such application.

(d) All development permits and development orders heretofore or hereafter validly issued or approved by County government and not thereafter limited, rescinded or restricted shall automatically be incorporated into and become part of the present and all future comprehensive plans, subject to whatever time limitations may otherwise apply to such permits and orders at the time of issuance or approval.

(e) In the event that any comprehensive plan or element required to comply with this Act shall be determined as failing to comply, herewith, such failure shall not invalidate those elements of the plan which do comply with the Act, nor invalidate any previously issued development permit or order that was not specifically and timely challenged in the legal action in which such non-compliance was determined."

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved February 3, 1988.

CHAPTER 208

FORMERLY

SENATE BILL NO. 307

AN ACT TO RETROACTIVELY EXTEND COVERAGE OF LINE-OF-DUTY DEATH BENEFITS UNDER THE PROVISIONS OF CHAPTER 66, TITLE 18 OF THE DELAWARE CODE, TO SURVIVORS OF DAVID L. WELCH, SR. AND ROBIN S. FULMER.

WHEREAS, David L. Welch, and Robin S. Fulmer, Department of Transportation Surveyors, were struck by a motor vehicle and killed on July 31, 1987, while routinely working in the median of U. S. Route 13 south of Dover; and

WHEREAS, their exposure to hazards during the normal course of work was no less than that of presently listed "covered persons" under Line-of-Duty Death Benefits provided by Chapter 66, Title 18 of the Delaware Code; and

WHEREAS, it would be only just and equitable to provide their survivors with equal Line-of-Duty Death Benefits as would be afforded to those of "covered persons".

NOW, THEREFORE:

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

Section 1. David L. Welch, Sr. and Robin S. Fulmer, deceased employees of the Department of Transportation, are hereby included under the definition of "covered person" as described in §6601(1) of Chapter 66, Title 18 of the Delaware Code.

Approved February 5, 1988.

CHAPTER 209

FORMERLY

SENATE BILL NO. 258

AN ACT TO AMEND CHAPTER 47, PART IV, TITLE 29 OF THE DELAWARE CODE RELATING TO MEDICAL EXAMINERS.

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 §4708, Chapter 47, Part IV, Title 29 of the Delaware Code by striking the title to said section, and substituting in lieu thereof the following:
"§4708. Power to administer oaths and issue subpoenas."

Section 2. Amend §4708, Chapter 47, Part IV, Title 29 of the Delaware Code by adding, at the end of said section, the following sentence:

"The Chief Medical Examiner, or in his/her absence, Assistant Medical Examiners or Deputy Medical Examiners, shall have the power to issue subpoenas."

Section 3. Amend Chapter 47, Part IV, Title 29 of the Delaware Code by re-designating present §4708 as new §4709, and by re-designating each succeeding section accordingly.

Section 4. Amend Chapter 47, Part IV, Title 29 of the Delaware Code by adding thereto a new section, designated as §4708, which new section shall read as follows:

"§4708. The Forensic Sciences Laboratory.

The Forensic Sciences Laboratory is established and operational within the office of the Chief Medical Examiner. The Chief Medical Examiner functions as the Director of the Forensic Sciences Laboratory."

Approved February 5, 1988.

CHAPTER 210

FORMERLY

SENATE BILL NO. 34
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE SUSSEX COUNTY COUNCIL TO AMEND A PENSION BENEFIT TO A FORMER SPECIFIC EMPLOYEE.

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

Section 1. The Sussex County Council is hereby authorized to determine that Etta Mae Richardson is eligible for a pension benefit as if she were eligible pursuant to Chapter 64, Title 9, Delaware Code, prior to its repeal.

Section 2. This Act shall become effective July 1, 1987.

Approved February 5, 1988.

CHAPTER 211

FORMERLY

SENATE BILL NO. 283

AN ACT TO AMEND CHAPTER 5, TITLE 29, DELAWARE CODE RELATING TO DELAWARE PUBLIC RECORDS LAW.

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

Section 1. Amend Chapter 5, Title 29, Delaware Code by striking current subchapters I and II excepting §506 and §508, which shall be moved to new subchapter II and designated §558 and §559 respectively, enacting a new subchapter I titled Public Records, and thereby redesignating present subchapters III and IV as new subchapters II and III. New subchapter I to read as follows:

"§501. Statement of legislative intent; short title

The General Assembly finds that public records are essential to the administration of state and local government. Public records contain information which allows government programs to function, provide officials with a basis for making decisions, and ensure continuity with past operations. Public records document the legal responsibility of government, protect the rights of citizens, and provide citizens with a means of monitoring government programs and measuring the performance of public officials. State and local government records also reflect the historical development of the government and of the citizens which it serves. Such records need to be systematically managed to ensure preservation of historically valuable materials, to provide ready access to vital information, and to promote the efficient and economical operation of government.

The General Assembly intends by this act to establish a single body of law applicable to all public officers and employees on the subject of public records management and preservation and to ensure that the procedures used to manage and preserve public records will be uniform throughout the State.

This subchapter may be cited as the Delaware Public Records Law.

§502. Definitions

As used in this Chapter, the following terms shall have the meanings indicated:

(a) 'Public record' means any document, book, photographic image, electronic data recording, paper, sound recording or other material regardless of physical form or characteristics, made or received pursuant to the law or ordinance in connection with the transaction of public business by any officer or employee of this State or any political subdivision thereof.

(b) 'Political subdivision' includes counties, cities, towns, districts, authorities and other public corporations and entities whether mandated by constitution or formed by an act of the General Assembly.

(c) 'Local government' means any county, city, town, municipality, or other government, created by an act of the General Assembly, that is not a state agency, department, board, or commission.

(d) 'Governing body' means the county council, levy court, city or town council, board, or commission, or other body authorized by law to govern the affairs of a local government.

(e) 'Agency' shall mean any office, department, board, commission, or other separate unit of government of this State, including all branches of government: executive, legislative and judicial.

(f) 'State archives and records program' shall mean the agency administered by the Department of State, whose primary responsibilities include the implementation and enforcement of the provisions of this Chapter.

(g) 'Records retention and disposition schedule' means a list or other instrument describing records and their minimum retention periods which is issued by the Department of State.

(h) 'Records officer' is any person or persons designated according to the provisions of this Chapter, whose responsibilities include the development and oversight of records management programs.

(i) 'State Archives' is to be the repository for the historical records of this State and all political subdivisions thereof.

(j) 'Historical records' are those records that contain significant information about the past and present and are therefore worthy of long-term preservation and systematic management for historical and other research.

(k) 'Vital records' are those records which contain information required to continue functioning during a disaster, or to reestablish operations after a calamity has ended. They must be protected from destruction because they offer direct evidence of legal status, ownership, accounts receivable, and the particulars of obligations incurred by governments. Vital records provide accountability and establish the policies which direct the operation of government.

(l) 'Custodian of public records' is the person designated, pursuant to Section 520, or who is otherwise responsible for the creation or maintenance of public records.

§503. Duties of the Department of State concerning public records

The Department of State, also referred to in this Chapter as the 'Department', through the State archives and records program, shall be responsible for establishing and enforcing the policies and guidelines for the management and preservation of all public records of this State and the political subdivisions thereof.

The Department shall have the power, duty and authority to:

(1) Establish and administer an archives and records management program for the application of efficient and economical methods to the creation, utilization, maintenance, retention, preservation, and disposal of public records.

(2) Analyze, develop, establish, and coordinate standards, procedures, and techniques of record-making and record-keeping.

(3) Preserve and administer in the State Archives such records as may be transferred into its custody, carefully protecting such materials, and filing, classifying and cataloguing them for use. Provided, that any materials placed in the keeping of the Department under special terms or conditions restricting their use shall be made accessible only in accordance with such terms or conditions.

(4) Initiate appropriate action to recover records removed unlawfully or without authorization.

(5) Establish a centralized micrographics program for the benefit of all agencies, at the full cost of such goods and services, in accordance with §6531 of this title.

(6) Institute and maintain a training and information program in records and information management to bring approved and current practices, methods, procedures, and devices for the efficient and economical management of records to the attention of all agencies and political subdivisions.

(7) Establish and maintain a program in cooperation with state agencies and the political subdivisions of this State for the selection and preservation of vital records, or those records which are considered essential to the continuing operation of government and to the protection of the rights and privileges of citizens.

(8) Promulgate, following consultation with state agencies, the political subdivisions of this State, and State and Local Records Commissions, such rules and regulations as may be necessary to carry out the purposes of this Chapter.

§504. Duties of public officials and employees concerning public records

(a) It shall be the responsibility of every public official and employee to adequately document the transaction of public business and the services and programs for which such persons are responsible; to retain and adequately protect all public records in their custody; to cooperate with the Department, State and Local Government Records

Commissions and records officers in the establishment and maintenance of an active and continuous program for the economical and efficient management of public records.

(b) No officer, member or employee of any agency of this State or any political subdivision thereof shall destroy, sell or otherwise dispose of any public record or printed public document or official correspondence in his care or custody or under his control without first having advised the Department of State of their nature and obtained its consent.

§505. Storage and protection of public records

(a) All public records of this State and the political subdivisions thereof shall be kept in facilities maintained by the agencies and offices responsible for the creation and maintenance of such records, unless the consent of the Department is obtained to their transfer or storage elsewhere.

(b) The chief administrative officer responsible for maintaining an office or offices wherein public records are created or kept shall establish such safeguards against damage, removal or loss of records as he shall deem necessary and as may be required by rules and regulations issued under authority of this Chapter. Such safeguards shall include but are not limited to notifying all officials and employees of the requirements and penalties of this Chapter.

§506. Delivery of records to successors

The custodian of any public records shall, at the expiration of his term of office, appointment or employment, deliver custody and control of all public records kept or received by him in the transaction of his official business to his successor, supervisor, or records officer, or, if there be none, to the Department of State.

§507. Preservation of plans of State buildings and public works

(a) Complete copies of as-built drawings and specifications for all buildings and other public works that are built on state property, including alterations thereto, shall be deposited with the Department for preservation and safekeeping in the State Archives.

(b) The Department of Administrative Services shall not approve final payment for any construction project until permanent archival-quality copies of the architectural and engineering drawings have been deposited with the Department of State.

§508. Deposit of deeds to State-owned property with Department

All State agencies shall deposit with the Department of State for preservation and safekeeping in the State Archives the original deeds to all state-owned property. The Department shall give a receipt for each deed received in its custody.

§509. Duty of public officials to consult Department of State before repairing records

All public officials of this State and the political subdivisions thereof shall consult with the Department of State regarding proper methods and materials before undertaking the repair or restoration of any public record.

§510. Transfer of records upon termination of State agencies; political subdivisions

(a) All public records which are in or shall come into the possession of any State agency shall, upon termination of such agency, be transferred to the custody of the Department of State, provided that such transfer is consistent with the provision of any such termination.

(b) All public records which are in or shall come into the possession of any political subdivision of this State shall, upon termination or revocation of the charter of such political subdivision, be transferred to the custody of the Department of State.

§511. Certified copies of records delivered to Department for preservation

The Department of State may issue certified copies of any public records in its custody, as provided by §10003 of this code, subject to restrictions listed in §10002, which certified copies shall be admissible in evidence in any court of justice in the same manner and entitled to the same weight as certified copies made by the official from whose office such records were received.

§512. Transfer of records to the State Archives

(a) The Department may select and transfer to the State Archives such public records which it deems to be of an historical or public interest and which now are, or shall hereafter be, in the custody of any public official of this State or any political subdivision thereof. Selection and transfer shall be based upon terms and conditions established in the Department's approved records retention and disposition schedules, and according to the rules and regulations established pursuant to the provisions of this Chapter.

(b) The Department shall provide written notice a minimum of ten working days prior to such transfers, unless there is immediate, actual or threatened damage, loss, or destruction of public records, in which case, such transfer may be without notice.

§513. Acquisition and custody of federal records; access by federal employees

(a) The Department may acquire and take into its protective custody such public records in the custody of the government of the United States as may relate to the State. The provisions of this section have particular reference to the selective service records pertaining to Delaware, but early naturalizations, court proceedings and similar records may be acquired at the discretion of the Department or its qualified agent.

(b) Agents of the Federal Bureau of Investigation are assured access to such federal records which may be transferred under this section and the Department of State shall grant access to such records to other qualified federal employees upon presentation of proper identification.

§514. Inspection by Department of public records

For the purpose of this Chapter all custodians of public records of this State and the political subdivisions thereof shall, upon the request of the Department, afford to it all proper and reasonable access to and examination of all public records in their custody.

§515. Microfilming services; appropriations and expenditures

(a) All General Fund appropriations authorized by the State's annual budget for central microfilming services identified within each agency budget should be credited by the Secretary of Finance to Central Microfilm Services Unit of the Bureau of Archives and Records Management, Division of Historical and Cultural Affairs.

(b) No expenditure in addition to those set forth in memorandum form and credited to the Central Microfilm Services Unit as provided for in subsection (a) of this section may be used for the development, implementation or maintenance of microfilm programs or projects without the prior written approval of the Bureau of Archives and Records Management, Division of Historical and Cultural Affairs. Any programs and projects in operation must adhere to standards established by the Bureau to allow for ongoing program expenditures.

(c) Any program or function of any State agency which is funded by federal or other special funds, or any local government, which requires microfilm services, must include provisions for the anticipated cost of such services and payment thereof must be made by such agencies to the Central Microfilm Services Unit of the Bureau of Archives and Records Management, Division of Historical and Cultural Affairs. (Code 1935, §1090B; 42 Del. Laws, c. 96, §4; 29 Del. C. 1953, §3330; 57 Del. Laws, c. 608, §51B, 1J; 65 Del. Laws, c. 348, §99.)

§516. Responsibility of Department concerning records created or reproduced by photographic or microphotographic means; admissibility of photographic copies of records in evidence

The Department shall be responsible for monitoring the use of photographic or microphotographic processes in the creation or duplication of public records. The Department shall enforce compliance with approved procedures and standards of quality, to be established by the Department pursuant to the provisions of this Chapter, regarding creation and storage of public records by microphotography or other means. Destruction of original records which have been duplicated in this manner shall require the prior approval of the Department of State. Photographs, photocopies or microphotographs of any record photographed, photocopied or microphotographed as provided in this Chapter shall have the same force and effect as the originals thereof would have had and shall be treated as originals for the purpose of their admissibility

In evidence. Certified or authenticated copies of such photographs, photocopies or microphotographs or enlargements thereof shall be admitted in evidence equally with the original photographs, photocopies or microphotographs.

§517. Standards for methods and materials used for public records

(a) All custodians of public records of this state and the political subdivisions thereof, whose duty it shall be to create any public record required by law, shall not use or permit to be used for recording purposes, any materials or methods which do not meet standards of quality established by the Department.

(b) The Department of State may require that certain records shall be kept on permanent-durable paper. The Department may require the microfilming of records that are not produced on permanent-durable paper.

(c) The Department shall make available, upon request, its standards of quality for methods and materials.

§518. Recovery of records; replevin

(a) The chief administrative officer of each State agency and political subdivision of this State shall notify the Department of State of any actual, impending or threatened unlawful removal, defacing, alteration or destruction of records that shall come to his or her attention, and with the assistance of the Department shall initiate action through the Attorney General for recovery of such records as shall have been unlawfully removed and for such other redress as may be provided by law.

(b) Upon the request of the Department, the Attorney General shall have the authority to enjoin, recover and replevin any public records which have been unlawfully transferred or removed in violation of Title 29, Chapter V, Subchapter I of this code or otherwise transferred or removed unlawfully through whatever means of equitable relief necessary. Such records shall be returned to the office of origin.

§519. State Archives to be depository for reports, publications; rules and regulations

(a) The State Archives is hereby constituted the central depository for the reports, publications, rules and regulations of the governments of this State and all political subdivisions thereof. It shall be the duty of all State agencies and political subdivisions of this State to deposit with the State Archives--two copies of the best edition of all reports and publications issued for general public distribution. Said deposit shall also include two complete and current sets of respective rules and regulations and any changes as they occur.

(b) The Department of State shall have the authority to determine whether or not any of said publications lack sufficient information for retention as research materials, and it may request the publishing agency to discontinue depositing such publications with the Department. The Department of State may preserve microfilm copies of any publications deposited for preservation, and may destroy the originals after certified microfilm copies have been made and preserved. (29 Del. C. 1953, §3309; 51 Del. Laws, c. 207; 57 Del. Laws, c. 608, §§18, 1E, 1F; 62 Del. Laws, c. 327, §2.)

§520. Custodian designated

(a) The chief administrative officer or officers charged by law with the responsibility of maintaining offices having public records shall be the official custodian of such public record.

§521. Appointment of records officers

(a) Each state agency and political subdivision of this State shall designate as many as appropriate, but at least one, records officer to serve as liaison with the State Archives and records program for the purpose of implementing and overseeing a records management program, coordinating legal disposition, including destruction of obsolete records

(b) Appointment of State agency records officers shall be made by the respective heads of each agency.

(c) Appointment of records officers for the political subdivisions of this State shall be made by the chief administrative official of such political subdivision.

§522. State Records Commission; creation, purpose, and function

(a) There is hereby created a State Records Commission, composed of the Secretary of State, who shall serve as chairman, the Secretary of Administrative Services, the Attorney General, the Auditor of Accounts, the Director of the State Budget Office, the Chief Justice of the State Supreme Court, the Chairman of the Senate Executive Committee, the Chairman of the House Administration Committee, two public members to be appointed by the Governor to serve at his pleasure, and the head of the State archives and records program, who shall serve as secretary of the commission. Any member of the commission may designate a substitute.

(b) The Commission shall advise the Department of State concerning State government records retention and disposition, policies and procedures, rules and regulations, and State services needed to assist or advise State agencies concerning the management and preservation of public records.

(c) The Commission shall meet at least once every year, and upon the call of the chairman.

§523. Local Records Commission; creation, purpose, and function

(a) There is hereby created a Local Records Commission which shall consist of elected, administrative, legal, and fiscal officials of county and municipal governments, representatives of local government associations, other users of local government records, and public members, all of whom shall be appointed by the Governor to serve at his pleasure. There shall be ten members of this commission in addition to the head of the State archives and records program who shall also be a member and serve as chairman and secretary of the commission. Any member of the commission may designate a substitute.

(b) The commission shall advise the Department of State concerning local government records retention and disposition, policies and procedures, rules and regulations, and State services needed to assist or advise local governments concerning the management and preservation of public records.

(c) The commission shall meet at least once every year, and upon the call of the chairman.

§524. Records retention and disposition schedules

The Department of State shall, after consultation with appropriate State agencies, political subdivisions of this State, and State and Local Records Commissions, establish records retention and disposition schedules setting forth the minimum length of time that records need to be retained. If any law specifically provides a retention period different from that established by the records retention and disposition schedule established herein, the retention period established by law shall govern.

§525. Penalties

Willful failure to comply with sections 504, 507, 508, 509, 511, 512, 514, and 517, by any person, shall subject that person to a fine of not less than \$100.00 for each conviction.

Approved February 5, 1988.

CHAPTER 212

FORMERLY

SENATE BILL NO. 321

AN ACT TO AMEND CHAPTER 85, VOLUME 66, LAWS OF DELAWARE, BEING HOUSE BILL NO. 350 OF THE 134TH GENERAL ASSEMBLY, AND BEING AN ACT ENTITLED, "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1988; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BY MAKING ADDITIONS, DELETIONS AND ADJUSTMENTS.

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

Section 1. Amend Chapter 85, Volume 66 Laws of Delaware, being House Bill No. 350 of the 134th General Assembly, by adding a new section to read as follows:

"Section 285. The provisions of Delaware Code, Title 14, Chapter 17, to the contrary notwithstanding, for the Fiscal Year ending June 30, 1988, the State Board of Education is authorized and directed to allocate the State Share of Division III, Equalization Funds to school districts and special schools as follows:

95-01-10 Caesar Rodney School District	\$ 2,551,650
95-01-11 John S. Charlton School	166,792
95-01-13 Capital School District	1,998,981
95-01-15 Lake Forest School District	1,549,190
95-01-16 Laurel School District	920,115
95-01-17 Cape Henlopen School District	303,886
95-01-18 Milford School District	1,507,436
95-01-23 Seaford School District	1,662,804
95-01-24 Smyrna School District	1,277,043
95-01-24 Appoquinimink School District	1,091,885
95-01-31 Brandywine School District	1,667,700
95-01-32 Red Clay Consolidated School District	2,144,575
95-01-33 Christina School District	2,436,150
95-01-34 Colonial School District	1,430,625
95-01-35 Woodbridge School District	841,229
95-01-36 Indian River School District	\$ 390,375
95-01-37 Delmar School District	259,735
95-01-38 New Castle County Vo-Tech School District	782,739
95-01-39 Kent County Vo-Tech School District	259,232
95-01-40 Sussex County VOTECH School District	112,627

95-01-43 Howard T. Ennis School	32,625
95-01-51 Margaret Sterck School	65,400
95-01-52 Charles W. Bush School	29,975
95-01-53 John G. Leach School	49,050
95-01-54 Meadowood School	46,325
95-01-55 Wallin School	54,500
95-01-56 Douglass School	21,800
95-01-57 Brandywine Intensive Learning	103,550
95-01-58 Red Clay Intensive Learning	106,275
95-01-59 Christina - Intensive Learning	155,325
95-01-60 Christina - Autistic School	<u>46,325</u>
Total	\$ 24,066,099"

Section 2. Amend Chapter 85, Volume 66, Laws of Delaware, being House Bill No. 350 of the 134th General Assembly, by adding a new section to read as follows:

"Section 286. Equalization Funds appropriated under Delaware Code, Title 14, Section 1716D for the Education Refinement Program in the Fiscal Year ending June 30, 1988 shall be allocated on the same per unit basis as those specified in §285 of this Act."

Approved February 5, 1988.

CHAPTER 213

FORMERLY

SENATE BILL NO. 248

AN ACT TO AMEND CHAPTER 5, TITLE 10 OF THE DELAWARE CODE TO AUTHORIZE THE SUPERIOR COURT TO APPOINT MASTERS.

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

Section 1. Amend Chapter 5, Title 10 of the Delaware Code by adding thereto a new Section 567 to read as follows:

"§567. Power to Appoint Masters

The Superior Court may appoint Masters who shall exercise such powers of the Court as shall be designated by the Court. No Master shall conduct jury trials. Masters shall serve at the pleasure of the Court and shall receive such compensation as the Court may determine. The conduct of Masters shall be governed by Court Rules."

Section 2. This Act shall be effective on the date of its enactment.

Approved February 5, 1988.

CHAPTER 214

FORMERLY

HOUSE BILL NO. 252
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2
HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2
HOUSE AMENDMENT NO. 3 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 34, TITLE 14 OF THE DELAWARE CODE ESTABLISHING THE DELAWARE NURSING INCENTIVE PROGRAM.

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

Section 1. Amend Chapter 34, Title 14 of the Delaware Code by adding a new Subchapter V to read as follows:

"Subchapter V. Delaware Nursing Incentive Program

§3430. Purpose

It is the intent and purpose of the General Assembly through this subchapter to enable and encourage academically talented Delawareans to pursue nursing careers in the State of Delaware.

§3431. Administration

(a) This subchapter shall be administered by the Delaware Postsecondary 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 subchapter.

(c) The Commission shall annually report to the General Assembly of the State the number of recipients, the institutions attended by the recipients, and the total amount of expenditures made under this subchapter.

§3432. Nursing Scholarship/Loans

(a) The Commission is hereby authorized to award educational scholarship loans subject to the limits of its appropriations for this purpose.

(b) For the purposes of this Section a scholarship/loan, referred to hereinafter as 'award' is a loan, the repayment of which is forgiven when the borrower is employed in a hospital or clinic of the State of Delaware for a period of time in accordance with the conditions specified in §3434.

(c) Awards shall be provided for undergraduate education at regionally accredited institutions of higher education or accredited hospital schools of nursing which provide programs leading to certification as a registered nurse or practical nurse.

(d) No student shall be eligible for such award who is not a resident of the State for at least one year 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.

(e) Awards shall be made to high school graduates or graduating high school seniors who are enrolled as full-time students in baccalaureate, associate, adult practical nursing program, or diploma programs to become registered or practical nurses.

(1) The number of awards and the distribution of awards among the year-classes will be determined annually by the Commission.

(2) The Commission shall determine the placement of student applicants within year-classes for the purposes of these awards based on the students' rates of academic progress.

(f) Awards shall be made in priority order within the year-classes established by the Commission based solely on academic merit. Academic merit shall be evaluated using criteria adopted by the Commission.

(g) The amount of the awards will be determined annually by the Commission, except that the award shall not be more than \$1,000 for a full academic year and shall not exceed the cost of tuition, books, fees, and other direct educational expenses.

(h) Awards shall be renewable within the limits of appropriations for the program, to a maximum of four awards provided the student meets the academic progress standards which shall be set by the Commission and communicated in writing to the recipient at the time the initial award is granted.

§3433. Disbursement

Funds awarded from this program shall be disbursed on an annual basis and shall be disbursed to the institution which the student attends; not directly to the student.

§3434. Repayment and Forgiveness

Repayment or forgiveness will commence 9 months after the student graduates from the baccalaureate, associate, or diploma program or immediately after the student discontinues enrollment prior to completion.

(a) If after 9 months following graduation the recipient is employed as a registered nurse or licensed practical nurse in a state operated hospital or clinic in the State of Delaware, no payback of award principal or interest will be required. For each year the recipient is so employed the payback of one year's award will be forgiven.

(b) If during the period of repayment the recipient terminates employment with a state hospital or clinic in Delaware, the recipient will be required to commence repayment of the awards or portions thereof which have not been forgiven at the time of the employment termination.

(c) If after 9 months following graduation the recipient is not employed as a registered nurse or licensed practical nurse in a state hospital or clinic in Delaware, the recipient shall be obligated to make monthly payments to the Commission until the full amount of the award and interest on the award from the date of origination is paid in full.

(d) If during the period of repayment the recipient becomes employed by a Delaware state hospital or clinic, payments will be deferred and one year's award will be forgiven for each year the recipient is so employed. Under no circumstances will payments already made by the recipient be reimbursed as a result of subsequent employment.

(e) The Commission shall determine the amounts of payment, the length of the repayment period, and the rate and type of interest to accrue on awards.

(f) The Commission shall communicate the terms of repayment and interest accrual to the recipient and secure a promissory note from the recipient attesting to the recipient's agreement to such terms as shall be established.

(g) For purposes of this subchapter, interest charges shall be set at a level which is 1% higher than the interest level existing in the State's Guaranteed Student Loan program at the time the award is made."

Approved February 5, 1988.

CHAPTER 215

FORMERLY

HOUSE BILL NO. 164
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO THE PERSONAL INCOME TAX OF MEMBERS OF THE ARMED FORCES ON DEATH.

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

Section 1. Amend Section 1204 (a), Chapter 11, Title 30, Delaware Code, by striking the words "during an induction period (as defined in paragraph (b) (1))" as they appear therein.

Section 2. Amend Section 1204 (b), Chapter 11, Title 30, Delaware Code by striking subparagraph (1) in its entirety and by redesignating subparagraphs (2) and (3) as subparagraphs (1) and (2) respectively.

Section 3. Amend Section 1204, Chapter 11, Title 30, Delaware Code by adding a new subsection (c) and to (d) to read as follows:

"(c) In the case of any individual who dies while a member of the Armed Forces of the United States, if such death occurs as a result of wounds or injury which was incurred while the individual was a member of the Armed Forces of the United States and which was incurred outside the United States in a terroristic or military action, any tax imposed by this Title shall not apply:

1. With respect to the taxable year in which falls the date of his death, and
2. With respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred

(d) For purposes of subsection (c) of this Section the term 'terroristic or military action' means any terroristic activity which a preponderance of the evidence indicates was directed against the United States or any of its allies, and any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof). For purposes of the preceding sentence, the term 'military action' does not include training exercises. For purposes of this Section any multinational force in which the United States is participating shall be treated as an ally of the United States."

Approved February 5, 1988.

CHAPTER 216

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 393

AS AMENDED BY HOUSE AMENDMENT NO. 2 AND SENATE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO COMPREHENSIVE PLAN REQUIREMENTS.

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

Section 1. Amend Chapters 26, 49 and 69 of Title 9 of the Delaware Code by adding new subsections 2658, 4958, and 6958 thereto respectively which Sections shall read as follows:

"County comprehensive plan

(a) The county government shall be required to adopt a comprehensive plan for zoning, subdivision and other land use decisions and each such plan shall be updated no later than December 31, 1995 and every ten years thereafter.

(b) Once the County government shall have in place said comprehensive plan, the County shall not be permitted to amend such plan without a simple majority of the entire membership thereof voting to do so."

Section 2. Sussex County shall be in full compliance with all provisions of this Act no later than December 31, 1990. In the event that Sussex County adopts a comprehensive plan subsequent to July 1, 1987 and prior to December 31, 1990, the county shall only be required to update said plan by December 31, 1990 in order to comply with existing statutory requirements.

Section 3. In the case of New Castle County, upon receipt of a proposed comprehensive plan from the County Planning Department, the County Planning Board shall have thirty (30) days in which to review, make recommendations on, and transmit to the County Executive said plan. Upon receipt of a recommended plan from the Planning Department and the Planning Board, the County Executive shall approve, with or without amendments, the proposed plan and shall transmit, within thirty (30) days, the proposed comprehensive plan to the New Castle County Council on or before June 30, 1988. New Castle County Council shall adopt a comprehensive plan in compliance with this Act no later than December 31, 1988.

Section 4. Kent County shall be in full compliance with all provisions of this Act no later than December 31, 1990, unless the County adopts a comprehensive plan subsequent to July 1, 1987, and prior to December 31, 1990. In that event the county shall only be required to update said plan by December 31, 1995, in order to comply with the then-existing statutory requirements.

Approved February 5, 1988.

CHAPTER 217

FORMERLY

SENATE BILL NO. 327
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 26, CHAPTER 49 AND CHAPTER 69, TITLE 9 OF THE DELAWARE CODE, RELATING TO ROAD CAPACITY CRITERIA FOR RE-ZONING.

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

Section 1. Amend Chapters 26, 49, and 69 of Title 9 of the Delaware Code by adding new subsections 2661, 4961 and 6961 thereto respectively which Sections shall read as follows:

"Highway Capacity

(a) The County Government shall not approve any proposed change in the zoning classification for land (i.e., any 'rezoning request') without first complying with the following procedures:

(1) As soon as possible, but in any event no later than June 30, 1988, the County Government, through its designated planning agency, shall establish an agreement with the Delaware Department of Transportation (DelDOT) to provide a procedure for analysis by DelDOT of the effects on traffic of each rezoning application.

(2) Each such agreement shall be approved by a resolution or ordinance, consistent with county procedures, and shall establish traffic level of service suitable to the county and DelDOT.

(3) The purpose of the agreement shall be to ensure that traffic analyses are conducted as part of the zoning reclassification process within the county.

(4) The agreement shall provide for the review of traffic impacts according to nationally recognized traffic criteria and shall, at a minimum, consider the effects of existing traffic, projected traffic growth in areas surrounding a proposed zoning reclassification, and the projected traffic generated by the proposed site development for which the zoning reclassification is sought."

Section 2. Copies of the agreement required by this section, when established, shall be sent to the Governor, the President Pro Tem of the Senate, the Speaker of the House of Representatives, and the Chairpersons of the House Transportation Committee and the Senate Highways and Transportation Committee.

Section 3. Any agreement or memorandum of understanding between a County Government and the Department of Transportation concerning the subject matter of this Act which is in effect as the effective date of this Act shall continue in force by its terms until the agreement required by Section 1 of this Act shall take effect.

Approved February 5, 1988.

CHAPTER 218

FORMERLY

HOUSE BILL NO. 280

AN ACT TO AMEND CHAPTER 29, TITLE 10 OF THE DELAWARE CODE RELATING TO POWERS OF CODE ENFORCEMENT CONSTABLES.

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

Section 1. Amend Subsection (a), §2902 of Title 10 of the Delaware Code by inserting after the word "sanitation" and before the word "or" the word " , zoning".

Section 2. Amend Subsection (d), §2902 of Title 10 of the Delaware Code by inserting after the word "sanitation" and before the word "or" the word " , zoning".

Approved April 6, 1988

CHAPTER 219

FORMERLY

HOUSE BILL NO. 436

AN ACT TO AMEND CHAPTER 87, TITLE 14, DELAWARE CODE RELATING TO THE DELAWARE INSTITUTE OF VETERINARY MEDICAL EDUCATION.

WHEREAS, the Delaware Institute of Veterinary Medicine is charged with the responsibility of expanding the opportunities for Delaware residents to obtain post-graduate veterinary training as set forth in 60 Delaware Laws, Chapter 137; and

WHEREAS, the Delaware Institute of Veterinary Medicine, by 60 Del. Laws, Chapter 655 was directed to enter into contractual arrangements with the University of Pennsylvania and Cornell University for four (4) positions in their entering classes beginning in 1977 and each year thereafter; and

WHEREAS, similar quality veterinary medicine education is now available at other institutions of higher learning at a competitive cost to the State.

NOW THEREFORE:

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

Section 1. Amend Chapter 87, Title 14, Delaware Code, by striking the existing §8705 and substituting in lieu thereof the following:

"§8705. The Board may provide financial contributions to cooperating veterinary schools to secure positions for qualified residents of Delaware, and may pay or contribute financially to the cost of veterinary medical education of qualified residents of Delaware at any such veterinary school which would benefit the state and/or veterinary medicine students financially, but in no case shall the amount of tuition paid by Delaware residents be less than that which in-state veterinary students pay at the cooperating veterinary school or schools; and may make such other payments as are required for the furtherance of the purposes of the Institute and the performance of the duties of the Board. The Board may not pay or contribute to the normal student costs of veterinary medical education, including but not limited to tuition, books, room and board.

The Board may receive, hold, invest, reinvest and use on behalf of the Institute and for any of its purposes, real property, personal property and moneys, or any interest therein, and income therefrom, either absolutely or in trust. The Board may acquire such property or moneys for such purposes by the acceptance of gifts, grants, appropriations, bequests and devises from any sources, either public or private."

Approved April 6, 1988.

CHAPTER 220

FORMERLY

HOUSE BILL NO. 455
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 7, TITLE 19, DELAWARE CODE, BY ADDING A NEW SECTION, PROTECTING CERTAIN LABOR CONTRACTS AGAINST TERMINATION OR IMPAIRMENT BECAUSE OF MERGER, CONSOLIDATION, SALE OF ASSETS OR BUSINESS COMBINATION.

WHEREAS, It is in the interest of this State to protect persons engaged in employment in this State under certain labor contracts; and

WHEREAS, It would be against the public welfare for a corporate merger, consolidation, sale of assets or other business combination to cause or result in the termination of such labor contracts until those contracts reach their natural termination dates.

NOW, THEREFORE:

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

Section 1. Amend Chapter 7, Title 19, Delaware Code by adding a new section to read as follows:

"§706(a) Notwithstanding any other provisions of this Code, no merger, consolidation, sale of assets or business combination, shall result in the termination or impairment of the provisions of any labor contract covering persons engaged in employment in this State and negotiated by a labor organization or by a collective bargaining agent or other representative. Notwithstanding such merger, consolidation, sale of assets or business combination, such labor contract shall continue in effect until its termination date or until otherwise agreed by the parties to such contract or their legal successors.

(b) For purposes of this section:

(1) 'Business combination' includes any merger, consolidation, joint venture, lease, sale, dividend exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) whether with a subsidiary or otherwise; and

(2) 'Employment' shall have the meaning set forth in §3302(9)(H) and (I) of this Title.

(c) In the event that any such employee is denied or fails to receive wages, benefits, or wage supplements as a result of a violation of this section, and in addition to injunctive or other relief provided by laws, the provisions of Chapter 11 of this Title shall be applicable to secure recovery against the merged or consolidated corporation or the resulting corporation, notwithstanding anything contained therein or elsewhere to the contrary. The remedies provided for herein shall be available against any of the parties to such merger, consolidation, sale of assets or business combination.

(d) This section is enacted in order to protect the employment interests of all persons engaged in employment in Delaware under existing labor contracts and shall be liberally construed in every case in order to achieve that purpose. 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 April 8, 1988.

CHAPTER 221

FORMERLY

HOUSE BILL NO. 330

AN ACT TO AMEND CHAPTER 60, TITLE 7, DELAWARE CODE RELATING TO THE REPORTING OF A DISCHARGE OF A POLLUTANT OR AN AIR CONTAMINANT AND PROVIDING FOR CRIMINAL SANCTION AND JURISDICTION FOR DISCHARGE OF POLLUTANT.

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

Section 1. Amend Section 6028, Chapter 60, subchapter II, Title 7 of the Delaware Code by deleting said Section in its entirety and substituting in lieu thereof the following:

"§6028. Report of a discharge of a pollutant or an air contaminant.

(a) Any person who causes or contributes to the discharge of an air contaminant into the air or a pollutant, including petroleum substances, into surface water, ground water, or on land, or disposal of solid wastes in excess of any reportable quantity specified under either regulations implementing Section 102 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, Section 311 of the Clean Water Act of 1980 as amended, or Department regulations, whichever are more strict, shall report such an incident to the Department at such person's earliest opportunity after said discharge has occurred.

(b) The reporting requirements under this Section are in addition to, and not in lieu of, any other discharge reporting requirements found in any other state, federal, county, or local government statutes, regulations, or ordinances.

(c) For the purpose of this Section, notification to the Department can be in person or by telephonic communication. At the Department's discretion, the Department may require said person to file a written report with the Department describing the facts and circumstances relating to the cause and the results of the discharge in question.

(d) Discharges of an air contaminant or pollutant (including petroleum substances) that are wholly contained within a building are exempt from the reporting requirements.

(e) Any person who knowingly fails to comply with the requirements of this Section shall, upon conviction, be fined not less than \$500, nor more than \$5,000, or imprisoned for six months, or both. The Superior Court shall have jurisdiction of offenses under this Section."

Approved April 8, 1988.

CHAPTER 222

FORMERLY

HOUSE BILL NO. 139
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 68, TITLE 21, DELAWARE CODE, RELATING TO REGISTRATION OF (OHV) OFF-HIGHWAY VEHICLES.

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

Section 1. Amend §6801(a), Chapter 68, Title 21, Delaware Code by striking the words "located north of the Chesapeake and Delaware Canal" as the same appear in said subsection (a) of §6801.

Section 2. Amend §6801(a), Chapter 68, Title 21 of the Delaware Code by striking the words "that portion of" as they appear in the first sentence therein.

Approved April 8, 1988.

CHAPTER 223

FORMERLY

HOUSE BILL NO. 406

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CAPTIVE INSURANCE COMPANIES.

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

Section 1. Amend §6906 of Title 18 by adding a new subsection "(1)" thereto as follows:

"(1) Captive insurance companies formed under the laws of other states or jurisdictions shall submit their petition to the Commissioner required by (d) above and shall commence business under this chapter only upon the issuance of the certificate described in such subsection. Captive insurance companies formed under the laws of other states or jurisdictions shall have the privileges and be subject to the general corporation laws of such other state or jurisdiction as well as the applicable provisions contained in this chapter. In the event of a conflict between such other laws and this chapter, the latter shall control."

Section 2. Amend §6917 of Title 18 by deleting such section in its entirety.

Approved April 8, 1988.

CHAPTER 224

FORMERLY

HOUSE BILL NO. 463

AN ACT TO AMEND CHAPTER 85, VOLUME 66, LAWS OF DELAWARE, BEING HOUSE BILL NO. 350 OF THE 134TH GENERAL ASSEMBLY, AND BEING AN ACT ENTITLED, "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1988; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BY MAKING ADDITIONS, DELETIONS AND ADJUSTMENTS.

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

Section 1. Amend Chapter 85, Volume 66, Laws of Delaware, being House Bill No. 350 of the 134th General Assembly, by making the following adjustments to General Funds in Section 1:

Page	Line	Organization/Item	From	To	Increase(Decrease)
8	30	<u>(10-02-04 Budget Office- Contingencies</u>			
8	32	Contingency-Salaries and Other Employment Costs	\$2,430.1	\$2,170.1	(\$260.0)
57	1	<u>(65-00-00) Department of Agriculture</u>			
57	2	<u>(65-01-00) Office of the Secretary</u>			
57	3	<u>(65-01-01) Office of the Secretary</u>			
57	New	Multi-Peril Crop Insurance	-0-	260.0	260.0

Section 2. Amend Chapter 85, Volume 66, Laws of Delaware, being House Bill NO. 350 of the 134th General Assembly, by adding thereto a new section to read as follows:

"Section 285. Section 1 of this Act provides an appropriation of \$260.0 to the Department of Agriculture, Office of the Secretary (65-01-01) for Multi-Peril Crop Insurance. The Department of Agriculture is hereby authorized to expend a sum not to exceed \$260.0 for the purpose of matching the federal subsidy on policy premiums for Multi-Peril Crop Insurance that is insured or reinsured by the Federal Crop Insurance Corporation (FCIC). This expenditure is authorized only for insurance obtained to cover crops that are to be harvested during calendar year 1988. This program shall operate as follows:

(a) Any farmer of Delaware acreage who has already purchased or who shall purchase, prior to the appropriate crop sales closing date, a Level 1, (50%), Multi-Peril Crop Insurance policy shall be eligible to receive a state subsidy of up to 30% of the total cost of the premium. This subsidy shall be in addition to the 30% subsidy provided by the Federal Crop Insurance Corporation.

(b) Any farmer of Delaware acreage who has already purchased or who shall purchase prior to the appropriate crop sales closing date, a Level 2, (65%), Multi-Peril Crop Insurance policy shall be eligible to receive a State subsidy of up to 30% of the total cost of the premium. This subsidy shall be in addition to the 30% subsidy provided by the Federal Crop Insurance Corporation.

(c) Any farmer of Delaware acreage who has already purchased or who shall purchase prior to the appropriate crop sales closing date, a Level 3 (75%), Multi-Peril Crop Insurance policy covering a grain crop(s) shall be eligible to receive a State subsidy of 16.9% of the total cost of the premium. This subsidy shall be in addition to the 16.9% subsidy provided by the Federal Crop Insurance Corporation.

(d) Any farmer of Delaware acreage who has already purchased or who shall purchase prior to the appropriate crop sales closing date, a Level 3, (75%), Multi-Peril Crop Insurance policy covering a vegetable crop(s) shall be eligible to receive a state subsidy of 19.7% of the total cost of the premium. This subsidy shall be in addition to the 19.7% subsidy provided by the Federal Crop Insurance Corporation.

(e) In no event shall the total amount expended pursuant to the provisions enumerated herein exceed the amount of \$260.0. Should the appropriation herein, as a result of higher than projected utilization, be insufficient to fully subsidize based on the percentages set forth above, said percentages shall be reduced on an equally proportionate basis.

(f) In order to participate in the subsidy program, a farmer must register with the Department of Agriculture prior to June 1, 1988. Such registration shall include the name and address of the insured, the number of acres covered, the type of crop and the name and address of the policy issuer.

(g) Disbursement made under this program shall be made directly to the Federal Crop Insurance Corporation."

Section 3. Amend Section 1 of Chapter 85, Volume 66, Laws of Delaware, being House Bill No. 350 of the 134th General Assembly, by recomputing all subtotals and totals accordingly, as a result of this Act.

Approved April 8, 1988.

CHAPTER 22S

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 116

AS AMENDED BY SENATE AMENDMENT NOS. 1, 2 AND 3 AND HOUSE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND TITLE 24, CHAPTERS 31 AND 50 OF THE DELAWARE CODE RELATING TO FUNERAL SERVICES, AND PROVIDING FOR A BOARD OF FUNERAL SERVICES.

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 31, Title 24 of the Delaware Code by repealing §3101 through §3110 and §3112 through §3127 of said Chapter 31; repealing all of Chapter 50, Title 24 of the Delaware Code; and by substituting in lieu thereof new §3100 through §3110 and §3112 through §3123 to Chapter 31 of Title 24 of the Delaware Code to read as follows:

"CHAPTER 31. BOARD OF FUNERAL SERVICES

§3100. Purpose of Chapter and Objective of Board

Recognizing that the practice of funeral services is a privilege and not a natural right of individuals, it is hereby deemed necessary as a matter of policy that it is in the interest of public health, safety, and welfare to provide laws and provisions concerning the granting of that privilege and its subsequent use and control, and to provide rules and regulations to that end; and the public shall be properly protected against price fixing and the unprofessional, improper, unauthorized and unqualified practice of funeral services and from unethical conduct by persons licensed to practice funeral services. Accomplishment of that purpose shall be the primary objective of the Board of Funeral Services. In meeting said objective, the Board shall develop standards assuring professional competence; monitor complaints brought against practitioners regulated by the Board; adjudicate formal complaint hearings; promulgate rules and regulations; and impose sanctions when necessary against practitioners.

§3101. Definitions

As used in this Chapter:

(1) 'Board' means the Board of Funeral Services of this state or any successor thereof.

(2) 'Funeral Director' means a person engaged in the care of human remains or in the disinfecting and preparing by embalming human remains for the funeral service, transportation, burial, entombment, or cremation.

(3) 'Non-resident Funeral Director' means a funeral director licensed in another state, district, or foreign country.

(4) 'Funeral Services' means those services rendered for the disinfecting, embalming, burial, entombment or cremation of human remains, including the sale of those goods and services usual to arranging and directing funeral services.

(5) 'Funeral Establishment' means any place used in the care and preparation of human remains for funeral, burial, entombment, or cremation; said place shall also include areas for embalming, the convenience of the bereaved for viewing and other services associated with human remains. A Funeral Establishment shall also include a place or office in which the business matters associated with funeral services are conducted. Satellite funeral establishments existing as of the effective date of this statute shall not be required to include an area for embalming.

(6) 'Burial' means the interment of human remains.

(7) 'Cremation' means burning human remains to ashes.

(8) 'Intern' means a person, duly registered with the Board, engaged in training to become a licensed funeral director under the direction and personal supervision of a licensed funeral director.

(9) 'Practitioner' means a funeral director.

§3102. License to Practice

No person may practice funeral services in this State who has not been licensed in accordance with this Chapter. Under such rules and regulations as the Board may adopt, the provisions of this Chapter shall not be construed to prohibit the practice of funeral services by:

(a) Persons licensed to practice in any other state, district, or foreign country who, as practicing funeral directors, enter this State to transport and/or bury human remains or to consult with a funeral director of this State. Such consultation shall be limited to examination, recommendation, or testimony in litigation;

(b) Any student of an accredited school or college of funeral services, or intern who is receiving practical training under the personal supervision of a licensed funeral director in Delaware.

(c) Any funeral director commissioned by any of the Armed Forces of the United States, or by the Public Health Service; provided, practice as a funeral director is limited to the confines of a military reservation or Public Health Service facility. Persons assisting under the direct personal supervision of a funeral director authorized by this Act to practice funeral services. Preparation and embalming require the presence of a licensed funeral director.

§3103. Board of Funeral Services

(a) The Board of Funeral Services shall consist of seven (7) members appointed by the Governor: four (4) professional members who shall be residents of the State of Delaware and licensed to practice funeral services in Delaware; and three (3) public members. Said public members shall not be nor ever have been funeral directors, nor members of the immediate family of a funeral director; shall not have been employed by a funeral director; shall not have had a material financial interest in the providing of goods and services to funeral directors; nor have been engaged in an activity directly related to funeral services. Such public members shall be accessible to complaints, inquiries and comments from the general public.

(b) Each member shall serve for a term of three (3) years, and may be reappointed for one additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may be reappointed for only one (1) additional full term. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment; however the member shall be permitted to serve on the Board until a successor has been appointed.

(c) A member of the Board shall be suspended or removed by the Governor for misfeasance, non-feasance or malfeasance. A member subject to disciplinary proceedings shall be disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(d) No member of the Board of Funeral Services, while serving on the Board, shall be an officer of a local, state or national professional funeral services association nor have any financial interest in any funeral services college, school or cemetery.

(e) Vacancies occurring on the Board for any reason shall be filled by the Governor.

(f) Each Board member shall receive compensation of \$50 for each meeting attended, provided, however, that no Board member shall be compensated in excess of \$500 in any calendar year for meetings attended.

§3104. Officers, Meetings; Quorum

(a) In the same month of each year the members shall elect, from among their number, a president and a secretary. Each officer shall serve for one (1) year and shall not succeed him/herself in the same office.

(b) The Board shall hold a regularly scheduled business meeting at least once in each quarter of a calendar year and at such other times as the president deems

necessary, or at the request of a majority of Board members. A notice of the meetings of the Board shall be posted in a public place and forwarded to the state professional funeral service associations at least one (1) week prior to said meeting. Special or emergency meetings may be held without notice, but a copy of the minutes of such meetings shall be made available to interested parties for a fee.

(c) A majority of members shall constitute a quorum, and no action shall be taken without the affirmative vote of at least three (3) members. Any member who fails to attend three (3) consecutive meetings, or who fails to attend at least half of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from office and a replacement shall be appointed.

(d) Minutes of all meetings shall be recorded, and copies of the minutes shall be maintained by the Division of Professional Regulation. At any hearing where evidence is presented, such hearing shall be recorded. Transcripts shall be made at the request and expense of any party.

§3105. Powers and Duties; Immunity

(a) The Board of Funeral Services shall have the authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected where such notice can reasonably be given. Each rule or regulation shall implement or clarify a specific section of this chapter;

(2) Designate the application form to be used by all applicants and process all applications;

(3) Designate a written examination, prepared by a national professional organization recognized by the American Board of Funeral Services Education. The examination shall be taken by persons applying for licensure, except for applicants who qualify for licensure by reciprocity;

(4) Provide for the administration of all examinations, including notice and information to applicants;

(5) Grant licenses to all persons who meet the qualifications for licensure;

(6) Receive complaints from the public and from practitioners, evaluate such complaints and take such action within its powers as the Board deems appropriate;

(7) Determine whether or not a practitioner shall be the subject of a disciplinary hearing and, if so, conduct such hearing in accordance with this chapter and the Administrative Procedures Act;

(8) Where it has been determined after a disciplinary hearing that penalties or sanctions should be imposed, designate and impose the appropriate sanction or penalty after time for appeal has elapsed;

(9) Bring proceedings in the courts for the enforcement of this chapter;

(10) Provide for the rules for continuing funeral services education as a prerequisite for license renewal for those practitioners under 65 years of age; provided, however, that in establishing rules for continuing funeral services education, the Board shall consider potential economic hardship on single practitioners and other licensees, and shall not impose rules that are likely to place undue economic hardship on licensees. Relicensing shall not consist of, nor be dependent upon, retesting for those practitioners under 65 years of age, provided, however, that in establishing rules for continuing funeral services education, the Board shall consider potential economic hardship on single practitioners and other licensees, and shall not impose rules that are likely to place undue economic hardship on licensees;

(b) The Board may require by subpoena the attendance and testimony of witnesses and the production of papers, records or other documentary evidence.

(c) The members of the Board shall not be subject to, and shall be immune from, claims, suits, 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 office conferred by law upon them under this Chapter or any other

provisions of the Delaware or federal law or rules or regulations or duly adopted rule or regulation of the Board. Good faith is presumed unless otherwise proven and malice is required to be proven by the complainant.

(d) No member of the Board shall in any manner whatsoever discriminate against any applicant or person holding or applying for a license to practice funeral services by reason of sex, race, color, age, creed or national origin.

(e) 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.

§3106. Qualifications of Applicants for Licensure; Judicial Review; Report to Attorney General

(a) An applicant who is applying for examination and licensure shall have the following qualifications:

(1) He/she shall have graduated from an accredited high school or its equivalent and have completed at least two years of academic training at an accredited college or university, and have completed one (1) year of academic training in funeral services from a school or college fully accredited by the American Board of Funeral Services Education or its successor.

(2) Each applicant shall have satisfactorily completed an examination as authorized pursuant to §3105 (a)(3).

(3) Each applicant shall satisfactorily complete an internship of one year's duration under the auspices of a licensed Delaware funeral services practitioner. An applicant is responsible for arranging his/her own internship. If, after contacting 20 firms, the applicant is unable to obtain an internship within six months, he/she shall so stipulate in an affidavit presented to the Board. The Board shall determine whether the applicant has pursued a position as intern to his/her fullest capability. The Board shall have six months from the date it receives the affidavit to place the applicant in an internship. If no position has been made available, the applicant shall be issued a license upon satisfaction of all other requirements.

(4) An applicant shall not have been professionally penalized or convicted of drug addiction, convicted of willfully violating the confidence of a client, nor have been professionally penalized or convicted of fraud.

(5) Each applicant shall provide such information as may be required on an application form designed and furnished by the Board. No application form shall require a picture of the applicant except where required for verification of identity for testing purposes, require information relating to citizenship, place of birth or length of state residency, nor require personal references.

(b) Where an applicant feels the Board has refused or rejected his/her application without justification; has imposed higher or different conditions than for other applicants; or has in some other manner contributed to or caused the failure of such person's application, the applicant may appeal to the Superior Court.

(c) Where the Board has found to its satisfaction that an applicant has been intentionally fraudulent, or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

§3107. Examinations

The Board shall, upon request of an applicant, administer an examination based solely upon the laws of Delaware governing the profession. In conjunction with an independent testing organization, said examination shall be prepared, given and corrected by the Division of Professional Regulation, which shall report all examination results to the Board.

§3108. Reciprocity

(a) Upon payment to the Board of a fee and on submission of a written application on forms provided by the Board, the Board shall issue a license to a funeral service practitioner who is licensed as a funeral service practitioner by another state of the United States, its possessions or the District of Columbia, provided that:

(1) The requirements for licensure or registration in such other state, possessions or District of Columbia at the time of licensure or registration are

equal to or greater than the requirements set forth in this Chapter as determined by the Board; and

(2) The applicant shall successfully complete an examination as prescribed by Section 3107 of this Chapter.

(b) Upon payment to the Board of a fee and on submission of written application on forms provided by the Board, the Board shall issue a limited license to a person who is licensed as a funeral service practitioner by another state of the United States, its possessions or the District of Columbia, provided that a similar privilege is granted to Delaware licensees by that jurisdiction. A limited license will allow its holder to make a removal of a dead human body in this State and to return the body to another state or country, to return dead bodies from another state or country to this State for final disposition, to fill out the family history portion of the death certificate, to sign the death certificate in the holder's capacity as a licensed funeral service practitioner, and to execute any other procedures necessary to arrange for the final disposition of a dead human body.

(c) Upon receipt of an application for reciprocity pursuant to either subsection (a) or (b) of this section, the Board shall contact each board which has previously licensed the applicant to determine whether or not there are disciplinary proceedings or unresolved complaints pending against the applicant. In the event there is a disciplinary proceeding or unresolved complaint pending, the applicant shall not be licensed until the proceeding or complaint has been resolved.

§3109. Fees

The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board. There shall be a separate fee charged for each service or activity, but no fee shall be charged for an activity not specified in this chapter. The application fee shall not be combined with any other fee or charge. At the beginning of each calendar year, the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute for each separate service or activity, the appropriate fee for the coming year.

§3110. Licensure; Renewal of License

(a) Each person who has passed the written examination, who has been admitted to practice in this State by reciprocity, or who has otherwise qualified for a license shall, prior to practicing in this State, file for and obtain an occupational license from the Division of Revenue in accordance with Chapter 23 of Title 30.

The Board shall forthwith issue a license to each person who has qualified for same under the provisions of this chapter and who has complied with all rules and regulations of the Board.

(b) Each license shall expire biennially and may be renewed upon payment of the renewal fee along with the evidence of completion of continuing education courses as may be required by the rules and regulations set forth by the Board. The Secretary of the Board shall notify every registrant of the date of expiration of his/her license and the amount of fee that shall be required at least one month prior to the expiration thereof. Failure to give or receive such notice shall not prevent the license from becoming invalid after its expiration date. Any licensee whose license lapses as a result of a failure to renew may regain his/her license within twelve months of such lapse upon payment to the Board of an amount not to exceed two times the biennial licensure fee along with evidence of successful completion of required continuing education courses. Otherwise, licensure may be regained solely by filing a new application for licensure and fulfilling the requirements as spelled out in this chapter.

(c) Any licensee may, upon written request, be placed on inactive status not to exceed five years. The renewal fee of such person shall be in accordance with §3109 of this Chapter. Such person may re-enter practice upon notification to the Board of his/her intention to do so, provided said person has satisfied all continuing education requirements prescribed by the Board.

(d) A former licensee, who has been penalized for the violation of a provision of this chapter, or whose license has been suspended or revoked, and who subsequently is permitted to apply for reinstatement, shall satisfy all continuing education requirements of the Board, successfully complete the examination required by the Board, and shall pay all appropriate fees before becoming eligible for relicensure.

§3112. Complaints

Any practitioner or member of the public who has a question or complaint concerning an aspect of the practice of the profession regulated in this chapter may, during the regular business hours of a business day, contact the Board or the Division of Professional Regulation; or voice such question or complaint at a business meeting of the Board.

The Board shall investigate any complaint, including oral and anonymous complaints; and shall follow through on those complaints which, upon investigation, appear to be valid and well-founded. In cases where the complainant is known to the Board it shall, within six weeks after receipt of the complaint, notify the complainant whether or not it will take any action in the matter. If the Board decides to take no action it shall, by letter, state its reasons therefor. A record shall be kept of each complaint, formal or informal, for a period of at least five years.

§3113. Hearings and Appeals Procedures

(a) Upon receipt of a complaint against a practitioner, the Board shall determine what action, if any, it shall take. Where the Board has determined to take further action, the matter shall be heard by the Board within three months from the date on which the complaint was received, unless circumstances surrounding the complaint warrant a lengthier investigation. The Board shall fix the time and place for a full hearing of the matter and shall cause a copy of the complaint, together with a notice of the time and place fixed for the hearing, to be personally delivered or served upon the practitioner at least thirty days before the date fixed for the hearing. In cases where the practitioner cannot be located or where personal service cannot be effected, substitute service will be effected in the same manner as with civil litigation.

(b) All hearings shall be informal without the rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this Chapter as it deems necessary. The Board's decision shall be in writing and shall include its reasons for such a decision. A copy of the decision shall be mailed immediately to the complainant and to the practitioner. The Board's decision shall become effective on the thirtieth day after the date it is mailed or served on the practitioner, unless there is an appeal to the Superior Court within that time.

(c) Where either the complainant or the practitioner is in disagreement with the action of the Board, either party may appeal the Board's decision to the Superior Court within thirty days of service, or of the postmarked date of the Board's decision. Upon such appeal, the Court shall hear the evidence de novo, and the filing of an appeal shall act as a stay of the Board's decision, pending final determination of the appeal.

§3114. Violations; Grounds for Professional Discipline

(a) Practitioners regulated under this Chapter shall be subject to those disciplinary actions set forth in §3115 if, after a hearing, the Board finds:

- (1) The willful violation of any privileged communication by the practitioner;
- (2) The practitioner has employed or knowingly cooperated in fraud or material deception in order to be licensed, or be otherwise authorized to practice funeral services;
- (3) Illegal, incompetent or negligent conduct in the practice of funeral services;
- (4) Conviction for excessive use or abuse of drugs, including alcohol, narcotics or chemicals;
- (5) The practitioner has been convicted of a felony or crime involving moral turpitude;
- (6) The practitioner has engaged in any dishonorable, unethical or unprofessional conduct likely to deceive, defraud or harm the public; advertised the practice of funeral services in a false or misleading manner; knowingly performed any act which in any way assists unauthorized, unlicensed or unregistered persons to practice funeral services;
- (7) The practitioner has violated a lawful provision of this Chapter or any lawful regulation established hereunder

(b) A practitioner shall be subject to non-disciplinary remedial action if, after a hearing, the Board finds that there is a danger to the practitioner's clients or to the public due to:

- (1) Physical illness or loss of motor skill including, but not limited to, deterioration through the aging process; or
- (2) Temporary emotional disorder or mental illness; or
- (3) Permanent emotional disorder or mental illness.

(c) If a practitioner's physical or mental capacity to practice safely is at issue in a non-disciplinary remedial proceeding, the Board may order a practitioner to submit to a reasonable physical or mental examination. Failure to comply with a lawful order to submit to such an examination shall render the practitioner liable to temporary suspension or revocation of license in accordance with §3115.

(d) Where a practitioner fails to comply with the Board's request that he/she submit to an examination or attend a hearing, the Board may petition the Superior Court to order such examination or attendance, and said Court or any judge assigned thereto shall have jurisdiction to issue such order.

(e) Subject to the provisions of Subchapter IV, Chapter 101, Title 29 of the Delaware Code, no license shall be restricted, suspended or revoked by the Board; and no practitioner's right to practice shall be limited by the Board, until such practitioner has been given notice and an opportunity to be heard in accordance with the Administrative Procedures Act.

§3115. Remedial Actions and Disciplinary Sanctions

(a) The Board may impose any of the following sanctions, partially, singly, or in combination, when it finds that one of the conditions or violations set forth in §3114 applies to a practitioner regulated under this Chapter:

- (1) Privately censure a practitioner;
- (2) Publicly censure a practitioner;
- (3) Issue a public letter of reprimand;
- (4) Place a practitioner on probationary status, and require the practitioner to:

(i) Report regularly to the Board upon the matters which are the basis for the probation;

(ii) Limit all practice and professional activities to those areas prescribed by the Board, and/or

(iii) Continue or renew his/her professional education until the required degree of skill has been attained in those areas which are the basis of the probation;

- (5) Suspend a practitioner's license; or
- (6) Revoke a practitioner's license.

(b) The Board may withdraw or reduce conditions of probation when it finds that deficiencies requiring such action have been remedied.

(c) Where the Board has placed a practitioner on probationary status under certain deficiencies or conditions, and the Board has determined that such restrictions or conditions are being or have been violated by the practitioner, it may, after a hearing on the matter, suspend or revoke the practitioner's license.

(d) The Board may temporarily suspend a practitioner's license in advance of a final adjudication, or during the appeals process, with twenty-four (24) hours written notice to the licensee, but only in cases where there is a clear and immediate danger to the health and safety of the public if the licensee is allowed to continue to practice. Such suspension may be appealed to the Superior Court.

(e) Where a license has been suspended due to a disability of the licensee, the Board may reinstate such license, if, after a hearing, the Board is satisfied that the licensee is able to practice with reasonable skill and safety.

(f) As a condition for reinstatement of a suspended license, a removal from probationary status, the Board may impose such disciplinary or corrective measures as are authorized under this Chapter.

§3116. Practicing Funeral Services Without a License; Penalties

(a) No person shall represent him/herself to the public as a funeral director, or display any sign or advertise in any manner as being a funeral director, or provide funeral services without first obtaining from the Board the license or licenses required under the provisions of this Chapter.

(b) Where the Board has determined that a person is practicing funeral services within this State without having lawfully obtained a license therefor, or that a person previously licensed is unlawfully practicing although the license has been suspended or revoked, the Board shall formally warn such person in writing. If the offense continues, the Board shall make a formal complaint to the Attorney General. The complaint shall include all evidence known to, or in the possession of, the Board.

(c) Where a person not currently licensed as a funeral director is tried and convicted of unlawfully practicing funeral services in violation of this Chapter such offender shall, upon the first offense, be fined five hundred dollars (\$500) or imprisoned for not less than one (1) month nor more than one (1) year, or both, and upon a second or any subsequent offense, shall be fined not less than one thousand dollars (\$1000) or imprisoned for not less than six (6) months nor more than one (1) year, or both, and shall pay all costs; provided, however, that where it is alleged that such violation has resulted in injury to any person, the offender shall be charged and tried under the applicable provisions of Title 11.

§3117. Funeral Service Practitioners Subject to Regulation

Funeral service practitioners shall observe and be subject to all State and municipal regulations relating to the control of contagious and infectious diseases, and any and all matters pertaining to public health, reporting to the proper health officer the same as other practitioners.

§3118. Filing of False Documents; Penalty

Whoever files or attempts to file as his/her own diploma, certificate or license of another or a forged, false affidavit of identification or qualification is guilty of a felony and shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1000), and imprisoned for not more than three (3) years.

§3119. Cremation

(a) Where not previously identified, human remains may not be cremated until it has been identified by either the next of kin, the person authorized to make funeral arrangements or the medical examiner. This subsection shall not apply to disposition of human remains by any school of anatomy, medicine or dentistry.

(b) Human remains may not be transported to a crematory without using a cot or a receptacle.

§3120. Processing Human Remains Where Investigation of Death Is Required

No person licensed under this Chapter shall remove or embalm human remains when he/she has information indicating that an investigation of death is required pursuant to §4706 of Title 29 of the Delaware Code.

§3121. Funeral Establishment Permit; Circumstances for Termination and Continuation

(a) The Board shall issue a Funeral Establishment Permit when an applicant meets the following requirements:

(1) That the funeral establishment shall be conducting funeral services from a building that is appropriate as defined in §3101 of this Chapter.

(2) That the funeral establishment shall have in charge full time therein a person licensed in accordance with this Chapter, provided, however, that this subsection (2) shall not apply to funeral establishments maintained, operated or conducted prior to September 6, 1972.

(3) That the funeral establishment property shall be properly zoned by the local zoning authority.

(4) That the funeral establishment has acquired all appropriate business licenses issued by the Division of Revenue.

(b) A Funeral Establishment Permit shall be conspicuously displayed in said funeral establishment. In case of funeral services held in any private residence, church, or lodge hall, no permit shall be required.

(c) Applications for Funeral Establishment Permits shall be made on forms supplied by the Board. Applications shall be filed biennially in such manner as determined by the Division of Professional Regulation, and shall be accompanied by a fee determined by the Board pursuant to §3109 of this Chapter.

(d) A holder of a Funeral Establishment Permit shall not allow the unauthorized practice of funeral services by him/herself or agents on or off the premises of said funeral establishment.

(e) In the event of the death, disability or circumstance that prevents the direct supervision and management by the funeral director of the funeral establishment, said permit is void, except under the following conditions:

(1) Where a funeral establishment has been operated by a funeral director under his/her own license, his/her estate may continue the funeral establishment under the supervision and management of a licensed funeral director of this State until such time as the estate may be settled, but for no more than two (2) years after the date of the decedent's death;

(2) Where a funeral establishment has been operated by a corporation, said corporation may continue operating and assume all responsibilities of the funeral establishment as long as an officer of the corporation is a licensed funeral director.

§3122. Interstate Transportation of Human Remains

(a) Under circumstances where human remains are to be interred outside of this State the custodian of those remains must obtain for the non-resident funeral director an interstate transportation of human remains form prior to surrendering said remains to a non-resident funeral director. The interstate transportation of human remains form shall be designed by the Board and contain the following information:

(1) The complete legal name and address of the deceased.

(2) The certificate or license number and state of issuance of the transporting non-resident funeral director.

(3) The complete address of the transporting non-resident funeral director.

(4) The carrier vehicle identification or registration number of the transporting vehicle.

(5) The signature of the non-resident funeral director or his/her agent.

(b) The interstate transportation of human remains form shall be retained by the issuing funeral director. This section shall not prevent the interstate transportation of human remains form from being incorporated into the State's death certificate.

§3123. Penalties

Except as provided elsewhere in this Chapter and in Title 5, Chapter 3 of the Delaware Code, any person who violates this Chapter shall be fined no less than \$500 nor more than \$1000, be imprisoned no less than six (6) months nor more than three (3) years, or both."

Section 2. The licenses of all persons licensed in Delaware as funeral directors on the effective date of this Act shall continue to be valid, and shall not in any way be invalidated or otherwise affected by this Act.

Section 3. The five persons constituting the State Board of Funeral Service Practitioners on the effective date of this Act shall continue in office as members of the Board of Funeral Services until the expiration of the terms for which they were appointed.

Section 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or

applications of the Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable.

Section 5. The provisions of this Act shall become effective thirty (30) days after its enactment into law.

Approved April 12, 1988.

CHAPTER 226

FORMERLY

SENATE BILL NO. 271

AN ACT TO AMEND AN ACT BEING CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO" TO ELIMINATE THE ABATEMENT OF REAL ESTATE TAXES.

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

Section 1. Amend Section 28, Chapter 457, Volume 60, Laws of Delaware, as amended, by striking the first sentence of Subsection (e).

Approved April 18, 1988.

CHAPTER 227

FORMERLY

SENATE BILL NO. 282

AN ACT TO AMEND CHAPTER 215, VOLUME 64, LAWS OF DELAWARE, AS AMENDED, BEING AN ACT ENTITLED "AN ACT TO RE-INCORPORATE THE CITY OF HARRINGTON," RELATING TO CHARTER CHANGES FOR THE CITY OF HARRINGTON.

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 12, Chapter 215, Volume 64, Laws of Delaware by striking Section 12 in its entirety and substituting in lieu thereof the following new section 12 to read as follows:

"Section 12. Committees

The Mayor is hereby vested with the authority to appoint such standing or ad hoc committees as deemed advisable. The Council may adopt ordinances prescribing the number thereof, the manner of appointment, term of members, duties and such other matters as may be deemed necessary."

Section 2. Amend Section 18, Chapter 215, Volume 64, Laws of Delaware by striking the words "have practiced in the State of Delaware for at least three (3) years:" as they appear therein and by substituting in lieu thereof the words "be admitted to practice in the State of Delaware."

Section 3. Amend Section 22, Chapter 215, Volume 64, Laws of Delaware by striking sentence two of subsection (A) of Section 22 and substituting in lieu thereof the following two sentences:

"He need not, when appointed, be a resident of The City or State, but must become a resident of the State within three (3) months of appointment. During his term of office he may live outside The City limits with the approval of Council."

Section 4. Amend Section 23, Chapter 215, Volume 64, Laws of Delaware as amended by Chapter 20, Volume 65, Laws of Delaware as amended by Chapter 418, Volume 65, Laws of Delaware by striking Section 23 in its entirety and substituting in lieu thereof the following new section 23 to read as follows:

"Section 23. Police

The Council shall, from time to time, make rules and regulations as may be necessary for the organization, government and control of the Police Force. They shall preserve peace and order, and shall compel obedience with The City limits to the ordinances of The City and the Laws of the State of Delaware. They shall have such other duties as the Council shall from time to time prescribe. The members of the Police Force shall be subject to the direction of the Mayor acting in behalf of the Council. Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits with all the powers and authority of any Constable of Kent County and in the case of a pursuit of an offender their power and authority shall be without territorial limitations."

Approved April 18, 1988.

CHAPTER 228

FORMERLY

SENATE BILL NO. 312

AN ACT TO AMEND CHAPTER 251, VOLUME 61, LAWS OF DELAWARE, BEING "AN ACT TO REINCORPORATE THE CITY OF DELAWARE CITY," AS AMENDED BY CHAPTER 165, VOLUME 66, LAWS OF DELAWARE, RELATING TO NOTICE OF CLAIMS AGAINST THE CITY OF DELAWARE CITY.

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

Section 1. Amend Section 12-03 of the Charter of the City of Delaware City by striking the words "ninety (90) days" as they appear in the first sentence thereof and substituting in lieu thereof the following:

"one (1) year".

Section 2. This amendment shall be effective immediately upon its enactment and shall apply retroactively for a period exactly one (1) year from the date of its enactment.

Approved April 18, 1988.

CHAPTER 229

FORMERLY

SENATE BILL NO. 338

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILTON, "BEING CHAPTER 501, VOLUME 61, LAWS OF DELAWARE, AS AMENDED BY CHAPTER 265, VOLUME 64, AND CHAPTER 266, VOLUME 65, LAWS OF DELAWARE, BY ELIMINATING THE 15 PERCENT CAP ON ANNUAL APPROPRIATIONS TO THE PENSION PLAN FOR TOWN EMPLOYEES.

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 29(a) 41, Chapter 501, Volume 61, Laws of Delaware, as amended by Chapter 265, Volume 64, and Chapter 266, Volume 65, Laws of Delaware, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(41) To establish by Ordinance duly adopted pursuant to this Chapter 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 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 elected members of the Town Council."

Approved April 18, 1988.

CHAPTER 230

FORMERLY

SENATE BILL NO. 346

AN ACT TO AMEND VOLUME 27, CHAPTER 216, LAWS OF DELAWARE AS AMENDED BY VOLUME 38, CHAPTER 118, LAWS OF DELAWARE RELATING TO THE CHARTER OF THE CITY OF NEW CASTLE AND THE DUTIES OF CITY CLERK.

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 22, Volume 27, Chapter 216, Laws of Delaware as amended by Volume 38, Chapter 118, Laws of Delaware by adding a new paragraph at the end of said Section to read as follows:

"The President of City Council shall have authority to authorize the City Clerk to serve as Acting Treasurer during the absence of the Treasurer from the City or while the Treasurer shall be prevented by sickness from performing the duties of the Office of Treasurer and the City Clerk, upon receiving written notice authorizing him or her, shall be invested with all the powers and authority conferred upon the Treasurer, to exercise the same during such absence or sickness of the City Treasurer, until notified by the President of City Council that Treasurer is ready to resume the duties of the Office."

Approved April 18, 1988.

CHAPTER 231

FORMERLY

HOUSE BILL NO. 168

AN ACT TO AMEND TITLE 21, CHAPTER 28 OF THE DELAWARE CODE RELATING TO THE CERTIFICATION OF DRIVING RECORDS ON HABITUAL OFFENDERS.

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

Section 1. Amend Section 2802, Chapter 28, Title 21 of the Delaware Code by striking the words "Department of Public Safety" as they appear in said Section and insert in lieu thereof the words "Division of Motor Vehicles".

Section 2. Amend Section 2803, Chapter 28, Title 21 of the Delaware Code by deleting the words "Secretary of Public Safety" and inserting in lieu thereof the words "the Director of the Division of Motor Vehicles".

Section 3. Further amend Section 2803, Chapter 28, Title 21 of the Delaware Code by striking the words "as maintained in his office" and inserting in lieu thereof the words "as maintained in the Division of Motor Vehicles".

Section 4. Amend Section 2804, Chapter 28, Title 21 of the Delaware Code by striking the word "Secretary" as it appears in said Section and insert in lieu thereof the words "Director of the Division of Motor Vehicles".

Approved April 18, 1988.

CHAPTER 232

FORMERLY

HOUSE BILL NO. 440

AN ACT TO AMEND CHAPTER 51, SUBTITLE III, TITLE 6 OF THE DELAWARE CODE RELATING TO FLUID DAIRY PRODUCTS.

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

Section 1. Amend §5126, Chapter 51, Subtitle III, Title 6, Delaware Code by adding immediately after the words "10 fluid ounces," the following:

"12 fluid ounces,".

Approved April 18, 1988.

CHAPTER 233

FORMERLY

SENATE BILL NO. 211

AN ACT TO AMEND TITLES 10 AND 11 OF THE DELAWARE CODE RELATING TO PROBATION SUPERVISION RESULTING FROM FAMILY COURT ORDERS.

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

Section 1. Amend §6504(4), Chapter 65, Title 11 of the Delaware Code by deleting the words "except Family Court".

Section 2. Amend §4302(5) and §4302(9), Chapter 43, Title 11 of the Delaware Code by adding the words "Family Court" after the words "Superior Court".

Section 3. Amend §4322(a), Chapter 43, Title 11 of the Delaware Code by deleting the words "and the Family Court".

Section 4. Amend §901(1), 910(2), 910(4) and 910(5), Chapter 9, Title 10 of the Delaware Code by deleting the words "probation and".

Approved April 21, 1988.

CHAPTER 234

FORMERLY

SENATE BILL NO. 225
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9 AND CHAPTER 39, TITLE 10 OF THE DELAWARE CODE, RELATING TO THE FAMILY COURT OF THE STATE OF DELAWARE; AND PROVIDING FOR PARENTAL LIABILITY FOR RESTITUTION ORDERED BY THE FAMILY COURT FOR MONETARY DAMAGES CAUSED BY THEIR CHILD'S DELINQUENT CONDUCT.

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

Section 1. Amend §3922, Chapter 39, Part III, Title 10 of the Delaware Code by striking the last sentence of said section in its entirety.

Section 2. Amend §926, Chapter 9, Part I, Title 10 of the Delaware Code by striking said section in its entirety.

Section 3. Amend Subsection (b), Section 937, Chapter 9, Title 10 of the Delaware Code by striking paragraph (12) in its entirety, and inserting in lieu thereof the following:

"(12) As part of a delinquency disposition:

(a) order the delinquent child to make monetary restitution in whole or in part as the Court determines for out-of-pocket costs, losses, or damages to person or property caused by the delinquent act of the child where the amount therefor can be ascertained.

(b) award a judgment in favor of any municipal corporation, county, town, school district, and agency of the State, or any person, partnership, corporation or association, or any religious organization whether incorporated or unincorporated, and against the parents or guardians of the delinquent child for the same or greater amount ordered against the delinquent child but not to exceed \$5,000 provided the Court finds by a preponderance of the evidence presented that:

(i) The parties or guardians knew of the child's delinquent nature; and

(ii) The parents or guardians failed to take reasonable measures to control the child.

(c) require that any restitution ordered against the delinquent child shall precede the liability of the parents or guardians for the monetary damages caused by the child's delinquent act.

(d) require, in the absence of objection by the victim of the delinquent act of the child, that any restitution ordered against the delinquent child may be discharged in an appropriate community service arrangement with the understanding that failure to complete the community service work in good faith shall result in the reversion of this obligation to the monetary basis initially ordered by the Court.

(e) The cause of action created by this paragraph shall be in addition to any other existing statutory or common law remedy."

Approved April 21, 1988.

CHAPTER 235

FORMERLY

HOUSE BILL NO. 146

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 68, TITLE 16, DELAWARE CODE RELATING TO EXEMPTIONS FROM CIVIL LIABILITY.

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

Section 1. Amend Section 6801, Chapter 68, Title 16, Delaware Code by striking subsections (a), (b), and (c) in their entirety and substitute in lieu thereof the following:

"§6801. Persons Rendering Emergency Care Exempt from Liability; Advanced Life Support Standards Committee

(a) Notwithstanding any inconsistent provisions of any public or private and special law, any person who voluntarily, without the expectation of monetary or other compensation from the person aided or treated, renders first aid, emergency treatment or rescue assistance, to a person who is unconscious, ill, injured or in need of rescue assistance, or any person in obvious physical distress or discomfort shall not be liable for damages for injuries alleged to have been sustained by such person nor for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid, emergency treatment or rescue assistance, unless it is established that such injuries or such death were caused willfully, wantonly or recklessly or by gross negligence on the part of such person. This Section shall apply to members or employees of nonprofit volunteer or governmental ambulance, rescue or emergency units, whether or not a user or service fee may be charged by the nonprofit unit or the governmental entity and whether or not the members or employees receive salaries or other compensation from the nonprofit unit or the governmental entity. This Section shall not be construed to require a person who is ill or injured to be administered first aid or emergency treatment if such person objects thereto on religious grounds. This Section shall not apply if such first aid or emergency treatment or assistance is rendered on the premises of a hospital or clinic."

Section 2. Amend §6801, Title 16, Delaware Code by redesignating subsection (d) as subsection (b).

Approved April 25, 1988.

CHAPTER 236

FORMERLY

SENATE BILL NO. 224
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 44, TITLE 21 OF THE DELAWARE CODE RELATING TO ABANDONED VEHICLES AND TO THE PROCEDURE FOR PROCESSING AND SELLING MOTOR VEHICLES WHICH ARE REMOVED FROM PUBLIC HIGHWAYS, DESIGNATING RESPONSIBILITY FOR THE SECTION TO ONE AGENCY, MODERNIZING THE LANGUAGE AND ADDING AUTHORITY FOR REMOVAL OF VEHICLES WHICH CREATE A SAFETY PROBLEM.

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

Section 1. Amend §4402(a), Chapter 44, Title 21 of the Delaware Code by deleting the words "Highways and Transportation" and substituting in lieu thereof "Public Safety" (hereinafter "Department") and by adding a new sentence at the end of said paragraph to read as follows:

"The Department of Transportation shall have a limited role in causing vehicles to be removed from state or public highways, as stated herein."

Section 2. Amend §4402, Chapter 44, Title 21 of the Delaware Code by deleting from subsections (b), (c), (d), (e), and (f) the words "storage area maintained by the State Highway Department", "storage area maintained by the Department of Highways and Transportation", and "storage area maintained by the Department" wherever such words appear therein and substitute in lieu thereof the words "storage area designated by the Department or the State Police".

Section 3. Amend §4402, Chapter 44, Title 21 of the Delaware Code by deleting from subsections (b), (c), (d), (e), and (f) the words "State Highway Department and Department of Highways and Transportation" wherever else they shall therein and substitute in lieu thereof the words "Department or State Police".

Section 4. Amend §4403, Chapter 44, Title 21 of the Delaware Code by deleting the words "police or the Department of Highways or Transportation Authority" as they appear therein and substitute in lieu thereof the words "State Police, other police agencies, or the Department".

Section 5. Amend §4408, Chapter 44, Title 21 of the Delaware Code by deleting the words "Department of Highways and Transportation" as they appear therein and substituting in lieu thereof the words "Department, Department of Transportation, State Police or other legally authorized police agency".

Section 6. Amend §4410, Chapter 44, Title 21 of the Delaware Code by deleting the phrase "State Highway Department" as it appears therein and substitute in lieu thereof the word "Department".

Section 7. Amend §4411, Chapter 44, Title 21 of the Delaware Code by deleting the words "Department of Highways and Transportation" as they appear therein and substituting in lieu thereof the words "Department or State Police".

Section 8. Amend Chapter 44, Title 21 of the Delaware Code by adding a new §4416 which shall read as follows:

"§4416 Vehicles Left or Abandoned on Public Highways

Any other provision of this Chapter notwithstanding, in the event a motor vehicle is left unattended within the right of way of a 'public highway' or state highway, or any state maintained street, road, or bridge and is determined to be a safety hazard within the discretion of the Department, the Department of Transportation, the State Police, or any authorized police agency, said vehicle shall be towed to a storage area designated by the Department and the provisions of this Chapter shall apply."

Approved April 25, 1988.

CHAPTER 237

FORMERLY

HOUSE BILL NO. 259
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, TITLE 6 OF THE DELAWARE CODE RELATING TO TRANSIENT RETAILERS.

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

Section 1. Amend subsection (3), §4702, Chapter 47, Title 6 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(3) 'Temporary or transient business' means any exhibition or sale of goods, wares or merchandise which is carried on in any building, structure, motor vehicle or real estate for less than either of following times during any consecutive twelve-month period:

(a) a period of four months duration between commencement and cessation of the conduct of business; or

(b) a period of ninety actual days during which business is conducted."

Section 2. Amend subsection (a), §4703, Chapter 47, Title 6, Delaware Code by adding a new subparagraph to read as follows:

"(10) Any special event, taking place within the confines of an enclosed retail shopping facility, having a total enclosed common area square footage, exclusive of the total square footage of all occupied retail space contained in said enclosed retail shopping facility, of not less than 20,000 square feet, where the transient merchant's goods, wares or merchandise are only displayed and sold within the confines of such enclosed retail shopping facility provided, however, that each such enclosed retail shopping facility shall compile and maintain for a period of four (4) years a listing containing the name, address, telephone number and general description of the type of goods or merchandise sold of each transient merchant participating in each special event."

Section 3. Amend §4707, Chapter 47, Title 6 of the Delaware Code by inserting at the end of subsection (a) of said Section the following:

"The Director of Revenue may waive the bond provided in this Section upon a showing sufficient to satisfy the Director that:

(1) If the transient retailer is organized as a corporation, the principal offices for purposes of conducting the administrative business of the corporation are located in a permanent and fixed location within Delaware;

(2) If the transient retailer is organized other than as a corporation, at least one person legally liable for all the debts of the retailer maintains a permanent and fixed residence within this State. The Director may issue such forms or returns as may be necessary to carry out his duties under this Chapter."

Section 4. This Act shall be effective on the date of its enactment into law, provided, however, that the Director of Revenue shall, after enactment and at the request of any taxpayer, implement its provisions with respect to the return, tax, or bond received from that taxpayer prior to such date

Approved April 25, 1988

CHAPTER 238

FORMERLY

HOUSE BILL NO. 220
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 42, TITLE 21 OF THE DELAWARE CODE RELATING TO STOPPING AT ACCIDENTS, REPORTS OF ACCIDENTS, PENALTIES, AND INTERPRETATION OF LAWS.

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

Section 1. Amend Section 4201, Chapter 42, Title 21, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§4201. Duty of driver involved in accident resulting in property damage.

(a) The driver of any vehicle involved in an accident resulting in apparent damage to property shall immediately stop such vehicle at the scene of the accident. If the damage resulting from such accident is to the property of the driver only, with no damage to the person or property of another, the driver need not stay at the scene of the accident but shall immediately make a report of the damage resulting as required by Section 4203 of this Title.

(b) The driver shall give his name, address and the registration number of his vehicle and exhibit his driver's license or other documentation of driving privileges to the owner of the property or the driver or occupants of any vehicle with which his vehicle collides."

Section 2. Amend Section 4203, Chapter 42, Title 21, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§4203. Duty to report accidents; evidence.

(a) After complying with the requirements of Sections 4201 and 4202 of this Title, the driver of any vehicle involved in the following described vehicular accidents shall immediately report such accident to the police agency which has primary jurisdictional responsibility for the location in which the accident occurred:

- (1) when the accident results in injury or death to any person; or
- (2) when the accident occurs on a public highway and results in property damage to an apparent extent of \$500 or more; or
- (3) when it appears that any accident involving a driver whose physical ability is impaired as a result of the use of alcohol or drugs or any combination thereof.

(b) When an accident results in property damage only to an apparent extent of less than \$500, the driver may report such accident to the appropriate police agency as described in (a), after complying with Section 4201 of this Title.

(c) Police agencies may investigate any accident which occurs within that agency's jurisdiction.

(d) Police agencies shall investigate and complete the State of Delaware Uniform Traffic Collision Report supplied by the Delaware Department of Public Safety on all reported accidents involving, an impaired driver, apparent property damage to the extent of \$500 or more, personal injury or death to a person, when such accidents occur within that agency's jurisdiction.

(e) The Department of Public Safety may require drivers involved in accidents, or police departments, to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient in the opinion of the Department of Public Safety. Such reports shall be without prejudice, shall be for the information of the Department of Public Safety and shall not be open to public inspection. The fact that such reports have been so made shall be admissible in evidence solely to prove a compliance with this Section but no report or any part thereof or statement contained therein shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accidents."

CHAPTER 239

FORMERLY

SENATE BILL NO. 257

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 45, TITLE 7 OF THE DELAWARE CODE TO PROVIDE FOR REIMBURSEMENT TO THE STATE FOR COSTS AND EXPENSES INCURRED IN CONTESTING CLAIMS TO PUBLIC LANDS OF THE STATE.

WHEREAS, the State of Delaware owns numerous parcels of land throughout the State; and

WHEREAS, such public lands are of significant value to the State and its citizens; and

WHEREAS, the State at considerable expense has documented the boundaries of its public lands; and

WHEREAS, a significant financial burden is imposed upon the State when it is necessary to defend the State's interests in its public lands against claims; and

WHEREAS, the State, acting in its sovereign capacity, deems it appropriate that persons asserting claims to public lands who fail to substantiate their claims should reimburse the State for the costs and expenses incurred by the State in defending the State's interests in its lands if such claim does not have substantial merit.

NOW THEREFORE:

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

Section 1. Amend Chapter 45, Title 7, Delaware Code by adding a new Section 4520 to read as follows:

"§4520. Liability for Costs and Expenses Incurred by the State in Defeating Claims to Public Lands

(a) Any person who asserts a claim to any interest in any part of the public lands of the State of Delaware for which a plot or description has been recorded with the Recorder of Deeds in and for the county in which the lands are situate shall, if the State is successful in defeating such claim or any part thereof through any judicial proceeding, be liable for all costs and expenses of the State incurred in defeating the claim or any part thereof, including, without limitation, investigative costs, administrative costs, salaries of State employees, surveying costs, engineering costs, title search fees, attorneys fees of privately retained counsel and attorneys of the Department of Justice, consultant fees and contract costs, provided however, that such cost and expense recovery should not be provided if the claim has substantial merit.

(b) For purposes of this section the term person shall include any individual, group of individuals, firm, association, partnership, company, corporation, joint-venture, trust, estate or other legal entity. Any liability for costs and expenses imposed under this section on any corporation shall also be imposed jointly and severally on the officers and directors of such corporation in their individual capacities.

(c) In order to recover costs and expenses under this section, the State shall, within forty-five days of the entry of the final order or judgment, file a petition with the court which exercised jurisdiction over the matter, which petition shall set forth a statement of the costs and expenses incurred by the State."

Section 2. This Act shall take effect immediately upon its adoption and shall apply to all costs and expenses incurred by the State after the effective date hereof in contesting claims to public lands, regardless of when any judicial proceeding was commenced.

Approved April 25, 1988.

CHAPTER 240

FORMERLY

SENATE BILL NO. 373
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND VOLUME 66, CHAPTER 92, LAWS OF DELAWARE RELATING TO THE FISCAL YEAR 1988 CAPITAL BUDGET AS AMENDED AND TO AMEND VOLUME 65, CHAPTER 385, LAWS OF DELAWARE, RELATING TO THE FY 1987 CAPITAL BUDGET AS AMENDED.

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

Section 1. Authorization of Twenty-Year Bonds:

(a) Amend Volume 65, Chapter 385, Section 1, Laws of Delaware by deleting the figure "\$1,300,000" as it appears under the heading "Department, Agency, of Instrumentality" following the phrase "Department of Correction" and insert in lieu thereof the figure "\$841,130".

(b) Further amend Volume 65, Chapter 385, Section 1, Laws of Delaware by deleting the figure "\$4,723,083" as it appears under the heading "Department, Agency, of Instrumentality" following the phrase "Department of Administrative Services" and insert in lieu thereof the figure "\$5,181,953".

Section 2. Asbestos/FY 1987:

(a) Amend Volume 65, Chapter 385, Section 15(a), Laws of Delaware by deleting the words and figure "One Million Four Hundred Twenty-Three Thousand Eighty-Three Dollars (\$1,423,083)" and inserting in lieu thereof the words and figure "One Million Eight Hundred Eighty One Thousand Nine Hundred Fifty-Three (\$1,881,953)".

(b) Amend Volume 65, Chapter 385, Section 15(c), Laws of Delaware by deleting the words and figure "Three Million Dollars (\$3,000,000)" as they appear in said subsection and insert in lieu thereof the words and figure "Three Million Four Hundred Fifty-Eight Thousand Eight Hundred and Seventy Dollars (\$3,458,870)".

Section 3. Project Schedule/FY 1987:

(a) Amend Volume 65, Chapter 385, Laws of Delaware, by deleting the figure \$525,000 contained within the "Fiscal Year 1987 Capital Improvements Project Schedule after the phrase "150 Bed Women's Facility" under the "New G.O. Bond Authorizations" for the "Department of Correction" and inserting in lieu thereof the figure "\$66,130".

(b) Further amend Volume 65, Chapter 385, Laws of Delaware, by deleting the figure \$1,423,083 contained within the "Fiscal Year 1987 Capital Improvements Project Schedule" after the phrase "Asbestos Abatement" under the "New G.O. Bond Authorizations" for the "Department of Administrative Services" and inserting in lieu thereof the figure "\$1,881,953".

Section 4. Asbestos/FY 1988:

(a) Amend Volume 66, Chapter 92, Section 33(a), Laws of Delaware, by deleting the words and figure "Two Million Four Hundred Eighty Nine Thousand Eight Hundred Ninety-Four Dollars (\$2,489,894)" and inserting in lieu thereof the words and figure "Two Million Six Hundred Twenty-Nine Thousand Eight Hundred Ninety-Four (\$2,629,894)".

(b) Amend Volume 66, Chapter 92, Section 33(a), Laws of Delaware, by adding a new sentence to the conclusion of said subsection to read as follows:

"The Secretary of Administrative Services is also directed to use any funds necessary to conduct inspections of public schools in the State of Delaware as required by the Asbestos Hazard Emergency Response Act of 1986 and by United States Environmental Protection Agency Regulations."

(c) Amend Volume 66, Chapter 92, Section 33(c), Laws of Delaware, by deleting the words and figure "Three Million Dollars (\$3,000,000)" as they appear in said subsection and insert in lieu thereof the words and figure "Three Million One Hundred Forty Thousand Dollars (\$3,140,000)".

Section 5. Project Schedule/FY 1988:

(a) Amend Volume 66, Chapter 92, Laws of Delaware, by deleting the figure "\$495,912" as it appears within the "Fiscal Year 1988 Capitol Improvements Project Schedule" after the phrase "Cooper Building Renovations" under the "New General Obligation Bond Authorizations" for the "Department of Administrative Services" and inserting in lieu thereof the figure "\$355,912".

(b) Amend Volume 66, Chapter 92, Laws of Delaware, by deleting the figure "\$970,586" as it appears within the "Fiscal Year 1988 Capitol Improvements Project Schedule" after the phrase "Asbestos Abatement" under the "New General Obligation Bond Authorizations" for the "Department of Administrative Services" and inserting in lieu thereof the figure "\$1,110,586".

Approved April 26, 1988.

CHAPTER 241

FORMERLY

HOUSE BILL NO. 332

AN ACT TO AMEND CHAPTER 83, TITLE 11 OF THE DELAWARE CODE RELATING TO THE NUMBER OF ACTIVE DUTY STATE POLICE OFFICERS.

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

Section 1. Amend Section 8301, subchapter I, Chapter 83, Part V, Title 11, Delaware Code by striking the number "450" as it appears in said Section and substituting in lieu thereof the number "500".

Section 2. This Act shall take effect July, 1, 1987.

Approved April 26, 1988

CHAPTER 242

FORMERLY

HOUSE BILL NO. 433 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND VOLUME 63, CHAPTER 272, LAWS OF DELAWARE, AS AMENDED, RELATING TO THE CHARTER OF THE TOWN OF CAMDEN.

WHEREAS, It is deemed advisable that the Charter of the Town of Camden, contained in Chapter 272, Volume 63, Laws of Delaware, as amended, be in certain respects further 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):

Section 1. Amend subsection (a), Section 7, Chapter 272, Volume 63, Laws of Delaware, as amended, by striking said subsection in its entirety and substituting in lieu thereof the following.

"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 Camden on the last Saturday in February of each and every year from twelve o'clock in the afternoon, prevailing time, until eight 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 February, A.D. 1989."

Section 2 Amend subsection (b), Section 7, Chapter 272, Volume 63, Laws of Delaware by striking the year "1983" and substituting in lieu thereof the year "1989".

Approved May 7, 1988.

CHAPTER 243

FORMERLY

SENATE BILL NO. 216

AN ACT TO AMEND TITLE 10, DELAWARE CODE, RELATING TO THE FAMILY COURT OF THE STATE OF DELAWARE BY PROVIDING FOR EXPUNGEMENT OF RECORDS UNDER CERTAIN CIRCUMSTANCES.

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

Section 1. Amend §930(c) of Title 10 of the Delaware Code by adding the following:

"The Court may grant such relief without a hearing when it appears in writing that the petition is not opposed by the Attorney General."

Approved May 7, 1988.

CHAPTER 244

FORMERLY

SENATE BILL NO. 166

AN ACT TO AMEND CHAPTER 52, TITLE 30 OF THE DELAWARE CODE RELATING TO THE MOTOR CARRIER FUEL PURCHASE LAW.

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

Section 1. Amend Section 5210, Chapter 52, Title 30, Delaware Code by striking the entire sentence which reads as follows:

"As used in this Section and in Section 5207 of this Title, 'entire fleet' and 'entire operations' shall mean those motor vehicles which use the highways of Delaware at any time during the period covered by the quarterly report and the operations of such vehicles respectively."

Approved May 7, 1988.

CHAPTER 245

FORMERLY

HOUSE BILL NO. 19
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, TITLE 29, DELAWARE CODE RELATING TO MANDATORY RETIREMENT.

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

Section 1. Amend §5521, Chapter 55, Title 29, Delaware Code, by striking said Section in its entirety.

Section 2. Amend §5501(a)(4), Chapter 55, Title 29, Delaware Code, by striking subparagraph (4) in its entirety and further redesignating subparagraph (5) to read subparagraph (4).

Section 3. This Act shall be retroactive to January 1, 1987.

Section 4. This Act shall not be construed to preclude any institution of higher education from imposing a mandatory retirement age if not inconsistent with the Federal Age Discrimination in Employment Act and other provisions of the Delaware Code.

Approved May 13, 1988.

CHAPTER 246

FORMERLY

HOUSE BILL NO. 177
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 15, TITLE 13 OF THE DELAWARE CODE RELATING TO MARITAL PROPERTY.

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

Section 1. Amend §1513(a)(9), Title 13, Delaware Code by deleting the following words:

" , bequest, devise or descent "

Section 2. Amend §1513(b), Title 13, Delaware Code by renumbering paragraphs "(1)", "(2)" and "(3)" as "(2)", "(3)" and "(4)" respectively.

Section 3. Amend §1513(b), Title 13, Delaware Code by adding thereto a new paragraph (1) to read as follows:

"(1) Property acquired by an individual spouse through bequest, devise or descent."

Section 4. Amend §1513(c), Title 13, Delaware Code by deleting the paragraph number "(3)" as it appears therein and inserting in lieu thereof the paragraph number "(4)".

Section 5. This Act shall become effective with respect to petitions for divorce filed on or after the effective date of this Act.

Approved May 13, 1988.

CHAPTER 247

FORMERLY

HOUSE BILL NO. 360

AN ACT TO AMEND TITLE 3, OF THE DELAWARE CODE BY ADDING A NEW CHAPTER 82, RELATING TO RABIES CONTROL IN ANIMAL AND HUMAN POPULATIONS AND TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE, RELATING TO OBSTRUCTING THE CONTROL AND SUPPRESSION OF RABIES.

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

Section 1. Amend Part VI, Title 3 of the Delaware Code, by adding a new Chapter 82 to read as follows:

"Chapter 82. Rabies control in animal and human populations.

Section 8201. Purpose of Chapter.

The purpose of this Chapter is to control and suppress the spread of rabies among the domestic and wild animal populations of the State of Delaware, to provide safeguards against exposure of this disease to citizens of the State of Delaware and to prevent the introduction of this virus into this State by the importation of animals or species of animals known to be vectors or carriers.

Section 8202. Definitions.

- a. The term "Animal" shall mean - Any species of mammal, not including humans.
- b. The term "Animal Control Officer" shall mean - A person employed by the State, County or an Animal Control Agency as an enforcement officer.
- c. The term "Bite" shall mean - Any penetration of the skin by the teeth.
- d. The term "Cat" shall mean - Felis catus.
- e. The term "Compendium" shall mean - The Compendium of Animal Rabies Vaccines prepared by the National State Public Health Veterinarian, Inc. as Amended from time to time.
- f. The term "Department of Agriculture" shall mean - The Department, or officially designated agent thereof.
- g. The term "Department of Natural Resources and Environmental Control" shall mean - The Department, or officially designated agent thereof.
- h. The term "Division of Public Health" shall mean - The Division, or officially designated agent thereof.
- i. The term "Dog" shall mean - Canis familiaris.
- j. The term "Exposure to rabies" shall mean - A bite or contamination with the saliva of an animal known or suspected to have rabies of a mucosal membrane or fresh wound.
- k. The term "Isolated Quarantine" shall mean - Confinement of an animal in such a manner whereby there exists no opportunity for contact with other animals or humans, excepting one person 18 years old or older who cares for that animal.
- l. The term "kennel" shall mean - Any place wherein dogs are kept for the purposes of breeding, training, sale or show.
- m. The term "Owner" shall mean - Any person owning, keeping or harboring one or more animals.
- n. The term "Person" shall mean - Any individual, business, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.
- o. The term "Quarantine" shall mean - Strict confinement, under restraint by leash, closed cage, or paddock, on the private premises of the owner or at another specified location.

p. The term "Rabies" shall mean - In man and animal, an acute viral disease of the central nervous system, caused by a rhabdovirus, also known as hydrophobia or Lyssa, usually transmitted to man through the injection of saliva by an animal bite.

Section 8203. Reporting of Rabies.

Any medical practitioner, hospital, veterinarian or other person having knowledge of the following situations shall report the facts to the Division of Public Health:

- a. Any suspected or confirmed case of human rabies.
- b. Any animal known to have or suspected of having been exposed to rabies.

Section 8204. Rabies vaccination required for dogs and cats and related topics.

a. Vaccination of Dogs

(1) Any person owning a dog six (6) months of age or older in this State shall have that dog vaccinated against rabies by a veterinarian. The owner of the dog will receive a copy of the rabies vaccination certificate legibly signed by the veterinarian. The owner of the dog will be responsible for keeping a valid rabies vaccination certificate in his possession for inspection by an animal control officer, the Department of Agriculture, or the Division of Public Health, if deemed necessary.

(2) Upon request by an animal control officer, the Department of Agriculture, or the Division of Public Health, all owners of kennels, excluding licensed boarding kennels, shall present immediately a valid rabies vaccination certificate, signed by the veterinarian, for each dog six (6) months of age owned by the kennel. Kennel owners will be specifically responsible for keeping all vaccination certificates for all dogs owned or kept at their premise until at least twelve (12) months after the effective expiration date of the vaccination. If a dog is sold or traded, then the valid vaccination certificate shall be given to the new owner of the dog. If no valid certificate is given to the new owner, the new owner shall have the dog vaccinated and be issued a valid vaccination certificate.

b. Vaccination of Cats.

Any person owning a cat six (6) months of age or older in this State shall have the cat vaccinated against rabies by a veterinarian. The owner of the cat will be responsible for keeping a valid rabies vaccination certificate in his possession for inspection by an animal control officer, the Department of Natural Resources and Environmental Control, the Department of Agriculture, or the Division of Public Health.

c. Duties of Veterinarian.

(1) Each licensed veterinarian may select a rabies vaccine of his choice and use procedures for administering it consistent with the recommendations of the Veterinary Biologics Division of the U.S. Department of Agriculture which licenses that vaccine.

(2) A rabies vaccination certificate will be promptly issued to the owner of each dog or cat vaccinated against rabies. The veterinarian administering the vaccine shall complete the certificate specifying accurately the date the animal shall be revaccinated in accordance with the specific criteria of the Compendium. The veterinarian shall sign the certificate in a legible manner. The certificate shall also include the veterinarian's address, telephone number and state license number. Veterinarians shall maintain copies of these certificates for a minimum of twelve (12) months after the effective expiration date of the vaccination.

d. Public anti-rabies clinics

The Compendium will serve as a basis for the procedures and practices used in public anti-rabies clinics. The Department of Agriculture or the veterinarian selected to administer the vaccine at the public anti-rabies clinic will be consulted on the specific rabies vaccine or vaccines that shall be used at those clinics. All administrative procedures and personnel, excluding veterinary staffing, will be approved by the State Veterinarian. The responsible organization conducting the public anti-rabies clinic will be responsible for maintaining copies

of these certificates for a minimum of twelve (12) months after the effective expiration date of the vaccination.

e. Penalty.

Any person who violates any provision of this Section shall be fined twenty-five dollars (\$25). No penalty imposed by this Section shall be suspended.

Section 8205. Prohibition of vaccination of certain animals for rabies.

a. No licensed veterinarian or other person may vaccinate a wild animal or other animal with a rabies vaccine not intended for use in that animal, except when specifically approved by the Department of Agriculture.

b. Anyone violating this Section shall be fined not less than fifty dollars (\$50) nor more than two hundred fifty dollars (\$250).

Section 8206. Prohibition on the importation of certain animals.

a. The Department of Agriculture may also ban importation of certain species of animals into the State, or require special permits for importation of certain species, if it is felt that these species of animals represent an unacceptable risk of rabies infection to humans and animals.

b. Anyone violating this Section shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

Section 8207. Disposition of animals exposed to Rabies.

a. If the owner of a dog or cat which is exposed to an animal suspected or known to be rabid, can provide proof of a currently valid rabies vaccination, that dog or cat shall be revaccinated immediately and quarantined for 90 days. The Department of Agriculture may make inspections as is deemed necessary to assure that the animal is properly restrained, issue appropriate quarantine orders and release the quarantine after the 90 day period.

b. In the event that a rabies vaccine is approved for use in animals other than dogs or cats, and should such a vaccinated animal be exposed to rabies, the animal shall be placed in quarantine or destroyed for rabies testing, as may be required by the Department of Agriculture.

c. If the owner of a dog, cat, or other animal which is exposed to an animal suspected or known to be rabid, cannot provide proof of a currently valid rabies vaccination, the animal shall, at the option of the owner, be either killed, under supervision of Department of Agriculture, or held in isolated quarantine for a minimum of 6 months in a facility and manner approved by the Department of Agriculture, pursuant to Section 8208 or 8209. All costs relating to such isolated quarantine shall be borne by the owner of the animal. If isolated quarantine is chosen, the Department of Agriculture may make inspections as is deemed necessary to assure that the animal is in isolated quarantine, issue appropriate quarantine orders and release the isolated quarantine after the 6-month period. In instances where isolated quarantine orders are violated the animal should be killed and tested for rabies unless an exception is made, based upon circumstances, by the Department of Agriculture. Dogs or cats shall be vaccinated against rabies one month prior to the scheduled termination of the isolated quarantine. Other animals shall not be vaccinated unless approved by the Department of Agriculture.

d. Penalty.

Any person who violates any provision of this Section shall be fined not less than one hundred (\$100) nor more than two hundred dollars (\$200).

Section 8208. Responsibility and liability of owner of dog or cat for quarantine when dog or cat exposes a human being to Rabies.

a. The owner of any dog or cat that exposes a human being to rabies shall quarantine said dog or cat for a period of at least ten (10) days commencing at the time of the exposure. Any persons who fails to comply with this subsection shall be fined not less than twenty five dollars (\$25) nor more than one hundred dollars (\$100).

(1) If the owner of the dog or cat can provide proof of a currently valid rabies vaccination, that dog or cat may be quarantined on the premises of the owner or custodian.

(2) If the owner of the dog or cat cannot provide proof of a currently valid rabies vaccination, that dog or cat must be quarantined by a veterinarian, kennel or other facility approved by The Department of Agriculture. The cost of quarantine in this instance is to be borne by the owner of the dog or cat.

(3) If the owner of that dog or cat cannot show proof of a valid rabies vaccination, the quarantine period shall be extended beyond the 10 days until such time that rabies vaccine is administered to that dog or cat by a licensed veterinarian. The dog or cat shall not be vaccinated during the initial 10 day quarantine period.

b. An owner who fails to quarantine any dog or cat that exposes a human being to rabies after being notified must quarantine said dog or cat in an approved place and manner. An owner failing to quarantine said dog or cat shall be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).

c. Reporting of conditions of quarantine.

(1) The owner of a dog or cat quarantined pursuant to these regulations is responsible for reporting the facts to the Division of Public Health or a veterinarian, if that dog or cat shows marked behavior changes, escapes, sickens, or dies during the quarantine period.

(2) Any veterinarian, approved kennel, or other person having knowledge of a quarantined dog or cat which shows marked behavior changes, escapes, sickens, or dies shall report the facts to the Division of Public Health.

(3) Any person failing to comply with the provisions of this subsection shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200).

d. Disposition during quarantine.

A dog or cat under quarantine may not be moved from the place of quarantine, killed, given away or otherwise disposed of without the written permission of the Division of Public Health or Department of Agriculture.

e. Surrender of dogs or cats for quarantine.

A person may not fail or refuse to surrender any dog or cat for quarantine or destruction as required in this Section when demand is made by written order of the Department of Agriculture or Division of Public Health.

Section 8209. Disposition and quarantine of animal other than dog or cat which exposes a human being to rabies.

a. When an animal, other than a dog or cat, exposes a human being to rabies, the Division of Public Health or the Department of Agriculture may require the destruction of the animal for rabies testing, or the quarantine of the animal in an approved place and manner.

b. A person may not fail or refuse to surrender said animal for quarantine or destruction as required in this Section when demand is made by written order of the Department of Agriculture or the Division of Public Health.

c. Any person having knowledge of an animal, quarantined under the provisions of this Section, which shows marked behavior changes, escapes, sickens, or dies, shall report the facts to the Department of Agriculture.

d. Penalty.

Any person interfering with the provision of this Section shall be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).

Section 8210. Submission of animal for rabies testing and examination during quarantine.

a. When an animal is destroyed for the purposes of rabies testing, every effort shall be made to keep the head and brain intact and unfrozen. Precautions shall be taken to avoid exposure to humans during destruction and until transported to the Division of Public Health Laboratory. The Division of Public Health shall be

responsible for ensuring that the destroyed animal is transported safely, and for notifying the submitting party of the rabies testing results.

b. The Division of Public Health or the Department of Agriculture may order the owner of an animal which is suspected of having exposed a human being to rabies to have the animal examined by a licensed veterinarian at any time during the quarantine period. The cost of the examination and any other associated cost shall be borne by the owner of the biting animal which is suspected of having exposed the human being to rabies. Any animal determined by a licensed veterinarian, the Department of Agriculture, or the Department of Natural Resources and Environmental Control, to be inhumanely suffering any be killed in a humane manner and the head promptly submitted to the Division of Public Health Laboratory for rabies testing.

c. Notwithstanding any other provision of this Chapter, the Department of Natural Resources and Environmental Control, the Department of Agriculture, or the Division of Public Health, may issue a written order that an animal suspected of exposing a human being to rabies be killed in a humane manner for laboratory examination for rabies, if it is determined that the animal is not being quarantined adequately or that there are other reasons which make it necessary for the preservation of human health.

Section 8211. Joint regulatory powers of Department of Natural Resources and Environmental Control, Department of Agriculture, Division of Public Health; quarantine and area-wide emergencies.

a. The Department of Natural Resources and Environmental Control, Department of Agriculture, and Division of Public Health are hereby delegated the power to adopt joint regulations signed by all three Department Secretaries setting forth procedures regulating the conduct of practitioners of human health, human health services, animal health services and animal control agencies for the purpose of fulfilling or carrying out the purpose and intent of this Chapter.

b. Area wide quarantine.

If rabies is known to exist within an area, the Division of Public Health, in conjunction with the Department of Natural Resources and Environmental Control and Department of Agriculture may establish a rabies quarantine and shall define the boundaries or the quarantine area and specify the animal or animals subject to quarantine. All these animals within the quarantine area and subject to the quarantine restrictions shall be kept in strict confinement upon the premises of the owner at all times until the quarantine is terminated. An animal, subject to the quarantine, may not be brought into the quarantine area or taken out of the quarantine area without written permission.

c. Area wide rabies emergency.

The Director of the Division of Public Health may declare an area wide rabies emergency and shall define the boundaries of the area and place specified animals under quarantine. By doing so, the Director of the Division of Public Health authorizes Department of Natural Resources and Environmental Control, its agents, and state and local police officers to destroy on sight any animals not in compliance with quarantine orders.

d. Human animal bite

The Director of Division of Public Health may require the reporting of all cases where humans were bitten by an animal known to transmit rabies.

Section 8212. Enforcement.

The provisions of this Chapter may be enforced by any authorized employee or agent of the Departments of Agriculture, Natural Resources and Environmental Control, or Health and Social Service.

Section 2. Amend subpart D, subchapter VI, Chapter 5, Title 11, of the Delaware Code, by adding a new Section 1248 to read as follows:

"Section 1248. Obstructing the control and suppression of rabies.

a. A person is guilty of obstructing the control and suppression of rabies when he violates any lawful order of authorized state employees, or their agents, in the enforcement of laws to control and suppress rabies, pursuant to Chapter 82, Title 3, of

the Delaware Code, Rabies Control in Animal and Human Populations, or prevents or dissuades another person from complying with such orders.

b. Obstructing the control and suppression of rabies is a Class B misdemeanor. However, obstructing the control and suppression of rabies in a place and at a time when a state of emergency with respect to rabies has been declared pursuant to Section 8211, Title 3, of the Delaware Code, is a Class E Felony.

Section 3. This Act shall become effective upon the appropriation of sufficient funding and positions needed to carry out the Rabies Control Program in all three counties of the State.

Section 4. This Act shall become effective upon the specific appropriation of funds for such purposes in the Annual Appropriation Act.

Section 5. If any provision or part of any provision of this Act or any regulation promulgated by any Department or permit issued by any Department is determined to be invalid, void or unlawful, said provision or part thereof shall be served from the remainder of the original provisions of said Chapter, regulation or permit, and said remaining provisions thereof shall continue in force.

Approved May 13, 1988.

CHAPTER 248

FORMERLY

SENATE BILL NO. 89
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 3

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO UNIFORM LEAVE RULES FOR CERTAIN EXEMPT STATE POSITIONS.

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

Section 1. Amend Subchapter I, Chapter 59, Title 29 of the Delaware Code by creating a new Section 5905 to read as follows:

"§5905. Leave Regulations for Certain Exempt Positions

(a) State employees in the exempt positions enumerated in Part (d) of this Section shall accrue sick leave at the rate of one and one quarter (1 1/4) work days for each completed calendar month of state service.

(1) Such employees shall have unlimited accrual privileges on unused sick leave.

(2) Sick leave accrual for purposes of cash payment upon separation from state service shall not exceed a maximum of ninety (90) days.

(b) State employees in the exempt positions enumerated in Part (d) of this Section shall accrue annual leave at the rate of one and three quarter (1 3/4) work days for each completed calendar month of service.

(1) Annual leave carried over into a new calendar year may not exceed twice the exempt employee's annual accrual rate. This determination shall be made as of December 31 of each calendar year, although it shall be possible to accrue and carry in excess of twice the annual accrual rate during the course of a calendar year.

(2) Secretaries of executive departments and/or agency heads are responsible for maintaining a record of their own and their employee's leave accrual and usage. Such records shall be reviewed by the employee annually during the month of December and such review shall be made a part of the employee's leave record.

(c) State employees in the exempt positions enumerated in Part (d) of this Section, upon termination of state service, shall be compensated for unused annual leave and sick leave in the following manner:

(1) Such employees shall be compensated at the rate of one (1) work day's pay for each day of unused annual leave. The maximum accrual carry over rate will be 42 days and the maximum earned annual leave during any given year will be 21 days annual accrual for a maximum 63 days at termination of state service.

(2) In the event of death of such employee, payment shall be made to their estate at the rate of one (1) work day's pay for each day of unused sick leave.

(3) Upon retirement under the State Pension Law, such employee shall be compensated at the rate of one (1) work day's pay for each two (2) days of unused sick leave, with a maximum accrual of 90 sick leave days for the purposes of cash payment.

(4) Such employees shall not be compensated for unused sick upon termination of state service except upon their retirement or death, as provided herein.

(5) For purposes of this Section and except as otherwise provided by law, an employee shall be deemed to have terminated his or her state service when he or she retires, dies, is laid off, dismissed, or resigns and files with the Secretary of State a signed statement indicating that he or she has no pending agreement to return to state service other than pursuant to §5502(a)(3) or §5502(b) of this Chapter.

(d) The leave regulations set forth in this Section shall only apply to those full-time appointed exempt positions except elected officials, judges (excluding Justices of the Peace), casual and seasonal employees, temporary employees and interns."

Approved May 13, 1988.

CHAPTER 249

FORMERLY

SENATE BILL NO. 264

AN ACT TO AMEND CHAPTER 9, TITLE 24 OF THE DELAWARE CODE REGARDING THE APPLICATION FEE FOR 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 figure "\$100" and inserting in lieu thereof the figure "\$50".

Approved May 13, 1988.

CHAPTER 250

FORMERLY

SENATE BILL NO. 371

AN ACT TO AMEND CHAPTER 85, VOLUME 66, LAWS OF DELAWARE BEING HOUSE BILL NO. 350 OF THE 134TH GENERAL ASSEMBLY, AND BEING AN ACT ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1988; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BY MAKING CERTAIN ADDITIONS, DELETIONS, AND ADJUSTMENTS.

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

Section 1. AMEND Chapter 85, Volume 66, Laws of Delaware, being House Bill No. 350 of the 134th General Assembly by making the following adjustments to General Funds in Section 1:

<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	(Increase) (Decrease)
<u>(10-02-04) Budget Office - Contingencies</u>					

8	32	Contingency-Salaries & OEC	2,430.1	2,331.4	(98.7)
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<u>Page</u>	<u>Line</u>	<u>Organization/Item</u>	<u>From</u>	<u>To</u>	(Increase) (Decrease)
<u>(45-06-03) Patrol</u>					

46	15	Salaries	9,583.3	9,641.3	58.0
			(312.0)	(332.0)	(20.0)

46	16	OEC	1,604.6	1,613.8	9.2
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46	20	Supplies & Materials	283.9	315.4	31.5
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Section 2. AMEND Section 1 of Chapter 85, Volume 66, Laws of Delaware, being House Bill No. 350 of the 134th General Assembly, by recomputing all subtotals and totals accordingly as a result of this Act.

Approved May 19, 1988

CHAPTER 251

FORMERLY

SENATE BILL NO. 336

AN ACT TO AMEND CHAPTER 5, SUBCHAPTER III, SUBPART D, TITLE 11 OF THE DELAWARE CODE RELATING TO THEFT AND RELATED OFFENSES.

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

Section 1. Amend Section 855, Title 11 of the Delaware Code by adding a new Subsection (c) to the said Section 855 which shall read as follows:

"(c) When theft or any related offense is committed in violation of this title pursuant to one scheme or continuous course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the value of the property or services aggregated in determining whether the theft is a felony or misdemeanor. For purposes of this subsection, related offenses shall include, but are not limited to, violations of §861, §900, and §903 of this Title."

Approved May 19, 1988.

CHAPTER 252

FORMERLY

SENATE BILL NO. 337

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO BAD CHECKS.

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 Subpart I to Subchapter III of Chapter 5, Title 11, Delaware Code, by adding a new Section 900A thereto to read as follows:

"900A. Conditional discharge for issuing a bad check as first offense.

Whenever any person who has not previously been convicted of issuing or passing a bad check under Section 900 of this title or under any statute of the United States or of any state relating to the issuing or passing of bad checks pleads guilty to issuing or passing a bad check in violation of Section 900 of this title in an amount under \$500 at the time of his arraignment, the court without entering a judgment of guilt and with the consent of the accused may defer further proceedings and place him on probation upon terms and conditions, which terms and conditions shall include payment of full restitution in the amount of the check plus any reasonable service fee in connection therewith to the victim of the offense and payment to the state of any court costs associated with the offense. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him and shall simultaneously with said discharge and dismissal submit to the State Bureau of Identification pursuant to Chapter 85 of this title the disposition specifying the name of the person and the nature of the proceedings against him which dispositional information shall be retained by the State Bureau of Identification in accordance with its standard operating procedures. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There may be only 1 discharge and dismissal under this section with respect to any person and no person who is charged with multiple violations of Section 900 of this title is eligible for treatment as a first offender under this section."

Approved May 19, 1988.

CHAPTER 253

FORMERLY

SENATE BILL NO. 335

AN ACT TO AMEND CHAPTER 42, TITLE 11 OF THE DELAWARE CODE RELATING TO RESTITUTION.

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

Section 1. Amend Subsection (a) of Section 4206, Chapter 42, Title 11 of the Delaware Code by adding a new sentence to the end thereof, as follows:

"For purposes of this section, restitution shall mean the amount in which the check was written plus a service fee in the amount of \$30 for processing a worthless check, or a fee of \$50 for processing more than one worthless check issued by the same person."

Approved May 19, 1988.

CHAPTER 254

FORMERLY

HOUSE BILL NO. 434

AN ACT TO AMEND PART I, CHAPTER 1, TITLE 21, DELAWARE CODE, RELATING TO THE DEFINITION OF CERTAIN WORDS AND PHRASES IN THE MOTOR VEHICLE CODE.

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

Section 1. Amend §101(53), Part I, Chapter 1, Title 21, Delaware Code, by striking said subsection (53) in its entirety and substituting in lieu thereof a new subsection (53) to read as follows:

"(53) 'Moped' shall mean a pedal or non-pedal bicycle having two (2) tandem wheels either of which is 10 inches or more in maximum diameter, and having a motor characterized in that the maximum piston displacement is less than 55 cc., rated at no more than 2.7 brake horsepower and that the maximum speed does not exceed 25 miles per hour."

Section 2. Amend §101(61), Part I, Chapter 1, Title 21, Delaware Code, by striking said subsection (61) in its entirety and substituting in lieu thereof a new subsection (61) to read as follows:

"(61) 'Triped' shall mean a pedal or non-pedal cycle having three (3) wheels, either of which is 10 inches or more in maximum diameter, and having a motor, characterized in that the maximum piston displacement is less than 55 cc., rated at no more than 2.7 brake horsepower, and that the maximum speed does not exceed 25 miles per hour."

Approved May 23, 1988.

CHAPTER 255

FORMERLY

HOUSE BILL NO. 462

AN ACT TO AMEND CHAPTER 14, TITLE 14, DELAWARE CODE RELATING TO THE PROCEDURES FOR THE TERMINATION OF PROFESSIONAL SERVICES.

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

Section 1. Amend §1401(2), Chapter 14, Delaware Code by striking said subsection and substituting in lieu thereof the following:

"(2) 'Teacher' means any certificated professional employee of a public school district. It shall not include persons employed as assistant principal, principal, supervisor, administrative assistant, director, assistant superintendent, or superintendent; except that any such person who has completed 3 years of service in the State, 2 years of which shall have been in the employ of the same board, may at his option elect to be assigned as a teacher in the employ of said board."

Approved May 23, 1988.

CHAPTER 256

FORMERLY

HOUSE BILL NO. 444

AN ACT TO AMEND CHAPTER 70, TITLE 7, OF THE DELAWARE CODE (THE COASTAL ZONE ACT) TO CONTINUE A NONCONFORMING USE IN THE COASTAL ZONE.

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

Section 1. Amend Section 7003, Chapter 70, Title 7 of the Delaware Code by striking the phrase "1 year" in the last sentence thereof and by substituting in lieu thereof the words "two years."

CHAPTER 257

FORMERLY

SENATE BILL NO. 350

AN ACT TO AMEND CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO," AS AMENDED BY CHAPTER 358, VOLUME 62, LAWS OF DELAWARE AND CHAPTER 412, VOLUME 65, LAWS OF DELAWARE RELATING TO THE COLLECTION OF ANNUAL TAXES; AND PROVIDING FOR THE ELIMINATION OF ANY ABATEMENT ON ANY TAXES.

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

Section 1. Amend Section 28, Chapter 457, Volume 60, Laws of Delaware, by striking the first sentence of subsection (e), and substituting in lieu thereof the following:

"In the collection of said taxes, all taxes paid after the expiration of ninety (90) days from the beginning of the fiscal year shall be delinquent."

Approved June 8, 1988.

CHAPTER 258

FORMERLY

HOUSE BILL NO. 499

AN ACT TO AMEND CHAPTER 174, VOLUME 23, LAWS OF DELAWARE, ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF TOWNSEND" RELATING TO THE POWER TO ANNEX CONTIGUOUS TERRITORY.

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 174, Volume 23, Laws of Delaware, by adding thereto a new section to be designated Section 14 to read as follows:

"Section 14.

(a) The Town shall have the power to annex any additional territory contiguous to its present limits and lands, and extend and apply to such annexed territory all laws, ordinances and resolutions in force within the Town, so far as they may be applicable.

(b) Additional territory contiguous to the Town may be annexed in the following manner:

1. Upon presentation of a resolution adopted by a majority of Council, the Town shall conduct a special election in accordance with a procedure set forth in 22 Del. C. §101, except that there shall be no weighted voting and, instead, each qualified voter and each real estate owner will be entitled to one vote each.

2. The Town is hereby authorized to adopt by ordinance such further policies and procedures as it deems necessary in order to effectuate the authority given herein."

Approved June 8, 1988.

CHAPTER 259

FORMERLY

HOUSE BILL NO. 492

AN ACT TO AMEND CHAPTER 504, VOLUME 57, LAWS OF DELAWARE, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF HENLOPEN ACRES" RELATING TO INCREASING THE AMOUNT FOR WHICH CONTRACTS CAN BE EXECUTED WITHOUT THE NECESSITY OF COMPETITIVE BIDDING.

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 Subparagraph 1, Subsection (a), Section 34, Chapter 504, Volume 57, Laws of Delaware, by striking said Subparagraph 1 in its entirety and substituting in lieu thereof a new Subparagraph 1 to read as follows:

"1. The aggregate amount involved is not more than Twenty Thousand Dollars (\$20,000)."

Approved June 8, 1988.

CHAPTER 260

FORMERLY

HOUSE BILL NO. 503

AN ACT TO ALLOW ANDREW JAY GREENFIELD TO MARRY DENISE ANN SCHWARTZ.

WHEREAS, Andrew Jay Greenfield wishes to marry Denise Ann Schwartz August 21, 1988 in the State of Delaware; and

WHEREAS, Denise Ann Schwartz's parents live in Wilmington and both Denise Ann Schwartz and Andrew Jay Greenfield wish to marry in Delaware; and

WHEREAS, Denise Ann Schwartz is presently residing in Pennsylvania and Andrew Jay Greenfield is presently residing in Florida; and

WHEREAS, both parties would like to be granted a license within 90 days or more of the marriage since Andrew Jay Greenfield will be pursuing a medical residency in surgery and is not scheduled to return until the ceremony; and

WHEREAS, §107(c), Title 13 of the Delaware Code provides that parties marry within 30 days from the date of license issuance and that in the event the ceremony is not performed within 30 days, said license must be void and the parties must reapply for another license to marry; and

WHEREAS, Andrew Jay Greenfield and Denise Ann Schwartz could be married but for the requirement of §107(c) of the Delaware Code; and

WHEREAS, it is the public policy of this State to encourage marriage.

NOW, THEREFORE:

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

Section 1. Andrew Jay Greenfield and Denise Ann Schwartz are hereby exempted from the application of §107(c), Title 13 of the Delaware Code, as stated herein, and are specifically permitted to marry on August 21, 1988, or within 30 days thereafter; the Clerk of the Peace for New Castle County shall issue to Andrew Jay Greenfield and Denise Ann Schwartz an official marriage license pursuant to this Act, the provisions of Chapter 1, Title 13, or any other law of this State to the contrary notwithstanding.

Approved June 8, 1988.

CHAPTER 261

FORMERLY

SENATE BILL NO. 364

AN ACT TO AMEND CHAPTER 90, TITLE 11, DELAWARE CODE RELATING TO SECTION 9004 AUTHORIZATION OF THE NUMBER OF EMPLOYEES WHO MAY BE EMPLOYED BY THE VIOLENT CRIMES COMPENSATION BOARD.

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

Section 1. Amend Section 9004 (2), Chapter 90, Title 11, Delaware Code by striking the number "5" and substituting in lieu thereof the number "6".

Approved June 8, 1988.

CHAPTER 262

FORMERLY

SENATE BILL NO. 374

AN ACT TO AMEND CHAPTER 90, TITLE 11, DELAWARE CODE RELATING TO THE COMPENSATION OF DELAWARE RESIDENTS WHO ARE THE VICTIMS OF VIOLENT CRIMES.

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

Section 1. Amend Section 9002, Chapter 90, Title 11, Delaware Code by inserting a new subsection (3)c to read as follows:

c. Any specific offense occurring in another state, possession or territory of the United States of America in which a person whose domicile is in Delaware is a victim, if the offense contains the characteristics of murder, rape, manslaughter, assault, kidnapping, arson, burglary, riot, robbery, unlawful use of explosives or unlawful use of firearms as set forth in Chapter 5 of this Title.

Section 2. Amend Section 9005, Chapter 90, Title 11, Delaware Code by inserting a new subsection (6) to read as follows:

(6) A person whose domicile is in Delaware who is the victim of a violent crime which occurs in another state, possession, or territory of the United States of America may make an application for compensation if:

a The crimes would be compensable had they occurred in the State of Delaware; and

b the places the crimes occurred are states, possessions, or territories of the United States of America not having eligible crime victim compensation programs.

Approved June 8, 1988.

CHAPTER 263

FORMERLY

HOUSE BILL NO. 490
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 5, DELAWARE CODE TO PROVIDE FOR A MORE COMPREHENSIVE AUTHORITY FOR BANKING ORGANIZATIONS TO ACCEPT DEPOSITS IN TRUST.

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

Section 1. Amend Chapter 9, Title 5, Delaware Code by repealing Section 924 of Subchapter 1 thereof and by substituting therefor a new Section 924 to read as follows:

"§924. BANK DEPOSIT ACCOUNTS IN TRUST FORM

(a) The following terms shall have the following definitions for the purposes of this Sections 924.

(1) A "beneficiary" is a natural person who is described by a depositor as a person for whom a trust account is established or maintained. There shall be no more than one beneficiary per trust account, unless otherwise provided by the respective banking organization's agreements, rules or regulations.

(2) A "depositor" is a natural person in whose name a trust account subject to this part is established or maintained. There shall be no more than two depositors per trust account, unless otherwise provided by the respective banking organization's agreements, rules or regulations.

(3) A "trust account" includes all deposits in savings account, interest or noninterest bearing transaction account, time deposit whether or not evidenced by a certificate, or any similar deposit account in a banking organization which is established by a depositor as trustee for another, other than a depositor describing himself as acting under a will, trust instrument or other document, court order or decree.

(b) All funds in a trust account, including any interest or additions thereto, shall be trust funds subject to the following terms:

(1) Except as otherwise provided by the respective banking organization's agreements, rules or regulations, the trust can be revoked, terminated or modified in whole or in part by any depositor during his lifetime by means of, and to the extent of, partial or total withdrawals from or charges against the trust account made or authorized by the depositor or by a writing, other than a will or other similar testamentary disposition, received by the banking organization wherein the account is maintained during the lifetime of the depositor.

(2) The trust account cannot be revoked, terminated or modified in whole or in part by any depositor by will or other similar testamentary disposition.

(3) If the depositor survives the beneficiary, the trust shall terminate and title to the funds shall continue in the depositor free and clear of the trust.

(4) If the beneficiary survives the depositor, the trust shall terminate and title to the funds shall vest in the beneficiary free and clear of the trust.

(5) If the depositor and beneficiary die under circumstances where it is impossible to determine which survived the other, it shall be conclusively presumed that the depositor was the survivor and title to the funds shall vest in the depositor's estate, free and clear of the trust.

(c) If the beneficiary survives the depositor under the circumstances provided in paragraph (4) of Sub-section (b), the funds shall be paid to the beneficiary upon his order, if, at the time of his demand for payment of all or part of the funds, he is eighteen or more years of age. If the beneficiary survives the depositor under the circumstances provided in paragraph (4) of Sub-section (b) and if the beneficiary is under eighteen years of age at the time demand for payment of any part or all of the funds is made, the funds may be paid to the order of the parent or parents of the beneficiary to be held for the use and benefit of such minor beneficiary or to the order of the duly appointed guardian of the property of the beneficiary.

(d) A banking organization which, upon the death of a depositor and prior to service upon it of a restraining order, injunction or other appropriate process from a court of competent jurisdiction prohibiting payment, makes payment to a beneficiary or, if the beneficiary is under eighteen years of age, to the guardian of the property or to the parent or parents of the minor beneficiary pursuant to Sub-section (c) of this Section, shall, to the extent of such payment, be released from liability to any person claiming a right to the funds and the receipt or acquittance of the person to whom payment is made shall be a valid and sufficient release and discharge of the banking organization.

(e) If a trust account is established in the names of more than one depositor, in form to be paid or delivered to any or the survivor of them, in trust for another, such account shall be subject to the terms of this Section 924, except that the title to the funds on deposit and any additions and accruals thereon, as between the depositors, shall be the property of such depositors as joint tenants; and the property, together with all additions and accruals thereon, may be paid or delivered to any of such depositors during the lifetime of such depositors subject to the terms of Section 923 of this Title, and, after the death of one of them, title to the property, together with all additions and accruals thereon, shall become the property of the surviving depositor or surviving depositors, subject to the trust which may be revoked, terminated or modified by the surviving depositor or depositors, as the case may be, in accordance with the terms of this Section 924."

Section 2. The provisions of this Act shall be effective upon adoption and shall be deemed to apply to all existing trust accounts as well as all trust accounts created subsequent to the effective date hereof.

Approved June 15, 1988.

CHAPTER 264

FORMERLY

HOUSE BILL NO. 170
AS AMENDED BY HOUSE AMENDMENT NO. 1 AS AMENDED BY HOUSE AMENDMENT NO. 1
AND HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 85, TITLE 16 OF THE DELAWARE CODE RELATING TO BOILERS AND THE
DIVISION OF BOILER SAFETY OF THE DEPARTMENT OF PUBLIC SAFETY.

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

Section 1. Amend Chapter 85, Title 16 of the Delaware Code by adding new Sections 8506 and 8507 which new Sections shall read as follows:

"§8506. Powers of enforcement personnel.

The Director of the Division of Boiler Safety, or any officer or employee of the Director designated by him shall:

(1) Have the power of a constable pursuant to 10 Del. C. 2902 (d) for the sole purpose of executing and serving administrative inspection warrants, subpoenas and summons issued under the authority of this State and pursuant to the performance of their duties; and

(2) Have the power to shut down unsafe boilers or pressure vessels pursuant to this Chapter.

"§8507. Administrative inspections and warrants.

(a) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any justice of the peace or judge authorized to issue search warrants in this State may, within his jurisdiction and upon proper oath or affirmation showing a need to inspect a boiler or pressure vessel, issue warrants for the purpose of conducting administrative inspections authorized by this Chapter or rules hereunder appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, need to inspect exists upon showing a valid public interest in the effective enforcement of this Chapter or rules hereunder.

(2) A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge or justice of the peace and establishing the grounds for issuing the warrant. If the judge or justice of the peace is satisfied that a need exists to inspect the boiler or pressure vessel, he shall issue a warrant identifying the boiler or pressure vessel to be inspected, the purpose of the inspection and, if appropriate, the type of boiler or pressure vessel to be inspected. The warrant shall:

a. State the grounds for its issuance, and the name of each person whose affidavit has been taken in support thereof; and

b. Be directed to a person authorized by Section 8506 of this Chapter to execute it; and

c. Command the person to whom it is directed to inspect the boiler or pressure vessel identified for that purpose specified and, if appropriate, direct shutdown of operation of the boiler or pressure specified; and

d. Identify the boiler or pressure vessel to be shutdown; and

e. Direct that the warrant be served during normal business hours, unless otherwise authorized by the judge or justice of the peace to whom it shall be returned.

(3) A warrant issued pursuant to this Section must be executed and returned within 10 days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If a boiler or pressure vessel is shutdown pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the boiler or pressure vessel is shutdown. The return of the warrant shall be made promptly, accompanied by a written inventory of any property rendered inoperable.

The inventory shall be made in the presence of a person executing the warrant and of the person from whose possession or premises the boiler or pressure vessel was shutdown, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the boiler or pressure vessel was shutdown and to the applicant of the warrant.

(4) The judge or justice of the peace who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the Prothonotary in the county in which the inspection was made.

(b) When authorized by an administrative inspection warrant issued pursuant to the subsection (a), an officer or employee designated by the Director, upon presenting the warrant and appropriate credentials to the owner, operator or agent in charge of the boiler or pressure vessel is located for the purpose of conducting an administrative inspection. When authorized by an administrative inspection warrant, an officer or employee designated by the Director may inspect boilers and pressure vessels and all equipment pertaining thereto. This Section does not prevent entries and administrative inspections, including shutdowns of boilers or pressure vessels without a warrant:

(1) If the owner, operator, agent in charge or tenant in possession of the premises where the boiler or pressure vessel consents; or

(2) In situations presenting imminent danger to health or safety; or

(3) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or,

(4) In all other situations in which a warrant is not constitutionally required."

Approved June 15, 1988.

CHAPTER 265

FORMERLY

HOUSE BILL NO. 235

AN ACT TO AMEND CHAPTER 5, TITLE 17, DELAWARE CODE RELATING TO THE MAXIMUM MONETARY AMOUNT PERMITTED IN THE JUSTICE OF THE PEACE COURT AND THE COURT OF COMMON PLEAS.

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

Section 1. Amend Section 511(c), Chapter 5, Title 17 of the Delaware Code by deleting the stated amount of "\$500.00" as it appears therein and substituting in lieu thereof the amount of "\$2,500.00" and by deleting the stated amount of "\$1,000.00" as it appears therein and substituting in lieu thereof the amount of "\$15,000.00".

Approved June 15, 1988.

CHAPTER 266

FORMERLY

HOUSE BILL NO. 236

AN ACT TO AMEND CHAPTER 45, TITLE 21 OF THE DELAWARE CODE ALLOWING POLICE OFFICERS TO ATTACH SUMMONSES TO CERTAIN UNATTENDED VEHICLES.

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

Section 1. Amend Section 4506, Chapter 45, Title 21 of the Delaware Code by relettering the current subsection (d) as (e).

Section 2. Amend Section 4506, Chapter 45, Title 21 of the Delaware Code by inserting a new subsection (d) in the section to read as follows:

"(d) A summons in appropriate form to be adopted by the Department of Public Safety may be attached to an unattended vehicle found to be in violation of Section 4508 of this Title by any police officer authorized to arrest for violations of this Title, in lieu of arrest of the operator of such vehicle.

If the identity of the operator of an unattended vehicle is not otherwise apparent, it shall be prima facie evidence that the person in whose name the vehicle is registered as the owner is responsible for such violation."

Approved June 15, 1988.

CHAPTER 267

FORMERLY

HOUSE BILL NO. 465

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SECTIONS 1133, 1902 AND 2301 OF TITLE 30 OF THE DELAWARE CODE RELATING TO REAL ESTATE MORTGAGE INVESTMENT CONDUITS.

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

Section 1. Amend Section 1133, Title 30 of the Delaware Code by adding thereto a new subsection (c) as follows:

"(c) An entity that is a real estate mortgage investment conduit (as defined in Section 860D of the Internal Revenue Code of 1986, as amended) shall not be subject to tax under this Chapter."

Section 2. Amended subsection (b), Section 1902, Title 30 of the Delaware Code by adding thereto a new paragraph (14) as follows:

"(14) An entity that is a real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code of 1986, as amended."

Section 3. Amend Section 2301, Title 30 of the Delaware Code by adding a new subsection (s) as follows:

"(s) real estate mortgage investment conduits (as defined in Section 860D of the Internal Revenue Code of 1986, as amended), are exempt from payment of fees as set forth in subsections (b) and (d) of this section."

Approved June 15, 1988

CHAPTER 268

FORMERLY

HOUSE BILL NO. 459
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 70, PART IV, TITLE 25 OF THE DELAWARE CODE RELATING TO MOBILE HOMES AND MOBILE HOME PARKS; AND PROVIDING FOR TENANT'S RECEIVERSHIP.

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

Section. Amend Chapter 70, Part IV, Title 25 of the Delaware Code by re-designating all of the present Chapter as new Subchapter I of said Chapter, which new Chapter shall be entitled:

"SUBCHAPTER I. MOBILE HOME LEASES."

Section 2. Amend Chapter 70, Part IV, Title 25 of the Delaware Code by adding thereto a new Subchapter, designated as Subchapter II, which new Subchapter shall read as follows:

"SUBCHAPTER II. TENANT'S RECEIVERSHIP

§7031. Petition for Receivership

Any tenant or group of tenants may petition for the establishment of a receivership in a Justice of the Peace Court upon the grounds that there has existed for five days or more after notice to the landlord:

(a) If the rental agreement or any state or local statute, code, regulation or ordinance, places a duty upon the landlord to so provide, a lack of heat, or of running water, or of light, or of electricity, or of adequate sewage facilities;

(b) any other conditions imminently dangerous to the life, health or safety of the tenant.

§7032. Necessary Parties Defendant

(a) Petitioners shall join as defendants:

(1) all parties duly disclosed to any of them in accordance with §7036; and

(2) all parties whose interest in the property is a matter of public record, and whose interest in the property is capable of being protected in this proceeding.

(b) Petitioner shall not be prejudiced by a failure to join any other interested parties.

§7033. Defenses

It shall be a sufficient defense to this proceeding, if any defendant of record establishes that:

(a) the condition or conditions described in the petition do not exist at the time of trial; or

(b) the condition or conditions alleged in the petition have been caused by the willful or grossly negligent acts of one or more of the petitioning tenants or members of his or their families, or by other persons on the premises with his or their consent; or

(c) such condition or conditions would have been corrected, were it not for the refusal by any petitioner to allow reasonable access.

§7034. Stay of Judgment by Defendant

(a) If, after a trial, the Court shall determine that the petition should be granted, the Court shall immediately enter judgment thereon and appoint a receiver as authorized herein; provided however, prior to the entry of judgment an appointment of a receiver, the owner or any mortgagee or the lienor of record or other person having an interest in the property may apply to the Court to be permitted to remove or remedy the conditions specified in the petition. If such person demonstrates the ability to perform promptly,

necessary work and posts security for the performance thereof within the time, and in the amount and manner, deemed necessary by the Court, then the Court may stay judgment and issue an order permitting such person to perform the work within a time fixed by the Court and requiring such person to report to the Court periodically on the progress of the work. The Court shall retain jurisdiction over the matter until the work is completed.

(b) If, after the issuance of an order under the foregoing provision but before the time fixed in such order for the completion of the work prescribed therein, there is reason to believe that the work will not be completed pursuant to the Court's order or that the person permitted to do the same is not proceeding with due diligence, the Court or the petitioners, upon notice to all parties to the proceeding, may move that a hearing be held to determine whether judgment should be rendered immediately as provided in the following subsection.

(c) (1) If, upon a hearing authorized in the preceding subsection, the Court shall determine that such party is not proceeding with due diligence, or upon the actual failure of such person to complete the work in accordance with the provisions of the order, the Court shall appoint a receiver as authorized herein.

(2) Such judgment shall direct the receiver to apply the security posted to executing the powers and duties as described herein.

(3) In the event that the amount of such security should be insufficient to accomplish to above objectives, such judgment shall direct the receiver to collect the rents, profits and issues to the extent of the deficiency. In the event that the security should exceed the amount necessary to accomplish the above objectives, such judgment shall direct the receiver to return the excess to the person posting the security.

§7035. Receivership Procedures

The receiver shall be the Division of Consumer Affairs of this State, or its successor agency.

(1) upon its appointment, the receiver shall make within fifteen days an independent finding whether or not there is proper cause shown for the need for rent to be paid to it, and for the employment of a private contractor to correct the condition complained of in §7031 of this Title and found by the Court to exist.

(2) If the receiver shall make such a finding, it shall file a copy of the finding with the Recorder of Deeds of the county where the property lies and it shall be a lien on that property where the violation complained of exists.

(3) upon completion of the aforesaid contractual work and full payment to the contractor, the receiver shall file a certification of such with the Recorder of Deeds of the appropriate county, and this filing shall release the aforesaid lien.

(4) the receiver shall forthwith give notice to all lien holders of record.

(5) If the receiver shall make a finding at such time or any other time that for any reason the appointment of the receiver is not appropriate, it shall be discharged upon notification to the Court and all interested parties, and shall make legal distribution of any funds in its possession.

§7036. Powers and Duties of the Receiver

The receiver shall have all the powers and duties accorded a receiver foreclosing a mortgage on real property, and all other powers and duties deemed necessary by the Court. Such powers and duties shall include, but are not necessarily limited to, collecting and using all rents and profits of the property, prior to and despite any assignment of rent, for the purposes of:

(a) correcting the condition or conditions alleged in the petition;

(b) materially complying with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the surrounding grounds;

(c) paying all expenses reasonably necessary for the proper operation and management of the property including insurance, mortgage payments, taxes and assessments, and fees for the services of the receiver and any agent he should hire;

(d) compensating the tenants for whatever deprivation of their rental agreement rights resulted from the condition or conditions alleged in the petition; and

(e) paying the costs of the receivership proceeding.

§7037. Discharge of the Receiver

(a) In addition to those situations described in §7035, the receiver may also be discharged when:

(1) the condition or conditions alleged in the petition have been remedied;

(2) the property materially complies with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the surrounding grounds;

(3) the costs of the above work and any other costs as authorized herein have been paid or reimbursed from the rents and profits of the property; and

(4) the surplus money, if any, has been paid over to the owner.

(b) Upon §7037(a)(1) and (2) being satisfied, the owner, mortgagee or any lienor may apply for the discharge of the receiver after paying to the latter all moneys expended by him and all other costs which have not been paid or reimbursed from the rents and profits of the property.

(c) If the Court determines that future profits of the property will not cover the cost of satisfying §7037(a)(1) and (2), the Court may discharge the receiver and order such action as would be appropriate in the situation, including but not limited to terminating the rental agreement; and may order the vacation of the mobile home park within a specified time. In no case shall the Court permit repairs which cannot be paid out of the future profits of the property."

Approved June 15, 1988.

CHAPTER 269

FORMERLY

HOUSE BILL NO. 364
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 5, 35, 42, 43, 83 AND 90, TITLE 11 OF THE DELAWARE CODE, CHAPTER 9, TITLE 10 OF THE DELAWARE CODE AND CHAPTER 17, TITLE 24 OF THE DELAWARE CODE RELATING TO SEXUAL OFFENSES.

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

Section 1. Amend Section 636(6), Chapter 5, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse in the first or second degree," following the word "rape".

Section 2. Amend Section 786, Chapter 5, Title 11 of the Delaware Code by adding a new subsection (c) to read as follows:

"(c) 'Harm' to a kidnap victim, in addition to its ordinary meaning, includes rape, unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact, even if such rape, unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact is not accompanied by physical violence."

Section 3. Amend Section 3508(a), Chapter 35, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse, unlawful sexual penetration, or unlawful sexual contact," following the word "rape" wherever the word "rape" appears.

Section 4. Amend Section 3508(b), Chapter 35, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact," following the words "the rape" wherever the words "the rape" appears.

Section 5. Amend Section 3508(b), Chapter 35, Title 11 of the Delaware Code by adding the words "attempted unlawful sexual intercourse, attempted unlawful sexual penetration or attempted unlawful sexual contact," following the words "attempted rape".

Section 6. Amend Section 3509(a), Chapter 35, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact," following the word "rape".

Section 7. Amend Section 4214(b), Chapter 42, Title 11 of the Delaware Code by adding the following to the list of enumerated felonies:

771 Unlawful Sexual Penetration Second Degree

772 Unlawful Sexual Penetration First Degree

773 Sexual Intercourse Third Degree

774 Unlawful Sexual Intercourse Second Degree

775 Unlawful Sexual Intercourse First Degree

Section 8. Amend Section 4331(a), Chapter 43, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse in the first or second degree," following the word "rape".

Section 9. Amend Section 4353(a), Chapter 43, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse," following the word "rape".

Section 10. Amend Section 8302(a), Chapter 83, Title 11 of the Delaware Code by adding the words "and Unlawful Sexual Intercourse," following the word "rape".

Section 11. Amend Section 9002(3)a, Chapter 90, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact," following the word "rape"

Section 12. Amend Section 921(a), Chapter 9, Title 10 of the Delaware Code by adding the words "unlawful sexual intercourse in the first degree", following the word "rape".

Section 13. Amend Section 922, Chapter 9, Title 10 of the Delaware Code by adding a new Section (21) to read as follows:

"(21) Unlawful Sexual Contact in the Third Degree against a child under 11 Del. C Section 767."

Section 14. Amend Section 922(19), Chapter 9, Title 10 of the Delaware Code by striking the number "771" and substituting in lieu thereof the number "766".

Section 15. Amend Section 938(a)(1), Chapter 9, Title 10 of the Delaware Code by adding the words "unlawful sexual intercourse first degree," following the word "rape".

Section 16. Amend Section 1790(a)(3), Chapter 17, Title 24 of the Delaware Code by adding the words "or unlawful sexual intercourse first or second degree", following the word "rape".

Section 17. Amend Section 764, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Indecent Exposure in the Second Degree is a Class B Misdemeanor."

Section 18. Amend Section 765, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Indecent Exposure in the First Degree is a Class A Misdemeanor."

Section 19. Amend Section 767, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Contact in the Third Degree is a Class A Misdemeanor."

Section 20. Amend Section 768, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Contact in the Second Degree is a Class E Felony."

Section 21. Amend Section 769, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Contact in the First Degree is a Class D Felony."

Section 22. Amend Section 770, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Penetration in the Third Degree is a Class D Felony."

Section 23. Amend Section 771, Chapter 5, Title 11 of the Delaware Code by adding the following language to the end of the Section:

"This law does not apply to a licensed medical doctor or nurse who places one or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment. Unlawful Sexual Penetration in the Second Degree is a Class C Felony."

Section 24. Amend Section 772, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section:

"This law does not apply to a licensed doctor or nurse who places one or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment. Nothing contained in this Section shall preclude a separate charge, conviction and sentence for possession of a deadly weapon during the commission of a felony. Unlawful Sexual Penetration in the First Degree is a Class B Felony."

Section 25. Amend Section 774, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Intercourse in the Second Degree is a Class A Felony."

Section 26. Amend Section 775, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Intercourse in the First Degree is a Class A Felony."

Section 27. Amend Section 761(f), Chapter 5, Title 11 of the Delaware Code by deleting the subsection in its entirety and substituting in lieu thereof the following:

"Sexual Contact means any intentional touching of the anus, breast, buttocks, or genitalia of another person, which touching, under the circumstances as viewed by a reasonable person, is sexual in nature. Sexual contact shall also include touching of those specified areas when covered by clothing."

CHAPTER 269

FORMERLY

HOUSE BILL NO. 364
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 5, 35, 42, 43, 83 AND 90, TITLE 11 OF THE DELAWARE CODE, CHAPTER 9, TITLE 10 OF THE DELAWARE CODE AND CHAPTER 17, TITLE 24 OF THE DELAWARE CODE RELATING TO SEXUAL OFFENSES.

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

Section 1. Amend Section 636(6), Chapter 5, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse in the first or second degree," following the word "rape".

Section 2. Amend Section 786, Chapter 5, Title 11 of the Delaware Code by adding a new subsection (c) to read as follows:

"(c) 'Harm' to a kidnap victim, in addition to its ordinary meaning, includes rape, unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact, even if such rape, unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact is not accompanied by physical violence."

Section 3. Amend Section 3508(a), Chapter 35, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse, unlawful sexual penetration, or unlawful sexual contact," following the word "rape" wherever the word "rape" appears.

Section 4. Amend Section 3508(b), Chapter 35, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact," following the words "the rape" wherever the words "the rape" appears.

Section 5. Amend Section 3508(b), Chapter 35, Title 11 of the Delaware Code by adding the words "attempted unlawful sexual intercourse, attempted unlawful sexual penetration or attempted unlawful sexual contact," following the words "attempted rape".

Section 6. Amend Section 3509(a), Chapter 35, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact," following the word "rape".

Section 7. Amend Section 4214(b), Chapter 42, Title 11 of the Delaware Code by adding the following to the list of enumerated felonies:

- 771 Unlawful Sexual Penetration Second Degree
- 772 Unlawful Sexual Penetration First Degree
- 773 Sexual Intercourse Third Degree
- 774 Unlawful Sexual Intercourse Second Degree
- 775 Unlawful Sexual Intercourse First Degree

Section 8. Amend Section 4331(a), Chapter 43, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse in the first or second degree," following the word "rape"

Section 9. Amend Section 4353(a), Chapter 43, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse," following the word "rape".

Section 10. Amend Section 8302(a), Chapter 83, Title 11 of the Delaware Code by adding the words "and Unlawful Sexual Intercourse," following the word "rape".

Section 11. Amend Section 9002(3)a, Chapter 90, Title 11 of the Delaware Code by adding the words "unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact," following the word "rape".

Section 12. Amend Section 921(a), Chapter 9, Title 10 of the Delaware Code by adding the words "unlawful sexual intercourse in the first degree", following the word "rape".

Section 13. Amend Section 922, Chapter 9, Title 10 of the Delaware Code by adding a new Section (21) to read as follows:

"(21) Unlawful Sexual Contact in the Third Degree against a child under 11 Del. C Section 767."

Section 14. Amend Section 922(19), Chapter 9, Title 10 of the Delaware Code by striking the number "771" and substituting in lieu thereof the number "766".

Section 15. Amend Section 938(a)(1), Chapter 9, Title 10 of the Delaware Code by adding the words "unlawful sexual intercourse first degree," following the word "rape".

Section 16. Amend Section 1790(a)(3), Chapter 17, Title 24 of the Delaware Code by adding the words "or unlawful sexual intercourse first or second degree", following the word "rape".

Section 17. Amend Section 764, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Indecent Exposure in the Second Degree is a Class B Misdemeanor."

Section 18. Amend Section 765, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Indecent Exposure in the First Degree is a Class A Misdemeanor."

Section 19. Amend Section 767, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Contact in the Third Degree is a Class A Misdemeanor."

Section 20. Amend Section 768, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Contact in the Second Degree is a Class E Felony."

Section 21. Amend Section 769, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Contact in the First Degree is a Class D Felony."

Section 22. Amend Section 770, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Penetration in the Third Degree is a Class D Felony."

Section 23. Amend Section 771, Chapter 5, Title 11 of the Delaware Code by adding the following language to the end of the Section:

"This law does not apply to a licensed medical doctor or nurse who places one or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment. Unlawful Sexual Penetration in the Second Degree is a Class C Felony."

Section 24. Amend Section 772, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section:

"This law does not apply to a licensed doctor or nurse who places one or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment. Nothing contained in this Section shall preclude a separate charge, conviction and sentence for possession of a deadly weapon during the commission of a felony. Unlawful Sexual Penetration in the First Degree is a Class B Felony."

Section 25. Amend Section 774, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Intercourse in the Second Degree is a Class A Felony."

Section 26. Amend Section 775, Chapter 5, Title 11 of the Delaware Code by adding the following language at the end of the Section: "Unlawful Sexual Intercourse in the First Degree is a Class A Felony."

Section 27. Amend Section 761(f), Chapter 5, Title 11 of the Delaware Code by deleting the subsection in its entirety and substituting in lieu thereof the following:

"Sexual Contact means any intentional touching of the anus, breast, buttocks, or genitalia of another person, which touching, under the circumstances as viewed by a reasonable person, is sexual in nature. Sexual contact shall also include touching of those specified areas when covered by clothing."

Section 28. Amend Section 761, Chapter 5, Title 11 of the Delaware Code by inserting subsection (e)(1) after the semicolon "j" the following language: "this offense encompasses the crimes commonly known as rape and sodomy;".

Section 29. Amend Section 4209(e)(1)(j), Chapter 42, Title 11, Delaware Code by inserting the word "rape," between the phrase "degree of" and "unlawful sexual intercourse" as they appear in said subsection.

Section 30. Amend Section 4209A, Chapter 42, Title 11, Delaware Code by inserting the words "rape or" between the phrase "convicted of" and "unlawful sexual intercourse" as such phrases appear in the Section.

Section 31. Amend Section 4347(f), Chapter 43, Title 11, Delaware Code by adding the words "unlawful sexual intercourse in the first or second degree," following the word "rape,".

Section 32. Amend Section 773, Chapter 7, Title 11, Delaware Code by adding the following language at the end of the Section:

"unlawful sexual intercourse in the third degree is a class B felony."

Section 33. Amend Section 762, Chapter 5, Title 11, Delaware Code by adding a new subsection (c) to read as follows:

"(c) Separate acts of sexual contact, penetration and sexual intercourse. Nothing in this Title precludes a defendant from being charged with separate offenses when multiple acts of sexual contact, penetration or intercourse are committed against the same victim".

Section 34. Amend Section 762, Chapter 5, Title 11, Delaware Code by adding a new subsection thereto which shall read as follows:

"(d). As to sexual offenses in which the victim's age is an element of the offense because the victim is less than sixteen years of age, where the person committing the sexual act is no more than four years older than the recipient of the act, and is a voluntary social companion of the recipient, it is an affirmative defense that the recipient consented to the act "knowingly" as defined in 11 Delaware Code, Section 231. Sexual conduct pursuant to this exception will not be a crime. This affirmative defense will not apply if the victim was less than twelve years old at the time of the act."

Approved June 15, 1988.

CHAPTER 270

FORMERLY

SENATE BILL NO. 379
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 16, DELAWARE CODE RELATING TO THE ESTABLISHMENT OF AN ENHANCED 911 EMERGENCY NUMBER SERVICE.

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

Section 1. Amend Title 16, Delaware Code by adding thereto a new chapter to read as follows:

"Chapter 75. Enhanced 911 Emergency Number Service

§7501. Purpose.

The purpose of this Chapter is to establish an Enhanced 911 Emergency Number Service throughout this State in order to improve and/or enhance emergency communication procedures.

§7502. Definitions.

As used in this Chapter

(a) '911 Emergency Report Center' means any facility which maintains a 911 telephone call-in feature for the Enhanced System.

(b) 'Enhanced 911 Emergency Reporting System' means a system capability to identify automatically the geographical location and the calling number of the telephone being used by the caller and to provide a display of the location information on 911 Emergency Reporting Center. Enhanced 911 System includes, but is not necessarily limited to the following features: automatic number identification, automatic location identification, fixed transfer, selective routing, alternate routing and forced disconnect.

(c) 'Commission' shall mean the Public Service Commission.

§7503. Establishment of Enhanced 911 System.

There is hereby established a Statewide Enhanced 911 Emergency Reporting System whereby all 911 Emergency Report Centers in this State shall be equipped and/or maintain a Enhanced 911 Emergency Reporting System by January 1, 1989.

§7504. Authority of Commission.

(a) The Commission shall require all telegraph corporations, telephone corporation or any corporation supplying telephone service within this State to provide an Enhanced 911 Emergency Reporting System capability to every 911 Emergency Reporting Center.

(b) The Commission shall further authorize said telegraph corporation, telephone corporation or corporation supplying telephone service within this State to recover the expense of providing said service through such fees or tariffs as may be necessary. The Commission shall permit, but not require, the recovery of such expense through a separately identified charge."

Approved June 16, 1988.

CHAPTER 271

FORMERLY

SENATE BILL NO. 348

AN ACT TO AMEND TITLE 21 AND TITLE 30 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLES WHICH ARE EXEMPT FROM CERTAIN FEES; AND PROVIDING THAT SALVATION ARMY VEHICLES SHALL BE EXEMPT FROM SUCH FEES.

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

Section 1. Amend Subsection (a), Section 2159, Chapter 21, Title 21 of the Delaware Code by striking the word "and" at the end of paragraph (4); by striking the period (.) at the end of paragraph (5), and substituting "; and" in lieu thereof.

Section 2. Amend Subsection (a), Section 2159, Chapter 21, Title 21 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (6), which new paragraph shall read as follows:

"(6) All motor vehicles owned by the Salvation Army, and used by such organization in charitable or public welfare work."

Section 3. Amend Subsection (a), Section 3002, Chapter 30, Title 30 of the Delaware Code by striking the last "and" in paragraph (6), as the same appears after the word "Patrol;"

Section 4. Amend Subsection (a), Section 3002, Chapter 30, Title 30 of the Delaware Code by striking the word "or" as the same appears immediately following the last semi-colon (;) in paragraph (6), and substituting in lieu thereof the following:

"the Salvation Army; or"

Approved June 16, 1988.

CHAPTER 272

FORMERLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 491

AN ACT TO AMEND CHAPTER 385, VOLUME 63, LAWS OF DELAWARE AS AMENDED BY CHAPTER 111, VOLUME 64, LAWS OF DELAWARE AND CHAPTER 16, VOLUME 65 OF THE LAWS OF DELAWARE AND CHAPTERS 60 AND 64, TITLE 7 OF THE DELAWARE CODE RELATING TO THE DEFINITION OF BEVERAGE CONTAINER AND THE DEVELOPMENT OF A MATERIAL AND ENERGY RECOVERY PROJECT IN KENT COUNTY OR SUSSEX COUNTY.

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

WHEREAS, aluminum beverage containers have been excluded from application of Subchapter III, Chapter 60, Title 7 of the Delaware Code; and

WHEREAS, such exclusion is scheduled to expire on January 1, 1992; and

WHEREAS, the Delaware Solid Waste Authority ("Authority"), established pursuant to 7 Del. C. Ch. 64, operates the Delaware Reclamation Project serving New Castle County which reclaims aluminum cans from the solid waste generated in New Castle County; and

WHEREAS, if a material and energy recovery facility, capable of reclaiming aluminum from solid waste, were constructed by the Authority to serve Kent County and/or Sussex County, recycling of aluminum could be achieved so that including cans within the scope of Subchapter III, Chapter 60 of Title 7, of the Delaware Code would not be necessary; and

WHEREAS, the General Assembly has determined that the public interest would best be served by significantly extending the period until aluminum beverage containers are included within the scope of said law and to direct the Authority to develop a material and energy recovery facility in Kent County and/or Sussex County; and

WHEREAS, it is the intent of the General Assembly that such facility be completed and in operation on or before December 31, 1993 and, to that end, it has determined that annual reports on the progress of such efforts should be filed.

NOW, THEREFORE:

BE IT ENACTED by the General Assembly of the State of Delaware:

Section 1. Amend Section 1 of Chapter 16, Volume 65, Laws of Delaware, by striking the date "January 1, 1992" and inserting in lieu thereof the date "January 1, 1994."

Section 2. Amend Chapter 64 of Title 7 of the Delaware Code by adding a new section as follows:

"Section 6429. Material and Energy Recovery Facility for Kent County and Sussex County.

a. The Authority is directed to study, finance, design, develop, implement and operate a material and energy recovery facility at either or both of the sites where it now owns and operates landfills in Kent County and Sussex County or at such other site as it may select in accordance with the provision of this Chapter to serve Kent County and Sussex County.

b. The Authority shall file a report with the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives on or before the first day of May in each year commencing with 1989 on the status of its efforts to develop a material and energy recovery facility to serve Kent County and Sussex County."

Section 3. In the event that operation of the material and energy recovery facility referenced in Section 2 hereof is commenced on or before January 1, 1994, then Section 2 of Chapter 385, Volume 63, Laws of Delaware as amended, is repealed.

Approved June 17, 1988.

CHAPTER 273

FORMERLY

HOUSE BILL NO. 166
AS AMENDED BY HOUSE AMENDMENT NO. 1

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

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 5139(a)(3), Chapter 51, Title 30, Delaware Code by striking said subsection in its entirety and adding a new subsection as follows:

"Knowingly and with intent to evade or to aid in the evasion of the tax imposed herein, or to withhold or fail to remit monies due under the provisions of this Chapter."

Section 2. Amend §5139(b), Chapter 51, Title 30, Delaware Code by striking subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) Penalties and remedies. - Any person violating subsection (a) of this Section is guilty of a Class A Misdemeanor; provided, however, that if the violation results in an evasion or wrongful withholding of special fuel tax amounting to more than \$500, then the violation shall constitute a Class E Felony. Any person who once has been convicted of any violation of subsection (a) of this Section and who thereafter is convicted of any subsequent violation of subsection (a) of this Section shall be guilty of a Class E Felony. The Superior Court shall have the exclusive jurisdiction over those violations enumerated in subsection (a) of this Section."

Section 3. Amend Section 5139, Chapter 51, Title 30, Delaware Code by adding a new subsection (e) as follows:

"(e) It shall be unlawful for any person to conduct any activities requiring a license under this Chapter without a license or after a license has been surrendered, cancelled or revoked. Whoever violates this subsection shall for the first offense, be fined not less than \$100 nor more than \$300 and for each subsequent offense, not less than \$300 nor more than \$500. The Justice of the Peace Courts shall have jurisdiction over this subsection."

Approved June 17, 1988.

CHAPTER 274

FORMERLY

HOUSE BILL NO. 169
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 29, TITLE 21 OF THE DELAWARE CODE RELATING TO THE SUSPENSION OF VEHICLE REGISTRATIONS BECAUSE OF JUDGMENTS.

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

Section 1. Amend subchapters III and IV, Chapter 29, Title 21, of the Delaware Code by deleting the words "and registration", "registration", "and registration certificates", and "or registration" as they appear in said subchapters.

Section 2. Amend §2971(a), Title 21, Delaware Code by deleting the phrase "or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway".

Approved June 21, 1988.

CHAPTER 275

FORMERLY

HOUSE BILL NO. 537
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 60, TITLE 7, DELAWARE CODE, RELATING TO THE REGULATION OF VESSEL SEWAGE PUMPOUT AND VESSEL SEWAGE DISCHARGE INTO OR UPON TIDAL WATERS OF THE STATE OF DELAWARE.

WHEREAS, the unregulated discharge of raw untreated or inadequately treated vessel sewage into or upon waters of the State imparts a significant adverse impact upon water quality, public health and natural resources; and

WHEREAS, the continued unregulated discharge of raw untreated or inadequately treated vessel sewage into State waters poses a threat to the continued unimpeded interstate sale of commercial fish and shellfish and recreation shellfishing in Delaware; and

WHEREAS, the continued discharge of raw untreated or inadequately treated vessel sewage may threaten the fishability and swimmability of the waters of the State; and

WHEREAS, to insure and protect existing and rapidly expanding future demand for the recreational and commercial boating public while at the same time protecting the aforementioned public interest and natural resources by providing boaters in Delaware with safe, efficient, readily available and convenient vessel sewage pumpout and receiving stations throughout the tidal waters of Delaware;

NOW, THEREFORE:

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

Section 1. Amend §6002, Chapter 60, Title 7 of the Delaware Code, by adding nine new Subparagraphs to be designated (43), (44), (45), (46), (47), (48), (49), (50) and (51) which shall read as follows:

(43) 'Boat docking facility' shall mean a place where vessels may be secured to a fixed or floating structure or to the shoreline or shoreline structure.

(44) 'Direct vessel sewage pumpout connection' shall mean a semi-permanent connection made to a vessel for the purpose of removing vessel sewage from the vessel holding tank or head on a continuous or automatic intermittent basis to an approved sewage disposal facility.

(45) 'Vessel discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(46) 'Graywater' means galley, bath, and shower water.

(47) 'Live-aboard vessel' shall mean:

(a) A vessel used principally as a residence;

(b) A vessel used as a place of business, professional or other commercial enterprise and, if used as a means of transportation, said transportation use is a secondary or subsidiary use; this definition shall not include commercial fishing boats which do not fall under (a) of this subparagraph; or

(c) Any other floating structure used for the purposes stated under (a) or (b) of this subparagraph.

(48) 'Marine sanitation device (MSD)' includes any equipment utilized onboard a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage. Marine sanitation devices are classified as:

(a) 'Type I marine sanitation device' means a device that produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids.

(b) 'Type II marine sanitation device' means a device that produces an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter.

(c) 'Type III marine sanitation device' means a device that is designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage, that is, a 'no discharge' device. A Type III MSD shall include both portable and permanently installed MSD devices.

(49) 'Vessel sewage pumpout station' shall mean a mechanical device which is temporarily connected to a vessel for the purpose of removing vessel sewage from its holding tank or head to an approved sewage disposal facility.

(50) 'Vessel' shall mean and include every description of watercraft, boat, houseboat or other form of artificial contrivance used, or capable of being used, whether or not capable of self-propulsion, for navigation on the waters of the state.

(51) 'Vessel sewage' shall mean human body wastes and wastes from toilets and other receptacles intended to receive or retain human body wastes."

Section 2. Amend Chapter 60, Title 7, Delaware Code, by adding thereto a new Section to be designated §6036 which shall read as follows:

"§6036. Vessel Sewage Discharge.

This section shall cover publicly and privately owned marinas or boat docking facilities providing dockage for vessels utilizing Type III MSDs (marine sanitation devices).

(a) All marinas or boat docking facilities, as determined by the Department, that provide dockage for vessels other than live-aboard vessels utilizing a Type III marine sanitation device (MSD) within the tidal waters of the State of Delaware shall install and maintain at all times in a fully operable condition an approved vessel sewage pumpout station(s) for the removal of vessel sewage and graywater from vessel holding tanks or heads, to an approved sewage disposal system, as determined by the Department.

(b) All marinas or boat docking facilities, as determined by the Department, that provide dockage for live-aboard vessels utilizing a Type III marine sanitation device (MSD) within the tidal waters of the State of Delaware shall install and maintain at all times in a fully operable condition an approved direct vessel sewage pumpout connection at each live-aboard vessel slip or tieup space for the purpose of removing vessel sewage and graywater from the live-aboard vessel on a continuous or automatic intermittent basis to an approved sewage disposal system, as determined by the Department.

(c) Pumping out or vessel discharge of untreated or inadequately treated vessel sewage into or upon the waters of any marina or boat docking facilities or tidal water of the State is prohibited.

(d) No vessel with a Type III marine sanitation device (MSD) shall be fitted in such a way that a 'Y' valve is connected to a holding tank and a through-the-hull fitting, thus allowing for the possibility of overboard discharge of untreated or inadequately treated vessel sewage into waters of the State.

(e) The Secretary shall have authority to adopt reasonable rules and regulations to implement this section."

Section 3. Subsections (a) and (b) of §6036 as adopted herein shall become effective April 1, 1989.

Section 4. Subsections (c), (d) and (e) of §6036 as adopted herein shall become effective upon passage and signing of this Act.

Approved June 21, 1988

CHAPTER 276

FORMERLY

SENATE BILL NO. 31
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 6 OF THE DELAWARE CODE, RELATING TO THE USE OF LANGUAGE IN CONSUMER CONTRACTS.

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

Section 1. Amend Chapter 27, Title 6 of the Delaware Code, by adding a new Subchapter III as follows:

"SUBCHAPTER III. CONSUMER CONTRACTS

Section 2721. Definitions.

As used in this subchapter:

- (1) "Sale" means any sale, offer for sale, or attempt to sell any merchandise for cash or credit.
- (2) "Lease" means any lease, offer to lease, or attempt to lease any merchandise.
- (3) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, 2 or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.
- (4) "Consumer" means an individual who purchases or leases merchandise primarily for personal, family or household purposes.
- (5) "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate, or services, other than insurance.

Section 2722. Deceptive Practices in Consumer Contracts.

In a contract for the sale or lease of merchandise to a consumer, a person engages in a deceptive practice when he knowingly or recklessly:

- (1) distorts or obscures the terms, conditions, or meaning of the contract or creates a likelihood of confusion or misunderstanding by the use of unintelligible words, phrases, or sentences; or
- (2) omits information required by law to be disclosed in contracts with a consumer.

Section 2723. Guidelines.

The following are factors that a court may consider in determining whether a contract complies with this subchapter:

- (1) Whether cross-references are confusing.
- (2) Whether sentences are unreasonably long or complex.
- (3) Whether sentences contain double negatives and exceptions to exceptions.
- (4) Whether sentences and sections are in a confusing or illogical order.
- (5) Whether it contains words with obsolete meanings or words that differ in their legal meaning from their ordinary meaning.
- (6) Whether conditions, exceptions to the main provision of the agreement, and protection for consumers or restrictions of consumers' rights are given equal prominence with the main provision.

Section 2724. Remedies.

(a) Any person who engages in a deceptive practice governed by this subchapter shall be liable to a consumer in an amount equal to treble the amount of actual damages proved, plus reasonable attorneys' fees.

(b) A consumer likely to be damaged by a deceptive practice governed by this subchapter may be granted an injunction against it under the principles of equity and on terms the court considers reasonable.

Section 2725. Application.

This subchapter shall not apply to contracts in which the total contract price or the total amount financed, exceeds \$50,000 or to any contract entered into with or acquired by a banking organization or building and loan association as defined by Chapters 1 and 17 respectively of Title 5 of this Code, or to any public utility tariff on file with the Delaware Public Service Commission pursuant to Chapter 7 of Title 26 of this Code.

Section 2726. Enforcement.

In addition to any remedies a consumer may have at law or in equity, Section 8612 of Title 29 of this Code shall apply to violations of this subchapter."

Approved June 21, 1988.

CHAPTER 277

FORMERLY

SENATE BILL NO. 299
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11, CHAPTER 83, SECTION 8323, DELAWARE CODE RELATING TO STATE POLICE PENSION BENEFITS.

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

Section 1. Amend §8323, Chapter 83, Title 11 of the Delaware Code by adding a new subsection (1) as follows:

"(1) A member of the State Police hired prior to July 1, 1980 and who has 20 years of credited service shall have a vested right to a service pension as provided for in this subsection at a rate not less than the pension payment due upon completing 20 years of credited service; payments of said pension benefit shall increase pursuant to this section based upon increased annual salary adjustments and/or promotional increases that may occur subsequent to the 20th year of credited service. A member's vested pension under this subsection shall be payable upon the effective date of his or her termination of employment as a member of the State Police."

Approved June 21, 1988.

CHAPTER 278

FORMERLY

SENATE BILL NO. 309
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 2, PART II, TITLE 12 OF THE DELAWARE CODE RELATING TO DECEDENTS' ESTATES AND FIDUCIARY RELATIONS; AND PROVIDING FOR A UNIFORM TESTAMENTARY ADDITIONS TO TRUSTS ACT.

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

Section 1. Amend Chapter 2, Part II, Title 12 of the Delaware Code by repealing the existing Section 211, and substituting the following new section:

"§211. Testamentary Additions to Trusts

(a) Whenever a testator bequeaths or devises property to the trustee of an inter vivos trust which is evidenced by a written instrument in existence prior to the making of the will or to the trustee of a trust to be created under a will which is in existence prior to the making of the testator's will, which trust is clearly identified in the testator's will and is in existence at the testator's death, the property so bequeathed or devised, unless the testator's will provides otherwise, shall be governed by the provisions of the written instrument or will as finally constituted, even though such written instrument or will can be or is modified subsequent to the making of the testator's will or, in the case of a written instrument, after the testator's death. Both the identity of the person creating the trust and the nature of the corpus of the trust shall be immaterial. If, however, the trust is not in existence at the testator's death, the devise or bequest shall lapse.

(b) Any property so devised or bequeathed shall not be deemed to be held under a testamentary trust of the testator, unless the testator's will provides otherwise."

Section 2. No inference shall be drawn from the enactment of this Act that the law as in effect prior to such enactment was different from the law as in effect after the enactment of this statute.

Section 3. This Act shall be known and may be cited as the Uniform Testamentary Additions to Trusts Act.

Section 4. This Act shall have no effect upon any devise or bequest made by a will executed prior to the effective date of this Act.

Approved June 21, 1988.

CHAPTER 279

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 355
AS AMENDED BY SENATE AMENDMENT NO. 3

AN ACT INSERTING A NEW CHAPTER 38 OF TITLE 12 OF THE DELAWARE CODE BY ENACTING A LAW RELATING TO THE TREATMENT OF DELAWARE BUSINESS TRUSTS.

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

Section 1. Amend Part V, Title 12, Delaware Code, by adding thereto a new Chapter designated as "Chapter 38" to read as follows:

"CHAPTER 38. TREATMENT OF DELAWARE BUSINESS TRUSTS

Section 3801. Definitions

(a) 'business trust' means an unincorporated business association which (i) is created by a trust instrument under which property is held, managed, administered, controlled, invested, reinvested, and/or operated, or business or professional activities for profit are carried on, by a trustee or trustees for the benefit of such person or persons as are or may become entitled to a beneficial interest in the trust property, including but not limited to a trust of the type known at common law as a 'business trust', or 'Massachusetts trust', or a trust qualifying as a real estate investment trust under Section 856, et seq., of the United States Internal Revenue Code of 1986, as amended, or under any successor provision, or a trust qualifying as a real estate mortgage investment conduit under Section 860D of the United States Internal Revenue Code of 1986, as amended, or under any successor provision and (ii) files a certificate of trust pursuant to Section 3810 of this Chapter. Any such association heretofore or hereafter organized shall be a business trust and a separate legal entity.

(b) 'beneficial owner' means any owner of a beneficial interest in a business trust, the fact of ownership to be determined and evidenced (whether by means of registration, the issuance of certificates, or otherwise) in conformity to the applicable provisions of the governing instrument of the business trust.

(c) 'trustees' means the person or persons named in the governing instrument of the business trust to manage the business and affairs of such business trust, and may include the beneficial owners or any of them.

(d) 'person' means a natural person, partnership, limited partnership, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

Section 3802. Prohibition Against Banking and Insurance Business

A business trust may carry on any lawful business or purposes with the exception of the business of granting policies of insurance, or assuming insurance risks, or banking as defined in Section 126 of Title 8 of this Code.

Section 3803. Liability of Beneficial Owners

Except to the extent otherwise provided in the governing instrument of the business trust, the beneficial owners shall be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit.

Section 3804. Legal Proceedings

A business trust may sue and be sued, and service of process upon one of the trustees shall be sufficient. In furtherance of the foregoing, a business trust may be sued for debts and other obligations or liabilities contracted or incurred by the trustees, or by the duly authorized agents of such trustees, in the performance of their respective duties under the governing instrument of the business trust, and for any damages to persons or property resulting from the negligence of such trustees or agents acting in the performance of such respective duties. The property of a business trust

shall be subject to attachment and execution as if it were a corporation, subject to Section 3502 of Title 10 of this Code.

Section 3805. Rights of Beneficial Owners In Trust Property

(a) Except to the extent otherwise provided in the governing instrument of the business trust a beneficial owner shall have an undivided beneficial interest in the property of the business trust and shall share in the profits and losses of the business trust in the proportion (expressed as a percentage) of the entire undivided beneficial interest in the business trust owned by such beneficial owner as set forth in the records maintained by the trustees.

(b) No creditor of the beneficial owner shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the business trust, nor shall the death, incapacity, dissolution, termination or bankruptcy of any beneficial owner be cause for the termination or dissolution of the business trust.

(c) A beneficial owner's beneficial interest in the business trust is personal property notwithstanding the nature of the property of the trust.

(d) A beneficial owner's beneficial interest in the business trust is freely transferable except to the extent otherwise provided in the governing instrument of the business trust.

Section 3806. Management of the Business Trust

The business and affairs of the business trust shall be managed by its trustees. To the extent provided in the governing instrument of the business trust, the beneficial owners shall be entitled to direct the trustees in the management of the business trust.

Section 3807. Trustee In State

Every business trust shall at all times have a trustee which shall be a person who is a resident of this State or which has a principal place of business in this State.

Section 3808. Existence of Business Trust

Except to the extent otherwise provided in the governing instrument of the business trust, the business trust shall have perpetual existence.

Section 3809. Applicability of Trust Law

Except to the extent otherwise provided in the governing instrument of the business trust, the laws of this State pertaining to trusts are hereby made applicable to business trusts; provided, however, that for purposes of taxation under Title 30 of this Code a business trust shall be a corporation, an association, a partnership, or a trust, as shall be determined under the United States Internal Revenue Code of 1986, as amended.

Section 3810. Certificate of Trust; Amendment; Cancellation

(a) Every business trust shall file a certificate of trust in the Office of the Secretary of State. The certificate of trust shall set forth:

- (1) The name of the business trust;
- (2) The name and the business address of the trustee required by Section 3807 of this Chapter; and
- (3) Any other matters the trustee determine to include therein.

The filing of a certificate of trust in the Office of the Secretary of State shall make it unnecessary to file any other documents under Chapter 31 of Title 6 of this Code.

(b) A certificate of trust may be amended by filing a certificate of amendment thereto in the Office of Secretary of State. The certificate of amendment shall set forth:

- (1) The name of the business trust, and
- (2) The amendment to the certificate.

A certificate of trust may be amended at any time for any purpose as the trustees may determine. A trustee who becomes aware that any statement in a certificate of trust was false when made or that any matter described has changed making the certificate false in any material respect, shall promptly file a certificate of amendment.

(c) A certificate of trust shall be cancelled upon the completion of winding up of the business trust and its termination. A certificate of cancellation shall be filed in the Office of the Secretary of State and set forth:

- (1) The name of the business trust;
- (2) The date of filing of its certificate of trust;
- (3) The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate; and
- (4) Any other information the trustee determine to include therein.

Section 3811. Execution

(a) Each certificate required by this Chapter to be filed in the Office of the Secretary of State shall be executed in the following manner:

- (1) A certificate of trust must be signed by all the trustees;
- (2) A certificate of amendment must be signed by one or more of the trustees meeting the requirements of Section 3807 of this Chapter; and
- (3) A certificate of cancellation must be signed by all the trustees or, if there is no trustee, as provided in the governing instrument of the business trust.

(b) The execution of a certificate by a trustee constitutes an oath or affirmation, under the penalties of perjury in the third degree, that, to the best of the trustee's knowledge and belief, the facts stated therein are true.

Section 3812. Filing

(a) The original signed copy, together with a duplicate copy, which may be either a signed or conformed copy, of the certificate of trust and any certificates of amendment or cancellation shall be delivered to the Secretary of State. Unless the Secretary of State finds that any certificate does not conform to law, upon receipt of all filing fees required by law he shall:

(1) Certify that the certificate of trust, the certificate of amendment or the certificate of cancellation has been filed in his office by endorsing upon the original certificate the word 'Filed', and the date and hour of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud;

(2) File and index the endorsed certificate; and

(3) Return the duplicate copy, similarly endorsed, to the person who filed it or his representative.

(b) Upon the filing of a certificate of amendment in the Office of the Secretary of State, or upon the future effective date or time of a certificate of amendment as provided for therein, the certificate of trust shall be amended as set forth therein. Upon the filing of a certificate of cancellation, or upon the future effective date or time of a certificate of cancellation as provided for therein, the certificate of trust shall be cancelled.

(c) A fee as set forth in Section 3813(a)(2) of this Chapter shall be paid at the time of the filing of a certificate of trust, a certificate of amendment or a certificate of cancellation.

(d) A fee as set forth in Section 3813(a)(3) of this Chapter shall be paid for a certified copy of any paper on file as provided for by this Chapter, and a fee as set forth in Section 3813(a)(4) of this Chapter shall be paid for each page copied.

Section 3813. Fees

(a) No documents required to be filed under this Chapter shall be effective until

the applicable fee required by this Section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of this State:

(1) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation, or notice of transfer or cancellation of reservation pursuant to Section 3814 of this Chapter, a fee in the amount of \$50.

(2) Upon the receipt for filing of a certificate of trust, a certificate of amendment or a certificate of cancellation, a fee in the amount of \$100.

(3) For certifying copies of any paper on file as provided for by this Chapter, a fee in the amount of \$10.00 for each copy certified.

(4) For issuing further copies of instruments on file, whether certified or not, a fee in the amount of \$1 per page.

(b) Except as provided by this Section, all other fees for the Secretary of State shall be as provided for in Section 2315 of Title 29 of this Code.

Section 3814. Use of Names Regulated

(a) The name of each business trust as set forth in its certificate of trust must be such as to distinguish it upon the records of the Office of the Secretary of State from the name of any corporation, limited partnership or business trust reserved, registered or organized under the laws of this State or qualified to do business or registered as a foreign corporation or foreign limited partnership in this State; provided, however, that a business trust may register under any name which is not such as to distinguish it upon the records of the Office of the Secretary of State from the name of any corporation, limited partnership or business trust reserved, registered or organized under the laws of this State or qualified to do business or registered as a foreign corporation or foreign limited partnership in this State with the consent of the other corporation, limited partnership or business trust, which written consent shall be filed with the Secretary of State.

(b) The exclusive right to the use of a name may be reserved by:

(1) Any person intending to form a business trust and to adopt that name; and

(2) Any business trust registered in this State which proposes to change its name.

(c) The reservation of a specified name shall be made by filing with the Secretary of State an application, executed by the applicant, together with a duplicate copy, which may be either a signed or conformed copy, specifying the name to be reserved and the name and address of the applicant. If the Secretary of State finds that the name is available for use by a business trust, he shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may again reserve the same name for successive 120 day periods. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the Office of the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, together with a duplicate copy, which may be either a signed or conformed copy, specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be cancelled by filing with the Secretary of State a notice of cancellation, executed by the applicant or transferee, together with a duplicate copy, which may be either a signed or conformed copy, specifying the name reservation to be cancelled and the name and address of the applicant or transferee. A duplicate copy filed with the Secretary of State as required by this Subsection shall be returned by the Secretary of State to the person who filed it or his representative with a notation thereon of the action taken with respect to the original copy thereof by the Secretary of State.

(d) A fee as set forth in Section 3813(a)(1) of this Chapter shall be paid at the time of the initial reservation of any name, at the time of the renewal of any such reservation and at the time of the filing of a notice of the transfer or cancellation of any such reservation.

Section 3815. Severability

If any provision of this Chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable."

Section 2. This Act shall become effective on October 1, 1988 with respect to business trusts created on or after such date. This Act shall have no effect on the validity, powers, rights or liabilities of common law business trusts created before or after October 1, 1988 or the trustees or beneficiaries thereof. Common law business trusts created before or after October 1, 1988 may elect to be governed by the provisions of this Act upon the filing of a certificate of trust, provided, however, a common law business trust created before October 1, 1988 shall not be governed by the provisions of this Act to the extent of any inconsistent provisions contained in its governing instrument and not thereafter modified by amendment.

Approved June 21, 1988.

CHAPTER 280

FORMERLY

HOUSE BILL NO. 619

AN ACT TO AMEND CHAPTER 34, TITLE 14 OF THE DELAWARE CODE TO ESTABLISH THE B. BRADFORD BARNES MEMORIAL SCHOLARSHIP FUND AND ADMINISTRATION THEREFOR.

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

Section 1. Amend Chapter 34, Title 14, Delaware Code by adding a new Subchapter V to read as follows:

"Subchapter V. B. BRADFORD BARNES MEMORIAL SCHOLARSHIP FUND.

§3441 Purpose.

It is the intent and purpose of the General Assembly through this subchapter to provide scholarships to deserving Delawareans in memory of B. Bradford Barnes, an elected member of the State House of Representatives who died July 17, 1987 during his tenure as Speaker of the House and to this end hereby establishes the B. Bradford Barnes Memorial Scholarship Fund.

§3442 Administration.

(a) This subchapter shall be administered by the Delaware Postsecondary 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 subchapter.

(c) The Commission shall annually report to the General Assembly of the State the names of the scholarship recipients and the total amount of expenditures made under this subchapter.

§3443 B. Bradford Barnes Memorial Scholarships.

(a) The Commission is hereby authorized to award educational scholarships as follows:

(1) One scholarship shall be awarded for the academic year commencing September 1989.

(2) Two scholarships shall be awarded for the academic year commencing September 1990;

(3) Three scholarships shall be awarded for the academic year commencing September 1991; and

(4) Four scholarships shall be awarded for each academic year commencing thereafter.

(b) Scholarships shall be provided to residents of the State of Delaware who will enter the University of Delaware as first year, full-time students.

(c) Scholarships shall be awarded in an amount sufficient to meet the costs of tuition, required fees and room and board at the University of Delaware.

(d) Selection of scholarship recipients shall be based on criteria established by the Commission such that the qualities of academic achievement, community service, participation in extra-curricular activities and promise of academic success in college are considered.

(e) Where several students are judged to be equally qualified for the scholarships, financial need shall be considered in establishing priority position for scholarship awards.

(f) The Commission shall award scholarships only to students who have accepted an admissions offer from the University of Delaware by a deadline date established by agreement between the University of Delaware and the Commission.

(g) Awards shall be renewable within the limits of appropriations for the program, to a maximum of four awards, provided the student meets the academic progress standards which shall be set by the Commission and communicated in writing to the recipient at the time the initial award is granted.

(h) A student who is awarded a scholarship under this section shall by accepting the scholarship become ineligible to receive any other scholarship or grant funded by the State of Delaware from its General Fund.

(i) Scholarship payments shall be made to the University of Delaware on behalf of the student each semester that the student is enrolled, provided the student meets all requirements of this section.

(j) No student shall be eligible for the scholarship award who is not a resident of the State for at least one year prior to the date 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 the student's parent or guardian who must have qualified to register to vote 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 be qualified to register to vote in Delaware and must be subject to the payment of Delaware income tax, to satisfy the requirements of this section.

Approved June 27, 1988.

CHAPTER 281

FORMERLY

HOUSE BILL NO. 522 AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 35, TITLE 18, DELAWARE CODE, TO MANDATE THAT HEALTH INSURERS PROVIDE PAP SMEAR AS PART OF PROVIDED COVERAGE.

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

Section 1. Amend Title 18, Chapter 35 of the Delaware Code by adding a new section as follows:

"Section 3552. Cancer Screening Tests

All group and blanket health insurance policies, which are delivered or issued for delivery in this state by any health insurer or health service corporation, and which provide benefits for outpatient services, shall provide to covered persons residing or having their principal place of employment in this state a benefit for cervical and endometrial cancer screening, commonly known as a 'PAP smear'. Such screening shall be deemed a covered service, notwithstanding policy exclusions for services which are part of or related to annual or routine examinations. Nothing in this section shall prevent the operation of such policy provisions as deductibles, coinsurance, allowable charge limitations, coordination of benefits, or provisions restricting coverage to services rendered by licensed, certified or carrier-approved providers or facilities."

Section 2. This section shall apply to group and blanket health insurance policies issued or renewed one hundred twenty (120) days after the effective date of this section.

Approved June 27, 1988.

CHAPTER 282

FORMERLY

HOUSE BILL NO. 12

AN ACT TO AMEND CHAPTER 29, TITLE 6, DELAWARE CODE RELATING TO THE RETAIL SALES OF GASOLINE.

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

Section 1. Amend Chapter 29, Title 6, Delaware Code, by adding thereto a new section to be designated as §2912 to read as follows:

"§2912. Self-Service Gasoline Stations; Attendants.

Where a gasoline service station offers both full-service and self-service, the owner, operator, or attendant handling the full-service equipment shall dispense gasoline from the self-service pump, during hours in which full-service is being offered at that station, upon the request of a disabled operator of a motor vehicle, provided that the vehicle operator properly displays a special plate or identification for the handicapped as described pursuant to §2134 of Title 21, Delaware Code and the person to whom the permit has been issued is the operator of the vehicle. The attendant shall have the right to request proof that the operator of the vehicle is the rightful owner of the vehicle to whom the special plate or identification for handicapped has been issued."

Approved June 28, 1988.

CHAPTER 283

FORMERLY

HOUSE BILL NO. 562

AN ACT TO AMEND SUBCHAPTERS II AND III OF CHAPTER 9 OF TITLE 5 OF THE DELAWARE CODE RELATING TO BANK REVOLVING AND CLOSED END CREDIT.

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

Section 1. Preamble. It is the Intent of the General Assembly to codify the law of this State relating to the fees and charges assessed by banks with respect to revolving credit plans and closed end credit as it has existed since the enactment of Subchapters II and III of Chapter 9, Title 5 of the Delaware Code. To this end, the General Assembly does hereby act.

Section 2. Amend Subsection 941(8), Title 5, Delaware Code, by deleting the phrase "Interest and additional charges", and inserting in lieu thereof "periodic interest, interest charges and other charges permitted by this subchapter".

Section 3. Amend Subsection 942, Title 5, Delaware Code, by deleting the phrase "the interest and other charges", and inserting in lieu thereof the phrase "periodic interest, interest charges and other charges".

Section 4. Amend Section 943, Title 5, Delaware Code, by adding the word "Periodic" in front of the word "Interest" in the heading.

Section 5. Amend Section 943, Title 5, Delaware Code, by adding the word "periodic" in front of the word "Interest" wherever it appears in such Section.

Section 6. Amend Section 945, Title 5, Delaware Code, by inserting in lieu of the word "Additional" the word "Interest" in the heading.

Section 7. Amend Section 945, Title 5, Delaware Code, by inserting after the word "collect" the phrase "as interest, in such manner or form as the plan may provide."

Section 8. Amend Section 945, Title 5, Delaware Code, by deleting the "and" at the end of subsection (2); changing the period at the end of subsection (3) to a semicolon; and adding new subsections (4)-(9) to read as follows:

(4) Reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the bank or its agents in connection with the plan, or other reasonable fees incident to the application for and the opening, administration, and termination of a plan including, without limitation, commitment, application and processing fees, official fees and taxes, costs incurred by reason of examination of title, inspection, appraisal, recording, mortgage satisfaction or other formal acts necessary or appropriate to the security for the plan, and filing fees;

(5) Returned payment charges;

(6) Documentary evidence charges;

(7) Stop payment fees;

(8) Overlimit charges; and

(9) Automated teller machine charges or similar electronic or interchange fees or charges.

Section 9. Amend Section 950, Title 5, Delaware Code, by inserting the phrase "as interest" after the word "impose".

Section 10. Amend Section 951, Title 5, Delaware Code, by deleting the phrase "in connection with a collection proceeding".

Section 11. Amend Subsection 952(d), Title 5, Delaware Code, by deleting such subsection in its entirety and inserting in lieu thereof the following:

"(d) For purposes of this section, the following shall not be deemed an amendment which has the effect of increasing the interest to be paid by the borrower:

- (i) a decrease in the required amount of periodic installment payments;
- (ii) a change in the schedule or formula used under a variable rate plan under Section 944 of this title provided that the initial interest rate resulting from such change is not an increase; and
- (iii) a change from a daily periodic rate to a periodic rate other than daily or from a periodic rate other than daily to a daily periodic rate under Section 943 of this Chapter."

Section 12. Amend Section 962, Title 5, Delaware Code, by deleting the phrase "the interest and other charges" and inserting in lieu thereof the phrase "any periodic interest, interest charges, and other charges permitted by this subchapter".

Section 13. Amend Section 963, Title 5, Delaware Code, by adding the word "Periodic" in front of the word "Interest" in the heading.

Section 14. Amend Section 963, Title 5, Delaware Code, by adding the word "periodic" in front of the word "Interest" in the first two locations in the first sentence where the term "Interest" is used.

Section 15. Amend Section 965, Title 5, Delaware Code, by inserting in lieu of the word "Additional" the word "Interest" in the heading.

Section 16. Amend Section 965, Title 5, Delaware Code, by inserting before the word "Interest" the word "periodic" and inserting after the word "collect", where such term first appears in the introductory clause, the phrase "as interest".

Section 17. Amend Section 966, Title 5, Delaware Code by inserting the phrase", as interest," after the phrase "charge and collect" and after the phrase "such borrower".

Section 18. Amend Section 968, Title 5, Delaware Code by inserting after the word "Impose" the phrase "as interest".

Section 19. Amend Subsection 970(a), Title 5, Delaware Code by inserting after the phrase "charge and collect" the phrase "as interest".

Section 20. Amend Section 971, Title 5, Delaware Code, by deleting the phrase "in connection with a collection proceeding".

Section 21. Amend Subchapter II, Title 5, Chapter 9 Delaware Code, by adding a new Section 955 to read as follows:

"Section 955. Materiality of Terms.

All terms, conditions and other provisions of and relating to a plan as contained in this Subchapter or in the agreement governing the plan (other than those which are interest under this subchapter), including, without limitation, provisions relating to the method of determining the outstanding unpaid indebtedness on which interest is applied, time periods within which interest charges may be avoided, reasons for default and the right to cure any default, rights to accelerate, account cancellation, choice of law, change in terms requirements, rights to charge and collect attorney's fees, court and collection costs, and the compounding of periodic interest or interest charges, shall be and hereby are deemed to be material to the determination of interest applicable to a plan under Delaware law, under the most favored lender doctrine, and under Section 85 of the National Bank Act (12 U.S.C. §85) or Section 521 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. §1831d)."

Section 22. Amend Subchapter II, Chapter 9, Title 5, Delaware Code, by adding a new Section 956 to read as follows:

"Section 956. Governing Law.

A revolving credit plan between a bank and an individual borrower shall be governed by the laws of this State."

Section 23. Amend Subchapter III, Chapter 9, Title 5, Delaware Code, by adding a new Section 975 to read as follows:

"Section 975. Materiality of Terms.

All terms, conditions and other provisions of and relating to any extension of closed end credit as contained in this Subchapter or in the agreement governing, or the bond, note or other evidence of the loan (other than those which are interest under this subchapter), including, without limitation, provisions relating to the method of calculating interest, reasons for default and the right to cure any default, rights to accelerate, choice of law, rights to charge and collect attorney's fees, court and collection costs, repayment schedule, balloon payments, loan term, and the refunding of unearned interest or insurance charges, shall be and hereby are deemed to be material to the determination of interest under Delaware law, under the most favored lender doctrine, and under Section 85 (12 U.S.C. §85) of the National Bank Act or Section 521 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. §1831d)."

Section 24. Amend Subchapter III, Title 5, Delaware Code, by adding a new Section 976 which reads:

"Section 976. Governing Law.

The agreement governing, or the bond, note or other evidence of a loan between a bank and an individual borrower shall be governed by the laws of this State."

Approved June 28, 1988.

CHAPTER 284

FORMERLY

SENATE BILL NO. 193
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 279, VOLUME 53, LAWS OF DELAWARE, AS AMENDED ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BOWERS" RELATING TO GENERAL CORPORATE POWERS OF THE TOWN OF BOWERS.

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(a), Chapter 279, Volume 53, Laws of Delaware, as amended by Chapter 352, Volume 58, Laws of Delaware by striking the third sentence and inserting in lieu thereof the following:

"Each Council member and the Mayor shall be at least the age of eighteen years and at the time of the election and during the term of office reside within the Town. The word reside shall mean domicile.

Section 2. Amend Section 8(a), Chapter 279, Volume 53, Laws of Delaware, as amended by striking the word "Wednesday" and inserting in lieu thereof the word "Thursday".

Section 3. Amend Section 9(b), Chapter 279, Volume 53, Laws of Delaware, as amended by Chapter 550, Volume 59, Laws of Delaware by striking said Section 9(b) in its entirety and inserting in lieu thereof the following:

"(b) Absent member

Any Council member, including the Mayor, who is absent from three or more consecutive regular meetings of the Town Council without good cause, may be removed from office by majority vote of the remaining members of Council."

Section 4. Amend Section 16(a) Chapter 279, Volume 53, Laws of Delaware, as amended by Chapter 550, Volume 59, Laws of Delaware by striking the word "Wednesday" and inserting in lieu thereof the word "Thursday".

Section 5. Amend Section 16(c), Chapter 279, Volume 53, Laws of Delaware, as amended, by striking said section in its entirety and inserting in lieu thereof the following.

"(c) Levy of Taxes, Amount

The Town Council is authorized to levy and collect an annual tax on the assessed valuation on all real estate within the limits of the Town not to exceed in any one year ten (10%) percent of the assessed value of real estate within the limits of the Town. In addition to the annual tax herein authorized Council shall have the authority to levy or assess any other form of tax or assessment the Council deems to be in the best of interest of the Town, including but not limited to a tax on the transfer of real estate, operation of businesses or any other activities within the Town."

Section 6. Amend Section 16A, Chapter 279, Volume 53, Laws of Delaware, as amended by Chapter 221, Volume 54, Laws of Delaware by inserting between the words "Delinquent" and "Taxes" in the title the word "Annual".

Section 7. Amend Section 16A, Chapter 279, Volume 53, Laws of Delaware, as amended by Chapter 221, Volume 54, Laws of Delaware by adding at the end of said section the following:

"In any suit brought for the collection of taxes, in addition to the amount of taxes owed, an amount may be sought for reasonable attorney fees in bringing the suit for collection."

Section 8. Amend Section 27(a), Chapter 279, Volume 53, Laws of Delaware, as amended by inserting after the words "that the borrowing of the money therefore" the words "in excess of fifty thousand dollars".

Section 9. Amend Chapter 279, Volume 53, Laws of Delaware, as amended, by adding thereto a new section to read as follows:

"Section 28 Construction

The powers of the Town under this Act shall be construed liberally in favor of the Town, and the specific mention of particular powers in this Act shall not be construed as limiting in any way the general powers stated in this Act and to that end the Town shall have and possess all powers and authorities which would be competent for the General Assembly of this State to give to the Town."

Approved June 28, 1988.

CHAPTER 285

FORMERLY

SENATE BILL NO. 357

AN ACT TO AMEND CHAPTER 251, VOLUME 61, LAWS OF DELAWARE, AS AMENDED, ENTITLED: "AN ACT TO REINCORPORATE THE CITY OF DELAWARE CITY" RELATING TO THE APPOINTMENT OF AN ASSESSOR FOR THE CITY OF DELAWARE CITY AND TO PROVIDE PROCEDURES FOR THE REMOVAL OF ASSESSOR, CITY SECRETARY, CITY TREASURER AND MEMBERS OF BOARDS, BUREAUS AND COMMISSIONS.

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

Section 1. Amend Section 7-02 of Chapter 251, Volume 61, Laws of Delaware, as amended by striking said section in its entirety and substituting in lieu thereof a new Section 7-02 to read as follows:

"Section 7-02. Assessor. The Mayor shall appoint, with the approval of majority of all members of Council an Assessor, either an individual, firm or other similar type organization. The Assessor need not be a resident of the City of Delaware City. The Assessor shall be appointed at the first regular Council meeting in January for a term of two years and prior to entering upon the duties of the office, as set forth in Article IV, shall be duly qualified by oath or affirmation to perform the duties of the office to the best of his/her ability and knowledge, without favor or partiality. The Assessor may be removed from office by the Mayor and three (3) members of Council or four (4) members of Council."

Section 2. Amend Section 7-03 of Chapter 251, Volume 61, Laws of Delaware, as amended, by adding thereto a new sentence to read as follows:

"The City Secretary may be removed from office by the Mayor and three (3) members of Council or four (4) members of Council."

Section 3. Amend Section 7-04 of Chapter 251, Volume 61, Laws of Delaware, as amended, by adding thereto a new sentence to read as follows:

"The City Treasurer may be removed from office by the Mayor and three (3) members of Council or four (4) members of Council."

Section 4. Amend Section 7-05, Chapter 251, Volume 61, Laws of Delaware, as amended, by adding thereto a new sentence to read as follows:

"Members of Boards, Bureaus and Commissions, may be removed from office by the Mayor and three (3) members of Council or four (4) members of Council."

Approved June 28, 1988

CHAPTER 286

FORMERLY

SENATE BILL NO. 417
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 513, TITLE 31 OF THE DELAWARE CODE RELATING TO RECOUPMENT OF ASSISTANCE PAYMENTS.

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

Section 1. Amend §513, Chapter 5, Title 31 of the Delaware Code by striking said subsection and by substituting in lieu thereof a new §513, to read as follows:

"§513. Assistance not assignable; exception.

Assistance granted under this chapter shall not be transferable or assignable, at law or in equity, and none of the money paid or payable under this chapter shall be subject to execution, levy, attachment, garnishment or other legal process or to the operation of any bankruptcy or insolvency law, with the exception that the State shall seek recoupment for overpayments. Such recoupment may not exceed an amount which will result in the assistance unit's retaining from its combined aid, income and liquid resources, less than 90% of the amount payable under the State Plan to a family of the same composition with no other income. Recoupment must be made in accordance with applicable Federal Laws and regulations. The Department shall publish regulations establishing the recoupment rate at any time when there is a change."

Approved June 28, 1988.

CHAPTER 287

FORMERLY

SENATE BILL NO. 418
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 31 OF THE DELAWARE CODE AND RELATING TO THE RECOVERY OF PUBLIC ASSISTANCE OVERPAYMENTS.

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

Section 1. Amend Chapter 1, Title 31 of the Delaware Code by adding a new section as follows:

"§114. Recovery of Public Assistance Overpayments.

(a) Any assistance paid to or in behalf of any person under the Aid to Families With Dependent Children, General Assistance, Food Stamps and Medicaid programs in excess of that to which the person is entitled under the program or programs shall be recoverable by the Department of Health and Social Services for the State of Delaware in a civil action against such person or his estate in any court of competent jurisdiction.

(b) Any judgment entered for the Department in an action brought under this section shall include an award for the court costs of the action. That portion of the judgment that constitutes the court costs of the action shall be remitted by the Department to the State Treasurer.

(c) The Department shall not be required to pay the filing fee or other costs of an action brought under this section and shall not be required to pay fees of any nature or to file a bond or other security of any nature in connection with such action or with proceedings supplementary thereto or as a condition precedent to the availability to the Department of any process in aid of such action or proceedings.

(d) Any judgment entered in any court of competent jurisdiction for the Department pursuant to a confession of judgment regarding any assistance paid to or in behalf of any person under the Aid to Families With Dependent Children, General Assistance, Food Stamps and Medicaid programs in excess of that to which the person is entitled under the program or programs or regarding any amount of money due under an agreement relating to any assistance paid to or in behalf of any person under the Aid to Families With Dependent Children, General Assistance, Food Stamps and Medicaid programs in excess of that to which the person is entitled under the program or programs shall include an award for the court costs of such judgment. That portion of such judgment that constitutes the court costs of such judgment shall be remitted by the Department to the State Treasurer.

(e) The Department shall not be required to pay the filing fee or other costs related to any procedure to obtain judgment in any court of competent jurisdiction pursuant to a confession of judgment governed by subsection (d) of this section and shall not be required to pay fees of any nature or to file a bond or other security of any nature in connection with any such procedure."

Approved June 28, 1988.

CHAPTER 288

FORMERLY

SENATE BILL NO. 454

AN ACT TO AMEND AN ACT BEING CHAPTER 170, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE CITY OF LEWES" TO ELIMINATE THE MAXIMUM CONTRIBUTION BY THE CITY FOR THE PENSION PLAN AND HEALTH AND WELFARE PLAN.

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

Section 1. Amend Subsection 41, Section 29, Chapter 170, Volume 57, Laws of Delaware by striking said Subsection 41 and substituting in lieu thereof a new Subsection 41 to read as follows:

"41. The City Council may by ordinance duly adopted in accordance with this Charter, establish a Pension Plan or a Health and Welfare Plan, or both, for the employees of The City of Lewes under such terms and conditions as the City Council, in its discretion, deems most appropriate; provided however, that the method of funding, may, if deemed advisable by the City Council, be handled through a recognized insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of all the Members of the City Council."

Approved June 28, 1988.

CHAPTER 289

FORMERLY

SENATE BILL NO. 428

AN ACT TO AMEND SECTION 15, CHAPTER 161, VOLUME 43, LAWS OF DELAWARE, ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF DAGSBORO" AS AMENDED BY CHAPTER 254, VOLUME 52, LAWS OF DELAWARE AND CHAPTER 171, VOLUME 61, LAWS OF DELAWARE, RELATING TO THE AMOUNT WHICH THE TOWN COUNCIL IS AUTHORIZED TO RAISE ANNUALLY BY TAXATION.

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 15, Chapter 161, Volume 43, Laws of Delaware, as amended, by striking the words "the sum of Twenty-Five Thousand Dollars (\$25,000.00)" as the same appear in Subsection 13; and substituting the words "three percent (3%) of the total assessed valuation of all taxable real estate (and improvements thereon) in the Town" in lieu thereof.

Approved June 28, 1988.

CHAPTER 290

FORMERLY

SENATE BILL NO. 419
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 31 OF THE DELAWARE CODE RELATING TO THE SUBPOENA POWER OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

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

Section 1. Amend Chapter 1, Title 31 of the Delaware Code by adding a new Section as follows:

"§115. Subpoena Authority.

(a) In addition to the other powers of the Secretary of the Department of Health and Social Services, the Secretary or the Secretary's designee, shall, for purposes related to welfare fraud investigations and welfare overpayment investigations, have the power to administer oaths, subpoena witnesses, and compel the production of books, papers, documents, or other tangible things. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books, papers, documents, or other tangible things relevant to any such investigations may be compelled to do so by order of the Superior Court.

(b) Service of a subpoena issued under this section shall be made by any sheriff, any deputy sheriff, any constable, or any employee of the Department of Health and Social Services by delivering a copy of the subpoena to the person to whom it is addressed or by leaving a copy of the subpoena at his usual place of abode with a person of suitable age and discretion residing therein. Any fee that the State, or any county or municipality of the State, might otherwise charge for the service of a subpoena shall be waived for the service of a subpoena under this section.

(c) Neither the Secretary of the Department of Health and Social Services nor the Secretary's designee shall be charged any court costs or fees associated with an order of the Superior Court under subsection (a) of this section.

(d) A subpoena issued under subsection (a) of this section shall be effective throughout this State."

Approved June 28, 1988.

CHAPTER 291

FORMERLY

SENATE BILL NO. 387
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO REINCORPORATE THE TOWN OF CLAYTON.

WHEREAS, it is deemed advisable that the Charter of the Town of Clayton, contained in Chapter 138, Volume 41, Laws of Delaware, as amended, be consolidated into one complete Act and in certain respects amended and revised; and

WHEREAS, we the Town Council of the Town of Clayton, James H. Carson, Jr., Mayor and President, William R. Carrow, James T. Vaughn, Jr., Stephen P. Faulkner and Clarence R. O'Neal do hereby recommend for enactment into law by the General Assembly of the State of Delaware this Act to reincorporate the Town of Clayton in accordance with the Constitution and the laws of the State of Delaware.

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):

ARTICLE I: INCORPORATION

Section 1.1 - Body Corporate

The inhabitants of the "Town of Clayton" within the corporation limits as defined in Section 1.2 as the same may from time to time hereafter be revised, shall be known as the "Town of Clayton" and are hereby continued as a municipal corporation and body politic in law and in equity and under that name shall have perpetual succession.

Section 1.2 - Boundaries

(a) The boundaries of the Town of Clayton are hereby established and declared to be the same boundaries and limits that have been heretofore determined and as are designated and delineated on a plot of the Town of Clayton of record in the Office of the Recorder of Deeds, at Dover in Deed Book 4, Volume 7, Page 88, and such other premises and real property as the Town has from time to time acquired.

(b) The Council of the Town of Clayton may, at any time hereafter, cause a survey and plot to be made of the said boundaries and the said plot, when made and approved by the Council, may be recorded in the Office of the Recorder of Deeds, at Dover, State of Delaware, and the same, shall constitute the boundaries of the Town of Clayton.

Section 1.3 - Annexation

If and when two-thirds (2/3) of the property owners in unincorporated territory contiguous to the Town of Clayton shall sign a petition seeking to have the area in which said property owners reside annexed to the Town of Clayton and submit the petition together with a survey of the area proposed for annexation to the Town of Clayton, the said Council may submit the question of annexation or any question pertaining to annexation to the voters of the Town of Clayton and the question shall be determined by a two-thirds (2/3) majority of said voters voting at an election to be held for that purpose in such manner by such persons and with such notice as the Council of the Town of Clayton shall determine by resolution.

ARTICLE II: POWERS OF TOWN

2.1 - Powers of Town

(a) The Council of the Town of Clayton shall have all the powers granted to municipal corporations and to towns by the Constitution and general laws of the State of Delaware, together with all the implied powers necessary to carry into execution all the powers granted. The Town Council of Clayton shall continue to enjoy all powers which have been granted to it by special acts of the General Assembly of the State of Delaware, except insofar as they may be repealed by the enactment of this Charter. The Council members of Clayton, as a body politic and corporate, shall succeed to, own or possess all property whether real, personal, or mixed, and all the rights, privileges, franchises, powers and immunities now belonging to, possessed by, or enjoyed by the former corporation known as "The Town of Clayton."

(b) The Town of Clayton may have and use a corporate seal; may sue and be sued; may acquire property within or without its corporate limits by purchase, gift, devise, lease or condemnation, for the purpose of providing sites for public buildings, parks, sewer system, sewage treatment plant, water system, electric system, water plant, gas system, or other municipal purposes, and may sell, lease, mortgage, hold, manage and control such property or utility as its interest may require. And, except as prohibited by the Constitution of the State of Delaware or restricted by this Charter, the Council of Clayton shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

(c) The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof; it is intended that the Council of Clayton shall have and may exercise all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the Town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in a manner provided by ordinance or resolution of the Council.

(d) This Charter shall be construed liberally in favor of the Town, and nothing in this Charter shall be construed in exempting any individual or agency from the operation of this Section.

2.2 - Intergovernmental Relations

The Town of Clayton 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, of the United States or any agency thereof.

ARTICLE III: STRUCTURE OF GOVERNMENT

3.1 - Composition of Government

The government of the Town of Clayton and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in five (5) Councilmen (one of whom shall be by them chosen President).

3.2 - Qualifications of Council

Any person at least twenty-one (21) years of age, who, for a period of at least fifteen (15) years immediately preceding his/her election, has not been convicted of a felony, as that crime is designated by the State of Delaware, and who is a bona fide domiciliary of the Town shall be eligible to hold the office of Council member.

3.3 - Term of Office

Council members shall be elected to serve a term of two (2) years all effective with the organizational meeting following their election.

3.4 - Council Prohibitions

Except where authorized by law, no Council member shall hold any other town office or town employment during the term for which he/she was elected to the Council, and no former Council member shall hold any compensated appointive town office or employment until one (1) year after the expiration of the term for which he/she was elected to Council.

3.5 - Vacancies and Forfeiture of Office

(a) The office of a Council member shall become vacant when the following occurs. (1) Upon his/her death. (2) Resignation. (3) Removal from office in any manner authorized by law, or forfeiture of his/her office. The Council member shall forfeit his/her office if he/she lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by law; (4) Violates any express prohibition of this Charter. (5) Is convicted of a crime involving a felony as that crime is designated by the laws of the State of Delaware; (6) Fails to attend three consecutive regular meetings of the Town Council without being excused by Council; or (7) Is physically, mentally or emotionally incapable of performing the functions of his/her office.

(b) The Council, by the majority of vote of all its members shall appoint a qualified person to fill the vacancy. A vacancy shall be announced at a regular Council meeting and a vote on a person to fill the vacancy shall not be held before the next following regular Council meeting. Despite the quorum provisions hereof, if at any time, the membership of the Council is reduced to less than three (3) the remaining members may, by majority action, appoint, additional members to raise the membership to five (5).

3.6 - Judge of Qualifications of Members

The Council shall be the judge of the election and the qualifications of its members and of the grounds for forfeiture of their office, and for such purposes, shall have power to subpoena witnesses, take testimony, and require the production of records. A member charged with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand; and notice of such hearing shall be published in one or more newspapers of general circulation in the Town at least one (1) week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

3.7 - Compensation

The Council shall determine the annual salary of the Council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of members of the Council elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. Members of the Council may receive reimbursement for actual necessary expenses incurred in traveling when on official business.

3.8 - Meetings of Council

(a) The members of the Town Council shall meet for the purpose of organization on the second Monday evening in May following their election, and shall organize by the election of a President, a Secretary, and a Treasurer and such other officers as shall be found necessary. All officers of the Town of Clayton shall be members of Council. The Council shall meet regularly at least once a month thereafter. No member of Council shall hold more than one (1) elective office during any term of office.

(b) Such regular meeting shall be held on the second Monday evening of each month; additional meetings may be held as provided by the Town ordinance, or whenever the President may deem it expedient. All meetings shall be open to attendance by the public, provided, however, the Council may recess for the purpose of discussing in an executive session limited to its own membership any question which would tend to defame or prejudice the character or reputation of any person, or would tend to jeopardize the position of the Town in any action under consideration, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

3.9 - Terms of Office

The term of office of all officers shall be one (1) year after their respective election and until their respective successor shall be duly elected and qualified.

3.10 - Council President

(a) The President shall be the executive of the Town of Clayton. The President shall also be known as the Mayor of the Town of Clayton. The President shall serve as the head of the Town government for all ceremonial purposes and for purposes of military law. He/she shall preside at meetings of the Council, and shall have vote therein. He/she shall execute on behalf of the Town, when authorized by the Council, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed. He/she shall appoint all chairpersons, other non-elected officers, town solicitor and such other persons as he may deem expedient and necessary, and all committees subject to Council confirmation. He/she shall sign all warrants authorized by the Council and drawn on the Treasurer for the payment of money. He/she shall issue and sign all licenses for every exhibition with the Town of Clayton for which a license thereof is, or may be required. He/she shall have all and every power conferred and perform all duties imposed upon him/her by this Charter and the ordinances of the Town of Clayton.

(b) The President shall have the same right as other officers and Council members to vote on all matters and may at any time appoint another officer or Council member to

preside if he desires to make a motion, move the adoption of a resolution, record either, or debate any question from the floor, and may thereafter immediately issue his duties as presiding officer. For purposes of establishing a majority vote, the President shall be counted as a member of Council.

(c) In case of the temporary absence or inability to act of the President, the Council shall elect a President Pro Tempore from among the Council to act during such temporary absence or inability of the President. The President Pro Tempore shall have the same powers as the President during his/her absence.

3.11 - Council Secretary

The Secretary shall record all the proceedings of Council and keep a correct record of the same in a book to be provided for the purpose and shall file and keep in a safe place the Seal of the Town and all papers and documents relative to the affairs of the Town; and deliver the same to his/her successor in office. The Secretary shall attest the Seal of the Town when authorized by the Council and shall perform such duties and have such other powers as may be prescribed by the Council. All records, books, papers, and documents in the custody of the Secretary shall be always open for the inspection of the Council and the public under such regulations as Council may prescribe by resolution or ordinance.

3.12 - Council Treasurer

(a) Before entering upon the duties of his/her office he/she shall be sworn or affirmed, by the President of the Town Council, or the person performing the duties of President of Council for the time being, to perform the duties of his/her office honestly, faithfully, and diligently. He/she shall be custodian of all funds of the Town of Clayton and he/she shall deposit them daily in banking institutions as designated by the Council. The Treasurer shall be responsible to insure that all funds of the Town of Clayton are in insured accounts.

(b) He/she shall not pay out any money except as authorized by the President and Council; shall keep a true, accurate and detailed account of all monies received and of all monies paid out by him/her; shall preserve all vouchers for monies paid by him/her; and his/her books and accounts shall at all times be open to inspection by the President or the members of the Town Council; he/she shall, at each regular meeting of Council submit a report, in writing, of all receipts and disbursements, which shall be entered in the minutes of said meeting. The Treasurer shall be bonded by the Town with sufficient surety to be approved by Council in a penal sum equal to one hundred fifty (150%) percent of the amount most likely to come within his/her hands conditioned for the faithful discharge of the duties of his/her office. The bond shall further provide for the payment to his/her successor in office of all sums of money remaining in his/her hands upon settlement of his/her accounts, to which said bond and warrant thereto shall be annexed a warrant of attorney for the confession of judgment for said penalty.

3.13 - Rules of Procedure

The Council shall determine its own rules of procedures and order of business and shall provide for keeping a journal of its proceedings, which journal shall be a public record and open to public inspection. Voting, except on procedural motions, may be by roll call but in any event the ayes and nays shall be recorded in the journal.

3.14 - Quorum and Majority Requirements

A majority of the members elected to the Council shall constitute a quorum to do business but a smaller number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. No ordinance shall be valid unless it shall have the affirmative vote of a majority of the members elected to Council. Resolutions, orders and motions shall be valid upon the affirmative vote of a majority of the members of the Council present. No member shall be excused from voting on ordinances, resolutions, orders or motions, except where a member of Council has a conflict of interest, in which event, said member shall disqualify himself from voting. The member involved shall be the sole judge of whether or not there is such conflict of interest.

ARTICLE IV POWERS OF COUNCIL

4.1 - General Powers

(a) The Council shall constitute the legislative body of the Town of Clayton and together shall be designated as the Town Council.

(b) The Council shall have power to adopt ordinances relating to the health of the population of the Town, or to prevent the introduction or spread of infectious or contagious diseases or nuisances affecting the Town, which power shall extend to the area inside the Town limits and within one (1) mile from said limits. The councilmen may also pass ordinances to ascertain and fix boundaries of streets, squares, lanes and alleys, or repair and amend the same, and provide for the paving thereof, or to close, alter, extend, or widen any street, square, lane, or alley, or open and lay out new ones subject to the provisions in that behalf hereinafter contained; to regulate the ascent and descent of all streets, lanes and alleys; to fix the building lines upon the same; to direct the paving of footways and to prescribe the width thereof; to direct the laying out of gutters and to prescribe the depth thereof; to prescribe the extent of steps, porches, cellar doors, and other inlets to yards and buildings.

(c) The Council shall have power to provide police protection and the lighting of streets at the expense of the Town, and generally to prescribe and regulate the use of the streets, lanes, and alleys of the Town and to have and exercise control over the same; subject to the provisions in that behalf hereinafter contained, and to the general supervision, and control of the Delaware General Assembly.

(d) The Council shall have power to provide for the regulation of auctions and auctioneers, also to regulate public amusements, to fix and declare and regulate the width of party walls, to provide for the safety of the citizens and for that purpose may prescribe the heights, thickness of walls and materials of buildings and the mode of erecting the same within said Town; and for providing for and securing the safety of the occupants thereof, and make provisions for the enforcement of such regulations.

(e) The Council may regulate by ordinance or otherwise the sale of goods, wares and merchandise on the streets and sidewalks within the Town of Clayton, and fix the license fee thereof and the penalty for not paying said fee or the breach of any other provisions of such ordinance or regulation and in all other respects regulate the markets within the said Town of Clayton. The Council shall have the power to provide for the measuring or weighing of coal, lime, grain, oil, electricity or other matter sold in the said Town and to regulate the storage of gunpowder or any other dangerous substance.

(f) They shall have power to lay and collect fines on the owners of any horse, cow, dog, or other animal which may be found at large in any of the streets, squares, lanes or alleys aforesaid, and in general shall have power to do all those matters and things for the wellbeing of the said Town, which shall not be in contravention of any existing laws of this State or the Constitution thereof.

(g) The Council shall have power to require all persons owning or keeping any male or female dog or dogs within the limits of the said Town to have the same registered annually and collect a fee from such keeper, owner or owners for such registration, and shall have power to fix the time and manner of registering, the amount of the annual fee thereof, and the penalty for not registering by ordinance.

(h) The said Council shall have power, also by ordinance, to appoint a Town surveyor to make a plot or map, showing the ascent and descent of all streets, lanes and alleys, the building lines upon the same, and generally to do and perform all such matters and things as they may deem necessary for carrying into effect the provisions in this Section contained.

(i) The Council shall have power, by ordinance or regulation, to trim or remove or cause the owners thereof to trim or remove any and all trees, bushes, shrubbery, weeds or other vegetation, garbage, debris, or other offensive products wherever situated in the said Town, which Council shall deem to constitute a public nuisance or menace to the public welfare, safety or traffic.

(j) The Council shall have the power to invest in securities of the United States, and/or in insured savings accounts, funds of the Town not required for immediate use by the Town.

(k) The Council shall not have power to exempt any individual from the operation of any general ordinance or municipal regulation, except that Council shall have the power to exempt property under any Planning and Zoning Ordinance.

(l) The Council shall have all other powers requisite to and appropriate for the government of the Town of Clayton; its peace and order, its sanitation and beauty, and for the health, safety, convenience, comfort and wellbeing of its population, and for the protection and preservation of public and private property. Nothing in this Charter

shall be construed as exempting any individual or agency from the operation of this section.

4.2 - Special Provisions

In addition to the General Powers of Council, Council shall have the following specific powers:

(a) May hold and acquire by gift, negotiation and purchase, devise or lease, property, both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing, improving, extending, altering, or demolishing:

- (1) public buildings;
- (2) parks;
- (3) streets, squares, lanes, alleys, and sidewalks; and
- (4) recreational facilities

for the proper furnishing of adequate municipal services to the citizens of the Town.

(b) May sell, grant, alien, lease, mortgage, manage, hold and control such property as the interests of the Town may require except as prohibited by the Constitution of the State of Delaware, or as restricted by this Charter.

(c) May pay for the acquisition, construction, improvement, extension, alteration, or demolition of any municipal or public property, real, personal, or mixed, from the general funds of the Town and/or from the proceeds of any grant or loan made to the Town by any agency of the United States or of the State of Delaware, where the Town is lawfully empowered to obtain such grant or loan and where the proceeds of the grant or loan are for purposes lawfully authorized by this Charter or by the laws of the State of Delaware.

(d) May enter into such contracts and agreements as are deemed necessary or in the best interests of the Town, provided the purposes of such contracts are otherwise lawful and authorized by this Charter, or the laws of the State of Delaware.

(e) May pass ordinances and rules for the good government and good order of the Town and for all matters relating to the general health, safety, morals, peace, and welfare of the Town. By way of example and not in limitation, the Town shall have authority to adopt ordinances:

- (1) for the lighting and improvement of streets;
- (2) for the paving or other improving of sidewalks;
- (3) for the planting and protection of ornamental trees,
- (4) to define, prevent, and abate nuisances,
- (5) to define, investigate, prevent, abate, and remove fire and explosive hazards,
- (6) to construct, improve, extend, and maintain water mains, fire hydrants and other proper instruments for the prevention and combating of conflagrations;
- (7) to regulate and control pedestrian, automobile and animal drawn traffic over the streets, squares, lanes, alleys, sidewalks, and other public places in the Town (including the parking and non-parking of vehicles in the Town); provided, however, that such ordinances shall not conflict with any laws of the State of Delaware,
- (8) to prevent, suppress, and regulate bonfires, the firing of firearms, air or spring guns, and the setting off or exploding of firecrackers, fireworks, torpedoes, or any other explosives,

(9) to prevent or regulate the keeping of animals within the Town and to prohibit the running-at-large of such animals;

(10) to prohibit gaming and fraudulent devices;

(11) to regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements, and games;

(12) to require the removal of ice, snow, dirt or other foreign substances from sidewalks and gutters by owners or abutting owners;

(13) to prevent vice, drunkenness, and immorality;

(14) to provide for or regulate the numbering of houses and lots on the streets of the Town and the naming of public streets, alleys, and avenues;

(15) to exercise all powers and authorities vested in the Town by virtue of Chapter 3, Title 22 of the Delaware Code regarding the zoning and subdivision of lands as the same may, from time to time hereafter be amended;

(16) to define, abate, demolish, and remove dangerous buildings and other dangerous structures in the Town, including the power to condemn and cause to be torn down and removed any such structure which, upon inspection, is determined to be a fire hazard or otherwise be unsafe; provided however, that any such ordinance shall provide procedures for notice and opportunity to be heard and to correct the hazardous condition by the affected property owner and/or lienholders;

(17) to regulate solicitors, peddlers, travelling salesmen, hucksters, and hawkers;

(18) to license any responsible person, firm, association or corporation for such period of time and 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, alleys, squares, parks, sidewalks and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph or television from, through, or into the Town; provided however, that such ordinances shall be subordinate to any appropriate State or Federal statute, and to any appropriate rule or regulation adopted by a State or Federal agency acting pursuant to statute.

(f) May 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 laws of the State relating generally to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town; the protection and preservation of persons and property; and of the public health, safety, and welfare of the Town and its inhabitants.

(g) May provide for the punishment of a violation of any ordinance of the Town by a fine not exceeding One Hundred Dollars (\$100.00).

4.3 - Ordinance Procedure

In addition to such acts of Council as are required by this Charter or by other State law to be by ordinance, every act of the Council establishing a fine or other penalty shall be by ordinance. The enacting clause of all ordinances shall be "The Town of Clayton hereby ordains".

4.3.1 - Procedure for Enacting Ordinances

Every ordinance shall be introduced in writing. No ordinance shall be passed unless it shall have the concurrence of a majority of the members elected to the Council and unless it shall have been read in its entirety at least one time prior to the taking of the vote thereon. All ordinances passed after the effective date of this Charter shall be copied into the records of the Council and an index of such ordinances shall be kept by the Secretary.

4.3.2 - Codes of Technical Regulations

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally.

4.4 - Power to Raise Revenue

(a) The Council shall have the power to levy and collect taxes and real property within the limits of the Town, except that which is not assessable and taxable by virtue of any law of the State of Delaware. The Council shall have the right to grant or refuse, and to charge fees for licenses, or permits for businesses of any description carried on within the limits of the Town as well as for transient businesses and shows except as otherwise provided herein. The Council shall likewise have the power to levy and collect taxes, commonly known as a "capitation tax" upon the individual residents of the Town who are age of eighteen years or over. The Council shall also have the power to levy and collect franchise taxes and to impose sewer rentals and water rentals.

(b) The Council shall have the power by ordinance to allow discounts for early payment of taxes, to impose reasonable penalties and forfeitures for tax delinquencies, and to review and determine proper and appropriate properties to be exempt from taxation, provided, however, that no such exemption shall be in favor of a free enterprise profit making organization unless it shall come within the terms of the exemption for any established firms as hereinbefore provided.

(c) The Council shall have the power to fix the rates for general utility services operated by the Town and to collect and utilize revenues from such utility services for the benefit of the Town.

4.5 - The Town May Engage in Business

(a) The Town of Clayton shall have the right to engage in any business or enterprise in which a person, firm or corporation might engage by virtue of a franchise, and shall have the right and power to acquire, own and maintain, within the corporate limits of such Town, all real estate for municipal purposes for site and right-of-ways for public utility and general welfare purposes and for the location, erection and maintenance thereon of municipal plants and public facilities.

(b) The Town of Clayton shall have the exclusive right to grant franchises within the Town boundaries.

(c) In any case where the Council may deem it to be to the best interests of the people of the Town of Clayton to acquire the properties of any privately owned utility, the Town of Clayton shall respect the franchise rights of the owners and shall in all respects adhere to the general laws of the State of Delaware insofar as they relate to the purpose of utility properties by municipalities.

(d) The Town may, in its discretion, distribute water throughout all that territory included within the Town boundaries and also any contiguous territory within ten (10) miles of the Town limits. The Council shall determine the person or persons, firm or firms, corporation or corporations, to which the Town shall distribute water throughout said territory; shall fix the rates therefor, shall regulate the use of said water, and shall supply the same upon such terms and conditions as may be agreed upon by the council and said person or persons, firm or firms, corporation or corporations. The Town shall have and exercise all the powers and authority necessary to the accomplishment of said distribution of water throughout said territory as it now has and possess in the installation, operation and maintenance of its water system in the Town and in the distribution by it of water within the Town limits, including the authority and power to acquire by purchase or condemnation such land, and real and personal property as hereinafter provided in case of streets.

4.6 - Borrowing for Current Expenses

(a) Whenever the needs of the Town shall require more money than is, at the time, in the Town treasury from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such amounts as are needed. Provided, however, the amount of such indebtedness shall not at any time exceed one (1%) percent of the assessed valuation of the assessable and taxable real property within the limits of the Town, or shall not exceed Two Hundred Thousand Dollars (\$200,000.00), whichever is greater.

(b) To exercise the power aforesaid the Council shall adopt a resolution to that effect, which resolution shall be by roll call and require the affirmative vote of at

least three (3) of the members of the Council. The indebtedness created under this provision shall be evidenced by notes of the Town, and the full faith and credit of the Town shall be deemed to be pledged thereby. Such short term debt shall not be considered as part of the bonded debt of the Town when limitations under indebtedness, as set forth elsewhere in this Charter, are computed.

4.7 - Power to Incur Bonded Indebtedness

4.6.1 - Power to Borrow Money

The Town may incur indebtedness by issuing either general obligation bonds or certificates of indebtedness secured by the full faith and credit of the Town, or by issuing revenue bonds, either in whole or in part of the total amount necessary to provide funds for the erection, extension, enlargement or repair of any plant, machinery, appliances or equipment for the supply and distribution of electricity or gas; for the furnishing of water; for the construction, repair or improvement of highways, streets or lanes, or the paving, curbing, or erection of gutters along the same; for the construction or repair of sewers or sewage disposal equipment; or to defray the cost of the share of the Town in the cost of any permanent municipal improvements; or to fund notes issued by the Town pursuant to the preceding section to finance anyone or more of such projects, or to replace any monies advanced from current funds of the Town to finance any one or more of such projects; or to carry out any capital improvement project deemed by the Council to be necessary to the proper execution of any function or power of the Town.

If general obligation bonds are issued, the total outstanding debt secured by such bonds shall not exceed ten (10) per centum of the assessed value of all the real estate subject to taxation located within the Town.

If revenue bonds are issued, each such bond shall recite in substance that said bond, including interest thereon, is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the Town of Clayton within the meaning of the bonded indebtedness limitation; provided, however, that in the event of some emergency, the Town of Clayton may temporarily borrow, advance or loan such amount as is necessary to meet current interest on outstanding bonds, such advance or loan to be repaid to the Town of Clayton out of revenue subsequently received from the undertaking. If revenue bonds are issued, the Council shall prescribe and collect reasonable rates, fees or charges for service, facilities and accommodations of said undertaking and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will procure revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation and maintenance of such undertaking, including reserves therefor.

4.6.2 - Method of Borrowing Money

Before the Town of Clayton may incur indebtedness by the issuance of general obligation bonds as aforesaid, the borrowing of money shall have been authorized by the Council and shall have been approved in the following manner:

1. The Council shall by resolution propose to the qualified voters of the Town of Clayton the purpose or purposes for which the stated amount of money shall be borrowed. The resolution shall state the amount of money desired to be borrowed, the purpose of which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan, including data on total related debt and the debt limitations established by this Charter, shall fix a time and place for hearing on the resolution; and shall provide for publication of an announcement of the hearing in a newspaper of general circulation in Kent County at least one week prior to the hearing date.

2. A public hearing shall be held at which time all interested persons wishing to be heard shall be given an opportunity to express their views. Their testimony shall be considered in evidence by the Council.

3. If the Council desires to continue with the bond proceedings, it shall then, by resolution, direct that the question be submitted to a referendum. An election shall be held not less than thirty (30) days nor more than sixty (60) days after the date of such resolution.

4. The notice of time and place for holding the said special election shall be printed in a newspaper of general circulation in Kent County once a week for three (3) successive weeks prior to the election. The special election shall be conducted by the election officers as herein provided for annual elections.

5. The Council shall cause the election officers to prepare, print and have available for distribution a sufficient number of ballots not less than five (5) days prior to the date of the special election. At said referendum, all qualified voters of the Town of Clayton shall be entitled to one vote.

6. The election officers shall count the votes for and against the proposed loan and shall announce the result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed loan; and shall deliver the same to the Council which certificates shall be entered on the minutes of the Council and the original shall be filed with the papers of the Council. Provided, however, no bond issues shall be deemed approved unless a majority of those voting at such referendum shall vote for such bond issue.

7. The form of the bonds and certificates of indebtedness, the date of payment of interest, the classes, the dates of maturity, and the provisions pertaining to the registration shall be determined by the Council. The bonds shall be sold to the highest bidder after at least one month's notice published at least twice in a newspaper of general circulation in Kent County and at least once in a publication carrying municipal bond notices and devoted primarily to financial news. The Council shall provide, in its budget, for revenues sufficient to pay the interest and principal on the said bonds or certificates of indebtedness at the maturity or maturities therefor. The full faith and credit of the Town of Clayton shall be deemed pledged for the due payment of the principal and interest of general obligation bonds issued within the prescribed debt limitation when the same have been properly executed and delivered for value.

4.8 - Power of Council Over Streets

(a) Upon the majority vote of its members, the Council shall have the power to locate, lay out, and open any new street, lane or alley or widen any street, lane or alley heretofore laid out in said Town or reopen any old street, lane, or alley now closed.

(b) The persons respectively, through and over whose lands such street, lane or alley may pass, shall receive compensation as Council shall deem just and reasonable under all circumstances. Said compensation, if any be allowed, shall be paid by the Treasurer of the Town out of the monies of said Town upon warrants drawn upon him/her by order of Council.

(c) Whenever the Town Council shall have determined to locate and lay out or widen any street, lane or alley and shall have fixed the compensation therefor, it shall be its duty immediately after the survey and location of the said street, lane or alley, to notify in writing, the owner or owners of the real estate through or over which said street, lane or alley may run, of its determination to open or widen the same, and to furnish a general description of location thereof, and also the amount of the damages or compensation allowed to each.

(d) Any owner who may be dissatisfied with the amount of compensation or damages allowed by the Town Council, as aforesaid, may, within ten (10) days after such notice, appeal by serving a written notice to that effect on the President of the Council or to the person performing the duties of President of Council for the time being. In order to prosecute said appeal, such appellants shall within fifteen (15) days after the expiration of the ten (10) days allowed for appeals, make written application to the Associate Judge to the Superior Court of this State, resident of Kent County, for the appointment of a commission to hear and determine the matter of damages or compensation.

(e) Thereupon the said Associate Judge shall issue a commission under his/her hand directed to five (5) qualified voters of the said county, three (3) of whom shall be residents of said Town of Clayton and two (2) of whom shall be non-residents of said Town. The individuals named in such commission, being first sworn or affirmed on the day and at the hour and place stated in the notice shall view the premises and hear the witnesses, and shall without delay, determine and fix the damages, if any, which said appellant will sustain by reason of being deprived of any property as aforesaid. Thereupon the said members of the commission shall make return in writing of their

proceedings to the said Resident Judge, who shall cause a copy of said return to be delivered to the President, and such return shall be final and conclusive. The said Judge shall have the power to fill any vacancies among the members named in such commission. On application within twenty (20) days after the award the said Judge may set aside a grossly improper award and appoint a new commission. The amount of damages being ascertained, the Town may pay or tender the same to the person entitled thereto within one (1) month after the same shall be finally ascertained, or may deposit the same in any bank in the Town to the credit of the person entitled thereto, within the said period of one (1) month, and thereupon the Town may carry into effect the plan contemplated in the resolution aforesaid.

(f) After the damages shall be fixed and ascertained by the members of the commission as aforesaid, the Town Council shall have the option to pay damages assessed, within the time aforesaid, and proceed with the said improvements, or, upon the payment of the costs only, may abandon the proposed improvements.

(g) In the ascertainment and assessment of damages by the members of the commission, if the damages shall be increased, the costs of the appeal shall be paid by the Treasurer of the Town of Clayton, but if said damages shall not be increased, the said costs shall be paid by the appellant. The fees to the members of the commission shall be set by ordinance and shall be taxed as a part of the costs.

4.9 - Sidewalks and Gutters

(a) Whenever the Town of Clayton shall have determined that any paving, guttering, or graveling of the sidewalks or any or either or all of them, shall be done it shall notify the owner or owners of land in front of whose premises the same is to be done, particularly designating the nature and character thereof, and thereupon it shall be the duty of said owner or owners, to cause such paving, graveling or guttering to be done in conformity with said notice.

(b) In the event of any owner neglecting to comply with said notice for the space of thirty (30) days, the Council may proceed to have the same done, and when done the Treasurer of the Town of Clayton shall as soon as convenient thereafter present to the said owner or owners of such lands, a bill showing the expense of paving, graveling or guttering. If such owner or owners be not resident in the Town of Clayton, such bill may be presented to the occupier or tenant of said land or if there be no occupier or tenant resident in the Town of Clayton, such bill may be sent by mail to such owner or owners, directed to him/her or them at the post office nearest his/her or their residence. If such bill be not paid by the owner or owners of such lands within thirty (30) days after the presentation, then it shall be the duty of the Council to issue an order in the name of "The Town of Clayton", under the hand of the President, and the seal of the said corporation, directed to the Treasurer of the Town of Clayton, commanding him/her to proceed to collect said delinquent assessment.

(c) The claim for paving, graveling or guttering shall be a lien on the premises in front of which the said work was done, and shall have the same priority and be collectible in the same manner as municipal property taxes.

(d) Any notice required by this section to one co-owner, shall be notice to all; and in case no co-owner shall reside in the Town, notice may be served upon the occupier or tenant of said premises resident in the Town, and if there be no such occupier or tenant, it shall be sufficient to send said notice by mail to any owner of said premises, directed to him/her or them at the post office nearest his/her or their residence. The provisions hereinbefore contained in this section, shall apply to any order made by the Council in respect to any such paving, graveling, or guttering heretofore done, which the Council may deem insufficient or to need repairing. The Council in addition to the provisions of this section hereinbefore shall have power and authority to enforce by ordinance, all the requirements of this section by imposing such fines and penalties as shall be in the judgment of the Council necessary and proper.

(e) The paving and guttering outside of said curbing shall be done by the Council at the expense of the Town, except in case of property exempt from taxation, in which case the owner and owners of said exempt property shall pay for the paving and guttering outside of said curbing, and in case said owners refuse so to pay, and gutter, the Council may proceed to have the same done and collect the expense thereof in the same manner and by the same proceedings as are hereinbefore provided, in case of paving, graveling and guttering sidewalks, footways, etc., where the owners of property refuse to pave, gravel and gutter sidewalks and footways in front of their property.

4.10 - Sewer and Water Improvements

(a) The Town shall have exclusive jurisdiction and control within the Town of Clayton of the drainage thereof, and the right to alter and change the course and direction of any of the natural watercourses, runs or rivulets within the Town, and may pass ordinances for the construction of water mains, storm drains and sanitary sewers within the Town. The Town also shall have the power and authority to regulate, maintain, cleanse and operate such water mains, storm drains and sanitary sewers and the natural watercourses, runs and rivulets within the Town open, clear and obstructed, and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same and by regulation prescribe the mode in which they shall be altered, changed, opened, maintained, cleansed, closed and kept open and unobstructed, and shall bear the expenses thereof and may, in its discretion, assess the costs of sanitary sewers, water lines, and storm drains upon the property particularly benefited thereby, except such real estate as is exempt from municipal assessment taxation by virtue of any law of the State of Delaware, and prescribe the mode of collection thereof; provided, however, that nothing herein contained shall be construed to authorize the taking of private property for public use without just compensation.

(b) The Council may, by condemnation proceedings, take private land, or the right to use private land, under, over or on the surface thereof, for the proper operation or extension of the water and/or sewer systems. The method of procedure by condemnation under this section shall be the same as provided for in Section 4.7 of this Act for the opening and laying out of new streets.

(c) The Town likewise is authorized to make agreements with Kent County or other municipalities to permit interconnection of the Town and County sewer systems. The Council shall have the right to compel the owner of any building or structure requiring sewage disposal facilities to connect to any sewer main that is available.

(d) Whenever the Council shall determine that construction, improvement, alteration or repair of sanitary sewers is required, it shall be empowered and authorized to direct any necessary survey and other work be undertaken and any costs be determined. Necessary construction, improvement, alteration or repair work may be done by contract or by Town forces.

ARTICLE V: POLICE

(a) Council may appoint a police force consisting of a chief and such number of subordinates as the Council may deem appropriate; and the Council shall from time to time make rules and regulations as may be necessary for the organization, government and control of the Police Force. The members of the force shall be subject to the general directions of the Council, and may be removed by the Council. They shall preserve peace and order, and shall compel obedience, within the Town limits, of the ordinances of the Town and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe.

(b) Each member of the Police Force shall be vested, within the Town limits and within one (1) mile outside of said limits with all the powers and authority of a constable of Kent County, and may carry firearms, and in case of pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

ARTICLE VI: NEW DEVELOPMENTS AND SUBDIVISIONS

(a) Whenever it is contemplated that a new real estate development shall be undertaken, the Council shall require the developer to submit plans and supporting documents to the Council for approval prior to the actual construction and/or installation of improvements and utilities.

(b) Whenever the installation of new facilities is contemplated in a partially developed area, the Council shall make careful determination of the ability of the area to support the cost of the projected improvement before approving it. Also, the developer shall provide evidence to the Council that he/she has complied with all State and County regulations.

ARTICLE VII: PROPERTY AND SPECIAL ASSESSMENTS

1 - Property Assessment Procedure

(a) It shall be the duty of the assessor of said Town, annually, to make a true, just and impartial valuation and assessment of all real estate within the Town except such real estate as it exempts from municipal assessment and taxation by virtue of any state law or provisions of this Charter, and also of such personal property as is subject to county assessment and taxation.

(b) It shall be lawful for the Town to enter into an agreement with the Board of Assessments for Kent County to inspect and copy, or obtain copies, of the assessments made for county purposes. Annually, the Council shall make a judgment regarding whether the Town will utilize such county assessments and whether said county assessments are a true, just and impartial evaluation. The Council then shall order the adoption of such county assessment for municipal purposes or the adoption of assessments as determined by the assessor; provided, however, that adoption of the county assessment for municipal purposes shall not preclude the Town from modifying the county assessment list to take into account new construction or changes in ownership or use not reflected in the county assessment list, or clear cases of inequitable assessment.

(c) Each year, there shall be prepared and submitted to Council, at least sixty (60) days before the beginning of the tax year, two (2) or more copies of the assessment roll, which shall show the location of each parcel of taxable real and personal property by street and number or other suitable description. When the Council approves the roll as prepared, or as modified by the Council, then a full and complete transcript thereof shall be posted in a place in the Town designated by the Council. Such posting shall take place at least forty-five (45) days before the beginning of the tax year and shall remain posted up to, but not including, the appeal day as herein set out. Notice of the time and place where the assessment listed may be viewed, and the time and place of hearing appeals shall be advertised in a newspaper of general circulation in the Town, and notice shall be given by posting such announcement in at least five (5) public places throughout the Town.

(d) Each year, at least thirty (30) days before the beginning of the tax year, the Council shall hold a court of appeals, which court shall continue open from 7:00 p.m. to 9:00 p.m. during which time the Council shall hear and determine appeals from assessments and shall make such corrections and additions as may be deemed necessary and proper. The decision of a majority of the Council sitting on appeals shall be final and conclusive in respect to all appeals.

(e) No Council member shall sit on his/her own appeal, but the same shall be heard and determined by the other members of Council. After the said valuation and assessment shall be examined and adjusted by the Council, all property taxes shall be levied on real and personal property thus assessed in just and equal proportions.

7.2 - Collection of Taxes

(a) A list containing the names of the taxables and, opposite the name of each, the amount of his/her real and personal property assessment, and the total amount of the tax, shall be prepared as soon as practical after the beginning of the tax year. All taxes shall be paid to the Town Treasurer, subject to such discounts and penalties and rules as the Council may direct.

(b) It shall be the duty of the Town Treasurer to proceed forthwith to collect all taxes in the calendar year in which assessed. In the collection of said taxes, he/she shall have all powers conferred upon or vested in the Receiver of Taxes and the County Treasurer for Kent County.

(c) The provisions of Section 2901 through 2905, inclusive, of Title 25 of the Annotated Code of Delaware, as amended, with reference to tax liens, shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter, except that any such lien for taxes imposed shall continue for ten (10) years from the date such lien commences.

7.3 - Levying of Special Assessments

(a) The Town of Clayton is hereby authorized and empowered to levy and collect special assessments upon property in a limited and determinable area for special benefits accruing to such property as a consequence of any municipal public work or improvement; and to provide for the payment of all or any part of the cost of the work, service, or improvement out of the proceeds of such special assessments.

7.3.1 - Assessments Payable in Installments

The Council may provide for the payment of special assessments, for whatever purpose levied, by installments, but assessments for permanent improvements shall be within ten (10) years in annual or more frequent installments, and assessments for current services shall be payable within one (1) year.

7.3.2 - Assessments Not to Exceed Value of Benefit

The amount assessed against any property for any work or improvement shall not exceed the value of the benefits accruing to the property therefrom.

ARTICLE VIII: COUNCIL APPOINTMENTS

8.1 - Assessor

At the regular meeting of Council on the second Monday in May in each year, there shall be appointed an Assessor, who shall be a citizen of the Town of Clayton, but no person then serving as member of Council shall be eligible to the Office of Assessor during the term of his/her office as a member of Council. The Assessor shall receive such reasonable compensation for his/her services as shall be determined by the Town Council.

8.2 - Town Clerk/Town Tax Collector

Council may employ a Town Clerk and a Town Tax Collector who shall be one and the same person and who shall be a resident of the Town of Clayton and who shall receive such compensation as Council shall determine. Council shall establish such duties and responsibilities as it deems appropriate.

ARTICLE IX: CREATION OF OFFICERS OR DEPARTMENTS

The Council may establish Town officers and departments in addition to those created by this Charter, and may prescribe the functions. The Council may also recommend the abolition of officers and departments and the transfer of functions. The Council may provide for the selection of suitable persons to fill any position or office.

ARTICLE X: ADMINISTRATIVE POLICY

10.1 - Personnel Provisions

(a) All appointments and promotions of Town employees shall be under the direction of the Council.

(b) The Council may provide personnel rules which shall be adopted by the Council by ordinance, with or without amendment as it deems appropriate.

10.2 - Retirement Plan

The Council may provide by ordinance for a retirement plan for any or all groups of employees in the service of the Town.

10.3 - Contracts

(a) All contracts of whatever character involving an expenditure above an amount determined by resolution of the Council shall be written and shall be let and made by the Council and shall be based on specifications provided by the appropriate person designated by the Council.

(b) Pending advertisement for bids, any plans, specifications, and profiles to be used in the proposed work or contract shall remain on file in the office of the Council and shall be subject to the inspection of any interested person. All contracts and purchases above an amount determined by resolution of the Council shall be entered into and made only after advertising not less than two times in a newspaper of general circulation in Kent County inviting competitive bids. Each such bid shall be sealed and filed with the person designated by the Council. All bids shall be opened in the presence of the Council or a duly authorized committee of the Council and shall remain on file.

(c) The Council shall consider all bids which have been properly filed and may enter into a contract with the party offering the lowest and/or the bid which the Council determines to be best qualified and suited to serve the interests of the Town even though it may not be the lowest bid. The Council may reject all bids and readvertise for bids, or they may have the work done under the supervision of the proper department of the Town. The awarding of a contract to the successful bidder shall give no right of action or claim against the Town upon such bid or contract until the same shall be reduced to writing and duly signed by the contracting parties. The Council shall have the power to require all bidders to post bonds to secure the performance of the contract and all claims for labor and material used in the work. The Council may reject any supplies as well as any other public work and buy supplies on the open market.

at a price less than the lowest bid received, or, if no bids are received, the Council may direct the purchase of supplies in the open market. Nothing in this section shall be construed to apply to contracts for the provision of utility service at rates regularly on file with the Public Service Commission of Delaware or any federal regulatory body.

(d) Any requirement provided for within this Section should not apply to contracts for professional services not within the scope of the Delaware Professional Services Act (29 Delaware Code, Chapter 69, Subchapter II) as it may from time to time be amended.

ARTICLE XI: FINANCIAL PROCEDURE

11.1 - Fiscal Year

The fiscal year of the Town of Clayton shall begin on the first day of April in each year and shall end with the next succeeding thirty-first day of March. Such fiscal year shall also constitute the budget and accounting year.

11.2 - Budget

(a) Annually each year, the Council shall cause to be submitted a budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year. The budget for the ensuing fiscal year shall be adopted by the Council not later than the last day of the fiscal year currently ending. The tax rate for the ensuing fiscal year shall be adopted at the time the budget is completed.

(b) The budget may contain the following information:

1. A detailed estimate of the expense of conducting each department and office of the Town for the ensuing fiscal year.
2. The value of supplies and materials on hand, together with the nature and kind of any machinery or other implements and the condition thereof.
3. The amount of the debt of the Town, together with a schedule of maturities of bond issues.
4. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year, the amount required for the sinking fund.
5. An estimate of the amount of money to be received from taxes and all other anticipated income of the Town from any source or sources.
6. Council shall allow adequate reserve for depreciation.

(c) The budget shall be used as a guide in determining Town expenditures but shall not be a limitation upon the power of the Council to appropriate funds in excess of the amounts set forth in the budget, if in its discretion it seems advisable to do so.

11.3 - Independent Audit

Annually, the Council shall designate a firm of certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of fiscal transactions of the Town government and shall submit their report to the Council. Such accountants shall have no direct or indirect personal interest in the fiscal affairs of the Town government or any of its officers. They shall not maintain any accounts for the Town, but shall, within specifications approved by the Council, audit the books and documents of all appropriate officers and employees of the Town government in all departments, offices and agencies. Designation of the accountants shall be made by the Council not later than thirty (30) days after the beginning of the fiscal year for which the audit is to be conducted. When received, the audit report shall become part of the Council minutes.

ARTICLE XII: ELECTIONS

12.1 - Council Election

(a) Members of Council shall be elected as follows: Council members shall be elected by the qualified voters of the Town at large; in odd numbered years election for three (3) Council members shall be held, and in even numbered years election for two (2) Council members shall be held.

(b) All candidates must file a written petition with the Town Clerk at the Town office during normal business hours no later than the second Friday prior to the scheduled election.

12.2 - Election Procedure

12.2.1 - Voting Qualifications

Every citizen of the Town of Clayton who shall have reached the age necessary to vote in an election held under the laws of the State of Delaware, who is a citizen of the United States and who is a bona fide resident within the Town shall be entitled to vote.

12.2.2 - Election Officers

(a) The election shall be held by three qualified voters of said Town, who shall be designated for that purpose as "election officers" by the Town Council at its last regular meeting in each year, prior to the date of said election, one of whom shall be named to preside. The election officers shall keep a list of all voters at such election.

(b) When the polls shall have been closed, the election officers shall publicly count the votes and shall certify the results of the election to each of the persons elected and to the Council. The three (3) candidates for Council member in odd numbered years and the two (2) candidates for Council member in even numbered years who have the greatest number of votes for said office shall be declared elected. When the result of the election shall have been ascertained, the election officers shall make out certificates of election, and deliver them to the various members of Council elected, with the hour and place of meeting of the Town Council at the first stated meeting after their election. A certificate of election shall, also, be given to the Secretary or Town Clerk/Collector to be entered in the minutes of the Town of Clayton.

(c) The Council shall set the compensation that the election officers shall receive in connection with the holding of said election.

12.2.3 - Polling Date

The day for elections for Town Council shall be the first Saturday in May. The election shall be held at the Town Hall or at such other convenient place within the Town limits as Council shall establish by resolution. The Council shall advertise the place, date and times of the election at least once a week for two successive weeks immediately prior to said election in a newspaper of general circulation in the Town of Clayton, and post public notices containing that information in at least three public places within the Town at least two weeks prior to the date of the election.

12.2.4 - Voting Machines and Ballots

In any election where one or more Council seats are contested, the polls shall remain open between the hours of 2:00 p.m. and 6:00 p.m. and the election shall be conducted with the use of voting machines obtained from the Department of Elections of Kent County.

12.2.5 - Absentee Voting

The Council shall prescribe by ordinance for absentee registration and for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.

ARTICLE XIII: GENERAL PROVISIONS

13.1 - Performance Bonds

The Town Clerk/Tax Collector, Treasurer and such other officers and employees of the Town as the Council may require, shall give bonds for the faithful performance of their duties, in such amounts and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the Town.

13.2 - Oath of Office

Every member of the Council, the Council President, the Town Treasurer, the Town Secretary, and such other officers or employees as Council may by ordinance require, shall, before entering upon the duties of their office, take and subscribe to the following oath or affirmation, to be filed and kept in the Office of the Town Secretary:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States; the Constitution of the State of Delaware; and the Charter of the Town of Clayton, Delaware; and that I will faithfully discharge the duties of the Office of _____ according to the best of my ability."

The President of Council and other members of Council shall have the power to administer oaths required by this Charter.

13.3 - Charter Amendments

The Council may, by ordinance, provide a procedure by which it may propose to the voters an amendment to this Charter, but said procedure shall, in all respects, comply with applicable State law. Referendum on such amendments proposed may be held at regular or special election, as determined by the Council by resolution. Amendments to this Charter to be voted on at referendum shall be presented for voting by ballot title. The ballot title may differ from its legal title and shall be a clear, concise statement describing the substance of the proposed amendment without argument or prejudice. If a majority of the qualified voters of the Town of Clayton voting upon the proposed Charter amendment, vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, upon adoption by the voters.

13.4 - Severability of Charter Provisions

If any provision of this Charter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Charter which can be given effect without the invalid provisions or applications, and to this end the provisions of this Charter are declared to be severable.

13.5 - Prohibitions

Contracts with the Town. It shall be unlawful for the Council or the Town's officers, agents, or employees to make or enter into any contract for materials, supplies, work or labor for the use and benefit of the Town of Clayton with any member of the Council or with any partnership in which any member of the Council is a partner, or with any corporation in which any member of the Council is a director or stockholder or with any firm or company in which any member of the Council is pecuniarily interested, except with the unanimous consent of the entire Council, and such contract be absolutely null and void without such unanimous consent, provided, however, that nothing herein shall prohibit the Council, the Town's officers, agents or employees, from entering into any such contract without such approval where the amount involved in the transaction and other related transactions does not exceed the sum of One Hundred Dollars (\$100.00).

ARTICLE XIV: TRANSITIONAL PROVISIONS

14.1 - Former Government in Force

All ordinances, resolutions, orders, rules or regulations in force in the Town of Clayton at the time this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect until the Council otherwise provide by ordinance, notwithstanding any change in organization effected by this Charter.

14.2 - Continuance in Office

(a) All persons holding any non-elective office or employment under the Town of Clayton at the time this Charter goes into effect shall continue in such office or employment and shall draw the same rate of compensation as during the month preceding the adoption of this Charter until removed or until the compensation is changed.

(b) The President of the Council of Clayton shall continue as the President of the Town Council as well as other officers of the Town of Clayton and the Council members shall also continue in office until their successors are elected and qualify as previously provided for in this Charter.

14.3 - Effective Date

This Charter shall become effective thirty (30) days after adoption by the General Assembly of the State of Delaware in accordance with the Constitution and the laws of the State of Delaware.

Approved June 28, 1988.

CHAPTER 292

FORMERLY

SENATE BILL NO. 145

AN ACT TO AMEND AN ACT, BEING CHAPTER 276, VOLUME 65, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF GEORGETOWN" TO CONFER UPON THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN THE TOWN OF GEORGETOWN.

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 276, Volume 65, Laws of Delaware, as amended, by adding a new Section following Section 35 to be designated as Section 35A to read as follows:

"Taxation of Real Estate Transfers

Section 35A.

(a) The Town Council of The Town of Georgetown, in addition to all other powers conferred upon it by this Act, shall have the power and authority by ordinance or ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the Town Council to be paid by the transferor or transferee upon the transfer of real property or any interest in real property situate within the corporate limits of The Town of Georgetown, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided however, that no tax levied under this Section shall exceed fifty percent (50%) of any tax levied by the State of Delaware upon the same property; and provided further, that no tax shall be levied upon an organization exempted from ad valorem real estate taxes.

(b) No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this Section shall become effective unless it receives an affirmative vote of two-thirds (2/3) of all the elected members of the Town Council of The Town of Georgetown. If the taxing power authority granted under this Section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds, in and for Sussex County, shall not receive for record any document subject to such tax unless such stamps are affixed thereto.

(c) The Town Council of The Town of Georgetown may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Section.

(d) No tax levied under this Section shall exceed one percent (1%) of the sale price (including the value of any assumed mortgage or mortgages) or of the fair market value of the real property so transferred; and provided however, that no tax shall be imposed upon an organization which is exempted from ad valorem taxes. The provisions of Section 5401 and Section 5403, Chapter 54, Title 30, Del. C., shall be applicable to any realty transfer tax imposed pursuant to this Act.

(e) The Town Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Section.

(f) This Act shall not become effective until it shall be approved by a majority of the qualified voters at a Special Election to be held pursuant to a Resolution adopted by the Town Council of The Town of Georgetown. The Town Council shall give notice of the Special Election by printing a copy of the Resolution calling the Special Election in at least two (2) issues of a newspaper having a general circulation within the corporate limits of The Town of Georgetown within thirty (30) days immediately preceding the date of such Special Election. At the said Special Election, every person who is a bona fide resident of The Town of Georgetown and who would be entitled at the time of the holding of the said Special Election pursuant to the provisions of this Act to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election to be held pursuant to the provisions of this Act may vote at the said Special Election regardless of whether such person is registered to vote in the Annual Municipal Election. The Special Election shall be held by a Board of Election to be appointed by the Mayor of The Town of Georgetown at least

two (2) weeks before such Special Election. The Board of Election shall consist of an Inspector of the Special Election and such Judges as shall be appointed by the Mayor of The Town of Georgetown. If a majority of the votes cast at the Special Election shall be in favor of the transfer tax authorized by this Act, the tax may be levied and collected as provided for in this Act. The Board of Election holding the Special Election shall meet immediately after the close of such Special Election to ascertain the result and shall certify the result to the Town Council. The hours of the Special Election shall be from one o'clock in the afternoon, prevailing time, until five o'clock in the afternoon, prevailing time, and such persons who are in the polling place at five o'clock in the afternoon, prevailing time, shall be entitled to vote even though such votes may be cast after five o'clock in the afternoon, prevailing time. If the majority of the votes cast at any Special Election held under this Act shall be against the levying of the tax authorized by this Act, the proposition shall not again be submitted to the qualified voters until the expiration of ninety (90) days from the date of the said Special Election."

Approved June 28, 1988.

CHAPTER 293

FORMERLY

HOUSE BILL NO. 618

AN ACT TO AMEND CHAPTER 85, VOLUME 66, LAWS OF DELAWARE, BEING HOUSE BILL NO. 350 OF THE 134TH GENERAL ASSEMBLY, AND BEING AN ACT ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1988; SPECIFYING CERTAIN PROCEDURES, CONDITIONS, AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BY MAKING CERTAIN ADDITIONS, DELETIONS, AND ADJUSTMENTS.

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

Section 1. Amend Chapter 85, Volume 66, Laws of Delaware, being House Bill No. 350 of the 134th General Assembly, by making the following adjustments to General Funds in Section 1:

Page	Line	Organization/Item	From	To	From	To	Increase (Decrease)
		<u>(02-17-01) Office of the Director</u>					
7	6	Contractual Services			\$2,336.7	\$2,286.7	\$ (50.0)
		<u>(10-02-00) Office of the Budget</u>					
		<u>(10-02-01) Administration</u>					
8	19	Contractual Services			241.7	221.7	(20.0)
		<u>(10-02-04) Budget Office Contingencies</u>					
8	32	Contingency - Salaries and Other Employment Costs			2,430.1	3,288.1	858.0
8	37	Contingency - Legal Fees			150.0	185.0	35.0
8	35	Contingency - Self Insurance Fund			\$1,919.0	\$1,694.0	\$(225.0)
8	36	Contingency - Energy			200.0	50.0	(150.0)
8	33	Contingency - Prior Years' Obligations			250.0	220.0	(30.0)
		<u>(10-04-02) Operations</u>					
11	17	Generic Aides (20.0)			249.8	219.8	(30.0)
		<u>(10-04-05) Insurance Coverage Office</u>					
11	29	Contractual Services			573.4	523.4	(50.0)
		<u>(12-05-02) Pensions</u>					
14	25	Health Insurance - Retirees			9,750.2	9,650.2	(100.0)
		<u>(30-05-00) Division of Facilities Management</u>					
21	5	Energy			1,130.7	1,095.7	(35.0)
21	12	(30-05-20) Building Op/Maint (79.0)	\$4,677.9	\$4,642.9			
		<u>(45-01-01) Administration</u>					
45	10	Maintenance/Restoration			95.0	50.0	(45.0)
		<u>(55-04-70) Bureau of Maintenance</u>					
54	18	Contractual Services			1,764.9	1,623.9	(141.0)
		<u>(75-03-01) State Fire Prevention Commission</u>					
61	29	Statewide Fire Safety Education			50.0	33.0	(17.0)

(95-01-05) Education ContingencySchool District AppropriationsDivision I Units (5685)

69	19	Salary Contingency	348.0	398.0	50.0
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(95-01-06) Pass Through/
K-12 Programs

70	12	Non-Public and Summer Driver Education	442.3	392.3	(50.0)
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1 Section 2. Amend Chapter 85, Volume 66, Laws of Delaware, being House Bill No. 350 of the 134th General

2 Assembly, by making the following adjustments in Section 64:

3	Page	Line	Q-D-S	Amount	Purpose
4	118	41	01-05-01	\$ 53.0	Delaware will host the Conference of Eastern
5					Regional Council of State Governments for
6					1987. Of this amount, \$3.5 shall be
7					transferred to (01-08-01), Office of Research,
8					to be used to provide Casual and Seasonal
9					employees to assist the Commission on
10					Interstate cooperation as necessary.
11	120	New	20-06-01	27.5	Compass Rose

12 Section 3. Amend Chapter 85, Volume 66, Section 59, Laws of Delaware, being House Bill No. 350 of the 134th

13 General Assembly, by adding an additional sentence to read as follows: "Of this amount, \$100.0 shall be

14 transferred by the Budget Director with the concurrence of the Controller General to meet statewide salary

15 requirements "

16 Section 4. Amend Chapter 85, Volume 66, Section 61, Laws of Delaware, being House Bill No. 350 of the 134th

17 General Assembly, by striking the words "Debt Service - regular" on page 116, lines 21 and 22 and substitute in

18 lieu thereof "Statewide Salaries - \$123.7, National Guard Operations - \$58.8, State Police Pensions - \$100.0,

19 Department of Correction - Court Case - \$412.7, Department of Services for Children, Youth and Their

20 Families - Therapeutic Care, Psychiatric Hospital Program and out of state placements - \$1,081.9."

21 Section 5. Amend Section 1 of Chapter 85, Volume 66, Laws of Delaware, being House Bill No. 350 of the 134th

22 General Assembly, by recurputing all subtotals and totals accordingly, as a result of this Act.

Approved June 28, 1988

CHAPTER 294

FORMERLY

SENATE BILL NO. 253

AN ACT TO AMEND CHAPTER 13, TITLE 3 OF THE DELAWARE CODE, RELATING TO NURSERIES AND NURSERY STOCK

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

Section 1. Amend §1306, Chapter 13, Title 3 of the Delaware Code, by deleting the following language from the Section's final sentence

"; or authorizes to have the nursery stock inspected and certified by a duly authorized officer or employee of the Department of Agriculture at his or their own expense"

Approved June 28, 1988

CHAPTER 295

FORMERLY

SENATE BILL NO. 297

AN ACT TO AMEND TITLE 11, CHAPTER 83, SECTION 8322, DELAWARE CODE RELATING TO STATE POLICE PENSION BENEFITS.

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

Section 1. Amend §8322, Chapter 83, Title 11 of the Delaware Code by striking the period following the word "Fund" at the end of the second sentence and substituting in lieu thereof the following:

"; provided, however, that for any member of the State Police who has completed 20 years of credited service and who was hired before July 1, 1980, and for any member of the State Police who has completed 25 years of credited service and who was hired after July 1, 1980, as defined in this Chapter, there shall be deducted from the monthly payroll of each such member of the State Police 2 percent of the amount of his salary and such amount shall be paid to the Secretary of Finance and shall be credited by him to the account of the Fund."

Approved June 28, 1988.

CHAPTER 296

FORMERLY

HOUSE BILL NO. 502

AN ACT TO AMEND CHAPTER 17, TITLE 7, DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF A CRIMINAL PENALTY FOR HARM INFLICTED ON THE DOGS OWNED BY LAW ENFORCEMENT AGENCIES, TO INCLUDE ANY POLITICAL SUBDIVISIONS, THE CORRECTIONS DEPARTMENT, AND DOGS PRIVATELY OWNED AND USED TO ASSIST THE BLIND OR VISUALLY IMPAIRED AND THE HANDICAPPED.

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 17, Title 7, Delaware Code by adding thereto a new section to be designated as Section 1717 to read as follows:

"§1717. Unlawful Harm to Law Enforcement Dogs; Seeing Eye Dogs; Dogs Used by Correctional Officials; Penalty's Jurisdiction

(a) Whoever willfully tortures, poisons, beats, kicks, strikes, mutilates, injures, disables or otherwise mistreats, a dog owned by a law enforcement agency of this state, to include any political subdivisions thereof, or whoever, does like harm to any dog owned privately used to assist the blind or the visually impaired or the handicap shall be fined not less than \$50, for each offense, nor more than \$100.

(b) Justices of the Peace shall have jurisdiction of violations of this section."

Approved June 30, 1988.

CHAPTER 297

FORMERLY

HOUSE BILL NO. 551
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, TITLE 18, DELAWARE CODE, RELATING TO DISCRIMINATION BY INSURANCE COMPANIES.

WHEREAS, it has come to the attention of the Legislature and eminently reported in news media that there are some insurance companies licensed in Delaware who discriminate on the basis of race relative to the marketing of life insurance policies; and

WHEREAS, as a result of a survey conducted by the Insurance Department mailed out to 600 companies in an effort to ascertain what insurance companies discriminate on the basis of race it was discovered that approximately 20 companies were suspicious of discriminatory practices by refusing to cooperate with the Insurance Commissioner discriminated in the past or were still discriminatory, one such company being the Home Beneficial Life Insurance Company; and

WHEREAS, discrimination was practiced in one such case of a Mrs. Ella Mae Dale, who detected in her life insurance policy the symbol or designation (c) representing the client as being colored and through further investigation it was discovered that the letter (w) also appeared on policies issued to white clients; and

WHEREAS, it was subsequently discovered that this same insurance company who sold life insurance policies to so called "colored" for a face value of \$500.00 carry 20% less cash value than those same policies issued to white clients; and

WHEREAS, the same investigation also uncovered that the premiums in which minorities paid on policies was 20% higher than those paid by whites, identical policies of the same amount; and

WHEREAS, Home Beneficial Life Insurance Company reportedly has a reserve fund in excess of 350 million dollars of which a portion should be placed in some type of escrow to recompensate clients who have been discriminated against and to cover other legal costs, either by the Commissioner or a court of competent jurisdiction; and

WHEREAS, a resolution of the harm done to clients remains unsettled for all parties included; and

WHEREAS, it is desired to clarify that existing Delaware law prohibits discrimination by insurance companies based on race, color, religion or national origin; and

WHEREAS, it is desired to provide a statutory mechanism for redressing such discrimination once found.

NOW, THEREFORE:

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

Section 1. Amend §2304, Chapter 23, Title 18, Delaware Code, by adding thereto a new subsection (22) to read as follows:

"(22) Unfair Discrimination in the Value of Insurance Policies and Premiums due on same based on Race, Color, Religion or National Origin; Penalty

(a) It shall be unlawful practice for any insurance company licensed to do business in this State to discriminate in any way because of the insured's race, color, religion or national origin, or to make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, to include the writing of any policy or the application therefor, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which discriminates in any way because of the insured's race, color, religion, or national origin or to classify or refer to any individual on the basis of race, color, religion, or national origin.

(b) The Department of Insurance is empowered, as hereinafter provided to prevent any licensed or authorized insurance company from engaging in any discriminatory practices as set forth in subsection (a) of this Section.

(c) Whenever a charge is filed with the Department by or on behalf of a person claiming to have been discriminated against in the purchase of insurance because of race, religion, color, or national origin, the Department shall serve a copy of the charge on such insurance company and shall make an investigation thereof. Charges shall be in writing and shall contain such information and be in such form as the Department requires. Such charges shall not be made public by the Department. If the Department determines after such investigation that there is reasonable cause to believe that the charge is not true, it shall dismiss the charge and promptly notify the person claiming to have been discriminated against and the respondent of its action. Such notice shall be in writing and shall set forth the facts upon which the decision is based.

(d) If the Department determines after the investigation referred to in subsection (c) of this section that there is reasonable cause to believe that the charge is true, the Department shall endeavor to eliminate any such alleged unlawful practice by informal methods of conference, conciliation and persuasion. Nothing said or done during and as a part of such conciliation endeavors may be made public by the Department, its officers or employees or used as evidence in a subsequent proceeding without the written consent of the persons concerned. The Department shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than 120 days from the filing of the charge. A charge under subsection (c) of this section must be filed within 90 days after the alleged unlawful discriminatory practice or 120 days after discovery thereof, whichever is the later.

(e) If the Department determines, after attempting to secure voluntary compliance under subsection (d) of this section, that it is unable to secure from the respondent a conciliation agreement acceptable to the Department and to the person aggrieved, which determination shall not be reviewable in any court, the Department shall issue and cause to be served upon the respondent a complaint stating the facts upon which the allegation of the unlawful discriminatory practice is based together with a notice of hearing before the Commissioner or his agent, at a place therein fixed not less than 5 days after the serving of such complaint. The complaint may be amended at any reasonable time provided that the respondent has sufficient time to respond thereto. Related proceedings may be consolidated for hearing.

(f) A respondent shall have the right to file an answer to the complaint against him and may amend his answer at any reasonable time. Respondent and the person aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. All testimony shall be taken under oath and shall be reduced to writing.

(g) If the Commissioner or his agent finds that the respondent has engaged in an unlawful discriminatory practice, the Commissioner or his agent shall state its findings of fact in writing and shall issue and cause to be served on the respondent and the person or persons aggrieved by such unlawful discriminatory practice an order requiring the respondent to cease and desist from such unlawful practice. Such order may further require such respondent to make reports from time to time showing the extent to which he has complied with the order. If the Commissioner or his agent finds that the respondent has not engaged in any unlawful discriminatory practice, the Commissioner or his agent shall state his findings of fact in writing and shall issue and cause to be served on the respondent and the person or persons alleged in the complaint to be aggrieved an order dismissing the complaint.

(h) Any complainant or aggrieved party, or respondent or intervenor or the Commissioner or his agent may obtain an order of the Court of Chancery for enforcement of the Commissioner's order. The proceeding for enforcement is initiated by filing a petition in the Court of Chancery. Copies of the petition shall be served upon all parties of record. Within 30 days after the service of the petition upon the Commissioner or his agent or its filing by the Commissioner or his agent or within such further time as the Court may allow, the Commissioner or his agent shall transmit to the Court the original or a certified copy of the entire record upon which the order is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the proceeding, the record may be shortened. The Court may reverse or modify the order if substantial rights of the petitioner have been prejudiced or the findings of fact of the

Department are clearly erroneous. The Court shall have power to grant such temporary relief or restraining order as it deems just and to enter an order enforcing, as modified, or setting aside in whole or in part the order of the Commissioner or his agent, or remand the case to the Department for further proceedings.

A proceeding under this section must be initiated within 30 days after a copy of the order of the Commissioner or his agent is received. If no proceeding is so initiated, the Commissioner or his agent may obtain a decree of the Court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent and that the respondent is subject to the jurisdiction of the Court.

(i) After a charge has been filed and until the record has been filed in the Court of Chancery as herein provided, the proceeding may at any time be ended by agreement between the Commissioner or his agent and the parties for the elimination of the alleged unlawful discriminatory practice, approved by the Commissioner or his agent and the Commissioner or his agent may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or order made or issued by it.

(j) The Superior Court of the county where the violation is alleged to have occurred shall have jurisdiction to hear an appeal from any decision made by the Commissioner or his agent, except as provided in subsection (h) of this section. Such appeal shall be on the record only.

(k) In the event that the court determines that the respondent has engaged in an unlawful discriminatory practice causing economic loss to the petitioner, the respondent shall reimburse or refund to the petitioner, with reasonable interest added thereto, a sum equal to the amount of the economic loss suffered by the petitioner."

Approved June 30, 1988.

CHAPTER 298

FORMERLY

HOUSE BILL NO. 237
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 69, TITLE 29 OF THE DELAWARE CODE BY INCLUDING A DEFINITION FOR MAINTENANCE CONTRACTS AND GRANTING STATE AGENCIES AUTHORITY TO WAIVE PERFORMANCE BONDS FOR STATE MAINTENANCE CONTRACTS IF IT IS SO STATED IN THE BID SPECIFICATIONS AND TO REQUIRE INSURANCE FOR JOB PERFORMANCE.

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

Section 1. Amend Section 6901, Chapter 69, Title 29 of the Delaware Code by adding a new subsection (8) which shall read as follows:

"(8) Maintenance contracts means any service contract covering roadside or road maintenance including but not limited to mowing, pesticide and growth regulator application or spraying, mulching, brush and tree trimming, tree removal, maintenance or operation of a bus route, snow removal, crack sealing and landscape maintenance.

Section 2. Amend Section 6909(a), Chapter 69 by deleting subsection (a) in its entirety, and substituting in lieu thereof the following:

"(a) Simultaneous with the execution of the formal contract where required by subsection (a) of §6908 this Title, the successful bidder shall also execute a good and sufficient bond to the State or the contracting county for the benefit of the agency, with corporate surety authorized to do business in this State, in a sum equal to one hundred (100) percent of the contract price, except as otherwise provided in this Section and further providing, however, that in a contract for the purchase of materiel, or in the execution of maintenance contracts as defined in this Title, the agency may reduce or waive such bond requirement from the successful bidder, if such reduction or waiver has been stated in the bid specifications."

Section 3. Amend Chapter 69, Section 6909, Title 29 of the Delaware Code by adding a new subsection (g) thereto to read as follows:

"(g) In addition to the bond, letter of credit, or other financial security posed by the successful bidder in conjunction with the execution of the formal contract, each successful bidder, regardless of the type of the security posed or waived, as the case may be, must purchase adequate insurance for the performance of the contract and, by submission of a bid, does agree to indemnify and save harmless and to defend all legal or equitable actions brought against the State, any agency, officer, and/or employee of the State, for and from all claims of liability which is or may be the result of the successful bidder's actions, during the performance of the contract. The purchase or non-purchase of such insurance or the involvement of the successful bidder in any legal or equitable defense of any action brought against the successful bidder based upon work performed pursuant to the contract, will not waive any defense which the State, its agency, the contracting county and their respective officers and employees might otherwise have to such claims, specifically including the defense of sovereign immunity, where applicable, and by the terms of this Section, the State, contracting county and all agencies, officers, and employees thereof shall not be financially responsible for the consequences of work performed, pursuant to said contract."

Approved June 30, 1988.

CHAPTER 299

FORMERLY

HOUSE BILL NO. 238
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 69, TITLE 29 OF THE DELAWARE CODE BY PERMITTING LETTERS OF CREDIT OR OTHER SECURITY TO BE POSTED AS SURETY FOR THE PERFORMANCE OF CERTAIN TYPES OF CONTRACTS.

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

Section 1. Amend Section 6909, Chapter 69, Title 29, of the Delaware Code by adding a new subsection (h) to read as follows:

"(h) Contracts for the purchase of materials, equipment and maintenance valued at less than \$50,000 and identified in the specifications by the State or the contracting county, may contain a waiver of the bond requirement, provided, however, that the successful bidder post with the State or contracting county an irrevocable letter of credit or other suitable or readily collectable financial security for the project. Such letter of credit or other suitable or readily collectable security shall be issued for a term commencing simultaneously with the execution of the formal contract and terminating no later than three (3) years, subsequent to the date of delivery of such material, equipment or maintenance provided, or to the extent of the warranty period, whichever is greater; but in no event shall such security expire without the express written approval of the State or the contracting county. On a contract for the purchase of material, the State or contracting county may, at its discretion, reduce or waive the bond or other form of security, provided such reduction or waiver is stated in the bid specifications. In the case of a purchase of one large piece of equipment estimated by the State or the contracting county to be valued at less than \$100,000, the provisions of this subsection shall apply."

Approved June 30, 1988.

CHAPTER 300

FORMERLY

SENATE BILL NO. 471

AN ACT TO AMEND TITLE 10 AND TITLE 11 OF THE DELAWARE CODE PROVIDING FOR THE VICTIM PROTECTION ACT OF 1988.

WHEREAS, this legislation is intended to enhance authority and clarify conditions that may be imposed by Magistrates, Judges, Family Court Masters and Commissioners with regard to bail and unsecured release to provide all victims of crime, especially domestic violence victims, with additional protection from intimidation and harm.

NOW THEREFORE:

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

Section 1. Amend §925, Chapter 9, Part I, Title 10 of the Delaware Code by striking the semi-colon (;) at the end of subsection (2), and substituting in lieu thereof the following:

"and impose conditions as set forth in §940 of this Chapter;"

Section 2. Amend §940, Chapter 9, Part I, Title 10 of the Delaware Code by striking subsection (c) in its entirety, and substituting in lieu thereof the following:

"(c) Notwithstanding any other provision in this Chapter, such person may be released on his own recognizance; or under such bail as the Master or Judge of the Court may require pending disposition of the case; or, in default of bail, such person may be committed to the Department of Health and Social Services, or to the Department of Correction, pending disposition of the case.

(d) In connection with either a secured release or an unsecured release, the Master or Judge of the Court may impose one or more of the following conditions:

(1) require the person to return to the Court at any time upon notice, and submit himself to the orders and processes of the Court;

(2) place the person in the custody of a designated person or organization agreeing to supervise him;

(3) place the person under the supervision of a pre-sentence officer, probation officer, or pre-trial services officer;

(4) place restrictions on the travel, associations, activities, consumption of alcoholic beverages, drugs or barbiturates, or place of abode of the person during the period of release;

(5) require the person to have no contact or restricted contact with the victim, victim's family, victim's residence, place of employment, school, or location of offense;

(6) require periodic reports from the person to an appropriate agent or officer of the Court, including the attorney for the accused;

(7) require psychiatric or medical treatment of the person;

(8) require the person to provide suitable support for his family under supervision of an officer of the Court;

(9) require a person, who has been convicted, to duly prosecute any post-conviction remedies or appeals; and if the case is affirmed, or is reversed and remanded, such person shall forthwith surrender himself to the Court;

(10) impose any other condition deemed reasonably necessary to assure appearance as required, and to carry out the purposes of this Chapter."

(e) If the person is committed, in lieu of bail, the Master or Judge of the Court may require such person, while in custody, to have no contact with the victim or with the victim's family;

(f) The accused, or the Attorney General, may apply to the Court for any modification of any determination by the Court as to the decision of the type of release, the amount and nature of the bond or surety, or the conditions of release.

(g) Where the Master or Judge modifies any bail amount, such Master or Judge shall review conditions and may impose any conditions as are set forth in this section, including specific considerations for the safety of the victim and the community.

(h) If the accused has furnished surety, the Master or Judge of the Court shall, at that time, review conditions and may impose conditions as are set forth in this section including specific considerations for the safety of the victim and the community.

Section 3. Amend §2102, Chapter 21, Part II, Title 11 of the Delaware Code by adding the words "Family Court of the State of Delaware," immediately following the words "Court of Common Pleas," as the same appear in subsection (4) of said section.

Section 4. Amend §2104, Chapter 21, Part II, Title 11 of the Delaware Code by re-designating all of said section as new subsection (a); and by adding thereto the following new subsection:

"(b) If the accused has furnished surety, the Court shall, at that time review conditions and may impose any conditions as are set forth in §2108 of this Title before the accused is released, including specific consideration for the safety of the victim and the community."

Section 5. Amend §2108, Chapter 21, Part II, Title 11 of the Delaware Code by re-designating subsection (5) as new subsection (6), and by re-designating each succeeding subsection accordingly.

Section 6. Amend §2108, Chapter 21, Part II, Title 11 of the Delaware Code by adding thereto a new subsection, designated as subsection (5) which new subsection shall read as follows:

"(5) Require the person to have no contact or restricted contact with the victim, the victim's family, victim's residence, place of employment, school, or location of offense."

Section 7. Amend §2109, Chapter 21, Part II, Title 11 of the Delaware Code by re-designating all of said section as new subsection (a) of said section; and by adding thereto the following new subsection:

(b) If the accused is committed in lieu of bail, the Court may require such person, while in custody to have no contact with the victim or the victim's family.

Section 7. Amend §2110, Chapter 21, Part II, Title 11 of the Delaware Code by re-designating all of the said section as new subsection (a), and by adding thereto the following new subsection:

"(b) Where the Court modifies any bail amount, the Court shall review conditions and may impose any conditions as are set forth in §2108 of this Title, including specific considerations for the safety of the victim and the community."

Section 8. This Act shall be known and may be cited as the Victim Protection Act of 1988.

Section 9. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 10. This Act will become effective 90 days after its enactment into law.

Approved June 30, 1988.

CHAPTER 301
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR

SENATE BILL NO. 334
AS AMENDED BY HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 34, TITLE 14 OF THE DELAWARE CODE RELATING TO THE RECRUITMENT OF WOMEN AND ETHNIC MINORITIES INTO PROGRAMS OF ENGINEERING AND APPLIED SCIENCE AT INSTITUTIONS OF HIGHER EDUCATION.

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

Section 1. Amend Chapter 34, Title 14, Delaware Code by adding a new Subchapter V to read as follows:

"Subchapter V. ENGINEERING AND APPLIED SCIENCE RECRUITMENT FUND.

Sec. 3430 FINDING AND PURPOSE. The legislature finds that women and members of ethnic minorities are, considering their percentage of the Delaware population, underrepresented in programs of engineering and applied science at Delaware institutions of higher education. The purpose of this subchapter is to support recruitment of women and ethnic minorities into those programs.

Sec. 3431 ADMINISTRATION.

(a) This subchapter shall be administered by the Engineering and Applied Science Careers Subcommittee of the Delaware Postsecondary Education Commission hereinafter referred to as the "Subcommittee". The Subcommittee shall include five members of the Delaware Postsecondary Education Commission, two representatives appointed by the Delaware Association of School Administrators, and two representatives appointed by the State Board of Education.

(b) The Subcommittee shall adopt such rules and regulations as it deems necessary and proper to the administration of this subchapter.

(c) The Subcommittee shall annually report to the General Assembly the number of recipients, the institutions attended by the recipients and the total amount of expenditures made under this subchapter.

Sec. 3432 DEFINITIONS.

In this subchapter:

(1) "Fund" means the Engineering and Applied Science Recruitment Fund.

(2) "Director" means the Executive Director of the Delaware Postsecondary Education Commission.

(3) "Under represented minority group" means racial or ethnic minorities who are members of an underrepresented racial or ethnic group in engineering and applied science programs at institutions of higher education such as: blacks, hispanics, native americans, and women.

Sec. 3433 FUND.

(a) The Engineering and Applied Science Recruitment Fund is created as a special fund in the state treasury.

(b) The fund consists of:

- (1) donations from private sources;
- (2) appropriations; and
- (3) grants from the federal government.

(c) For any fiscal year the legislature may not appropriate to the fund an amount that exceeds the amount of donations to eligible organizations from private sources during the preceding fiscal year.

(d) The Director shall administer the fund in accordance with the rules of the Subcommittee.

(e) The Subcommittee may solicit and shall accept donations and grants for the purposes of the fund.

Sec. 3434 USE OF FUND

The Subcommittee shall allocate the fund to eligible nonprofit organizations for the purpose of:

(1) establishing or operating educational programs to assist women and minority group members in preparing for or participating in programs leading to an undergraduate degree in engineering or applied science from an institution of higher education; and

(2) disseminating information concerning:

(A) educational and career opportunities in engineering and applied science; and

(B) the fund and programs funded under this subchapter.

Sec. 3435 ALLOCATION OF FUND

(a) The Fund shall be allocated in accordance with guidelines adopted by the Subcommittee. The guidelines must ensure that programs approved for funding:

(1) use professional volunteers or qualified staff at each level of instruction;

(2) require parental involvement;

(3) coordinate with public school preparation for engineering and applied science careers.

(4) coordinate with post-secondary educational institutions;

(5) involve organizations of women and minority group members;

(6) initially involve participants in seventh, eighth, and ninth grades;

(7) provide demonstrated professional leadership in educational activities for women and minority group members; and

(8) are compatible with state and federal laws governing education.

(b) Preference shall be given to programs that stress the development of mathematical and scientific competence.

(c) In making allocations, the Subcommittee may solicit advice from public or private organizations working for the recruitment of women and minority group members into engineering and applied science careers.

(d) The State Treasurer shall issue warrants drawn on the fund upon receipt of vouchers approved by the Director.

(e) The Subcommittee shall adopt rules establishing procedures by which an agency or organization must apply for funding and account for any funds received.

Sec. 3436 ELIGIBLE ORGANIZATIONS

(a) To be eligible to receive funds under this subchapter, an agency or organization must:

(1) qualify for exemption from federal income tax under Section 501, Internal Revenue Code, and

(2) not distribute net earnings to any private shareholder or other individual; and

(3) serve groups of women or minority group members who, considering their percentage of the Delaware population, are underrepresented in engineering and applied science programs at institutions of higher education.

(b) The Director shall determine annually which groups meet the requirements of Subsection 3436 (a).

Sec. 3437 PROGRAM REVIEW

The Superintendent of the Department of Public Instruction shall review annually the eligibility of each program to be funded under this Subchapter in accordance with the guidelines set forth in subsections 1 through 8 of Section 3435 (a) and will certify annually programs meeting these guidelines."

Section 2. In the first fiscal year that this act is in effect donations to qualified organizations from non-government sources in the preceding year will be the basis for satisfying the requirements specified in Section 3433 (c) of this act.

Section 3. Funding for this program shall be provided annually by an appropriation by the General Assembly.

Approved June 30, 1988.

CHAPTER 302

FORMERLY

HOUSE BILL NO. 181 AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 7, TITLE 18 OF THE DELAWARE CODE RELATING TO THE SPECIAL FUND FOR PAYMENTS TO NON-PROFIT ORGANIZATIONS THAT PROVIDE AMBULANCE OR RESCUE SERVICES.

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

Section 1. Amend subpara raph (a)(1), §713, Title 18 of the Delaware Code by striking the words and numbers "one-tenth of 1 percent" and substituting in lieu thereof "fifteen one hundredths of 1 percent".

Approved July 1, 1988.

CHAPTER 303

FORMERLY

HOUSE BILL NO. 480

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1989; 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, 1989, 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 1989, shall not have been paid out of the State Treasury, shall revert to the General Fund, provided; however, that no funds shall revert which are encumbered pursuant to Section 6521, Title 29, Delaware Code.

The several amounts hereby appropriated are as follows:

DEPARTMENTS(01-00-00) LEGISLATIVE(01-01-01) General Assembly - House

Salaries - House Members	\$ 975.6
Salaries (17.0)	446.4
Salaries - Attaches	347.8
Other Employment Costs	313.1
Travel	
Mileage - Legislators	68.0
Other - Travel	40.0
Contractual Services	221.0
Supplies and Materials	25.0
Capital Outlay	60.0
Expenses - House Members	205.0
House Committee Expenses	<u>40.0</u>

TOTAL -- General Assembly - House \$ 2,741.9

(01-02-01) General Assembly - Senate

Salaries - Senate Members	\$ 517.5
Salaries (11.0)	275.4
Salaries - Attaches	338.1
Other Employment Costs	167.2
Travel	
Mileage - Legislative	36.5
Other - Travel	42.5
Contractual Services	186.2
Supplies and Materials	30.0
Capital Outlay	36.0
Expenses - Senate Members	105.0
Senate Committee Expenses	<u>25.0</u>

TOTAL -- General Assembly - Senate \$ 1,759.4

(01-05-01) Commission on Interstate Cooperation

Travel	\$ 18.0
Travel - Waste Compact	2.5
Legislative Travel	65.0
Contractual Services	30.0
Supplies and Materials	.5
Council of State Governments	38.7
Delaware River Basin Commission	203.6
National Conference of State Legislatures	<u>46.1</u>

TOTAL -- Commission on Interstate Cooperation \$ 404.4
(01-08-00) Legislative Council

(01-08-01) Office of the Research Director

Salaries (16.0)	\$	405.4
Other Employment Costs		106.7
Travel		6.0
Contractual Services		62.1
Supplies and Materials		46.3
Capital Outlay		25.0
Sunset Committee Expenses		30.4
SET Services Program		<u>17.0</u>

Sub-Total \$ 698.9

Debt Service \$ 16.4

TOTAL -- Office of the Research Director \$ 715.3

(01-08-02) Office of the Controller General

Salaries (14.0)	\$	495.2
Other Employment Costs		122.3
Travel		8.9
Contractual Services		130.8
Supplies and Materials		17.2
Capital Outlay		12.7
Contingency - Zero Base Budget		10.0
Contingency - Internship		10.0
Contingency - Legislative Council		<u>20.0</u>

TOTAL -- Office of the Controller General \$ 827.1

(01-08-03) Code Revisors

Travel	\$.8
Contractual Services		155.0
Supplies and Materials		<u>1.0</u>

TOTAL -- Code Revisors \$ 156.8

(01-08-06) Commission on Uniform State Laws

Travel	\$	8.0
Contractual Services		5.0
Supplies and Materials		<u>1.1</u>

TOTAL -- Commission on Uniform State Laws \$ 13.1

TOTAL -- Legislative Council \$ 1,212.3

TOTAL -- LEGISLATIVE \$ 6,618.0

TOTAL POSITIONS

GF - 58.0

(02-00-00) JUDICIAL

(02-01-00) Supreme Court

Personnel Costs (21.0)	\$	\$	1,111.6
Travel		5.0	23.3
Contractual		69.9	89.7
Supplies and Materials		5.1	14.4
Capital/Equipment		<u>5.0</u>	<u>15.8</u>

TOTAL -- Supreme Court \$ 85.0 \$ 1,254.8

(-10) Appeals Processing (20.6) \$ 1,167.5

(-20) Regulation of the Practice of Law 85.0

(-30) Judicial Branch Administration (.4)	87.3	
TOTAL -- Internal Program Units	\$ 85.0	\$ 1,254.8
<u>(02-10-00) Court of Chancery</u>		
Personnel Costs (20.0)		\$ 992.7
Travel		7.9
Contractual		53.8
Supplies and Materials		11.9
Capital/Equipment		9.2
TOTAL -- Court of Chancery		\$ 1,075.5
(-10) Case Processing (18.8)	\$ 1,017.6	
(-20) Administration (1.2)	57.9	
TOTAL -- Internal Program Units	\$ 1,075.5	
<u>(02-03-00) Superior Court</u>		
Personnel Costs (225.0)		\$ 6,839.0
Travel		38.4
Contractual		484.8
Supplies and Materials		86.1
Capital/Equipment		77.3
TOTAL -- Superior Court		\$ 7,525.6
(-10) Case Processing (105.0)	\$ 4,383.6	
(-20) Presentence Investigation (31.0)	882.1	
(-30) Administration (5.0)	149.0	
(-40) Arbitration (3.0)	88.8	
(-50) HCC Prothonotary (63.0)	1,583.3	
(-60) Kent County Prothonotary (11.0)	277.1	
(-70) Sussex County Prothonotary (7.0)	161.7	
TOTAL -- Internal Program Units	\$ 7,525.6	
<u>(02-06-00) Court of Common Pleas</u>		
Personnel Costs (66.0)		\$ 2,119.4
Travel		4.8
Contractual		80.2
Supplies and Materials		16.3
Capital/Equipment		15.2
TOTAL -- Court of Common Pleas		\$ 2,235.9
(-10) Case Processing (61.2)	\$ 2,056.7	
(-20) Support Operations (4.8)	179.2	
TOTAL -- Internal Program Units	\$ 2,235.9	
<u>(02-08-00) Family Court</u>		
(37.0)ASF Personnel Costs (234.0)	\$ 931.2	\$ 7,432.4
(7.0)NSF Travel	10.9	24.4
Contractual	205.3	578.5
Energy		67.2
Supplies and Materials	22.1	86.4
Capital/Equipment	55.8	12.2
Sub-Total	\$ 1,225.3	\$ 8,206.1
Debt Service		13.2
TOTAL -- Family Court	\$ 1,225.3	\$ 8,219.3
(25.0)ASF (-10) Case Processing (151.0)	\$ 626.0	\$ 4,727.5
(9.0)ASF (-20) Diversion Services (46.0)	227.0	1,261.8
(7.0)NSF (-30) Special Projects (16.0)		502.2
(3.0)ASF (-40) Supportive Services (21.0)	372.3	1,727.8

TOTAL -- Internal Program Units \$ 1,225.3 \$ 8,219.3

(02-13-00) Justice of the Peace Courts

Personnel Costs (210.0)	\$ 5,735.3
Travel	92.3
Contractual	482.9
Energy	109.0
Supplies and Materials	70.3
Capital/Equipment	<u>42.0</u>

TOTAL -- Justice of the Peace Courts \$ 6,531.8

(-10) Case Processing (164.0)	\$ 5,371.8
(-20) Support Service Unit (13.0)	406.2
(-30) Capias Enforcement Unit (33.0)	<u>753.8</u>

TOTAL -- Internal Program Units \$ 6,531.8

(02-17-00) Administrative Office of the Courts

Personnel Costs (26.0)	\$ 937.9
Travel	8.3
Contractual	3,196.3
Energy	3.1
Supplies and Materials	15.0
Capital/Equipment	292.6
Retired Judges	<u>13.5</u>

TOTAL -- Administrative Office of the Courts \$ 4,466.7

(-01) Office of the Director (12.0)	\$ 3,304.3
(-04) Judicial Information Center (9.5)	796.1
(-05) New Castle County Law Library (2.0)	138.3
(-06) Kent County Law Library (1.5)	126.5
(-07) Sussex County Law Library (1.0)	<u>101.5</u>

TOTAL -- Internal Program Units \$ 4,466.7

(02-18-00) Non-Judicial Services

(6.0)ASF Personnel Costs (12.0)	\$ 201.1	\$ 346.5
Travel	17.0	20.2
Contractual	34.2	43.8
Supplies and Materials	2.8	10.2
Capital/Equipment	3.8	4.8
Other Items	740.0	
Special Needs Fund	<u>-----</u>	<u>5.0</u>
TOTAL -- Non-Judicial Services	\$ 998.9	\$ 430.5

(-01) Office O/T Public Guardian (6.0)	\$	\$ 215.6
(6.0)ASF (-02) Violent Crimes Comp. Board	998.9	
(-03) Foster Care Review Board (6.0)	<u>-----</u>	<u>214.9</u>

TOTAL -- Internal Program Units \$ 998.9 \$ 430.5

TOTAL -- JUDICIAL \$ 2,309.2 \$ 31,740.1

TOTAL POSITIONS

GF - 814.0
ASF - 43.0
NSF - 7.0

(10-00-00) EXECUTIVE

(10-01-01) Office of the Governor

(1.0)ASF Salaries (22.5)	\$ 28.1	\$ 826.5
(3.0)NSF Other Employment Costs	5.9	200.3
Travel	8.0	21.9
Contractual Services	168.0	193.4

	Supplies and Materials	2.0	29.0
	Capital Outlay	2.8	20.4
	Woodburn Expenses		33.0
	Contingency - Other Expenses		<u>8.7</u>
TOTAL -- Office of the Governor		\$ 214.8	\$ 1,333.2
<u>(10-02-00) Office of the Budget</u>			
<u>(10-02-01) Administration</u>			
(3.0)ASF	Salaries (28.0)	\$ 91.1	\$ 1,028.6
	Other Employment Costs	22.6	244.1
	Travel	2.5	13.2
	Contractual Services	140.0	291.7
	Supplies and Materials	1.7	14.2
	Capital Outlay	1.6	43.8
	Data Processing - Development Projects		2,000.0
	Budget Automation - Operations		127.9
	Management Improvement Program		90.0
	Other	<u>450.0</u>	
Sub-Total		\$ 709.5	\$ 3,853.5
	Debt Service		<u>\$ 66.5</u>
TOTAL -- Administration		\$ 709.5	\$ 3,920.0
<u>(10-02-04) Budget Office - Contingencies</u>			
	Contingency - Termination Pay	\$	\$ 25.0
	Contingency - Salaries and Other Employment Costs		1,875.8
	Contingency - Prior Years' Obligations		250.0
	Contingency - Prior Years' Obligations - Salaries & Other Employment Costs		1,217.0
	Contingency - Self Insurance Fund		1,400.0
	Contingency - Energy		200.0
	Contingency - Legal Fees		300.0
	Contingency - Selective Market Variations		37.0
	Contingency - State Special Funds	<u>20,000.0</u>	
TOTAL -- Budget Office - Contingencies		\$ 20,000.0	\$ 5,304.8
<u>(10-02-05) Budget Office - Other Items (One-Time Appropriations)</u>			
	Contingency - Other Items		<u>\$ 12,587.9</u>
TOTAL -- Budget Office - Other Items			\$ 12,587.9
<u>(10-02-06) Budget Commission</u>			
	Contingency Funds		<u>\$ 150.0</u>
TOTAL -- Budget Commission			\$ 150.0
<u>(10-02-07) Postsecondary Education</u>			
(3.0)MSF	Salaries (5.5)	\$	\$ 162.9
	Other Employment Costs		39.2
	Travel		6.3
	Contractual Services		40.1
	Supplies and Materials		4.7
	Scholarships		1,311.0
	Engineering and Science Fund		<u>25.0</u>
TOTAL -- Postsecondary Education			\$ 1,589.2
<u>(10-02-02) Information Service Operations and Facilities Management</u>			
	Salaries (116.0)	\$	\$ 2,848.9
	Other Employment Costs		711.3
	Travel		12.0

Contractual Services	705.0	3,889.4
Energy		130.7
Supplies and Materials		194.6
Capital Outlay		<u>20.2</u>

Sub-Total	\$ 705.0	\$ 7,807.1
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Debt Service		<u>\$ 72.9</u>
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TOTAL -- Information Service Operations and Facilities Management	\$ 705.0	\$ 7,880.0
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(10-02-11) Biggs Center

(7.0)ASF Salaries (11.0)	\$ 133.3	\$ 348.4
Other Employment Costs	32.3	81.4
Travel		5.7
Contractual Services	480.2	438.6
Energy		11.7
Supplies and Materials		38.8
Capital Outlay		<u>5.0</u>

TOTAL -- Biggs Center	\$ 645.8	\$ 929.6
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(10-02-12) Office of Telecommunications Management

Salaries (8.0)	\$ 328.4
Other Employment Costs	76.8
Travel	10.5
Contractual Services	425.2
Supplies and Materials	3.6
Computer/Software	<u>5.8</u>

TOTAL -- Office of Telecommunications Management	\$ 850.3
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(10-02-13) Carvel Center

Salaries (7.0)	\$ 169.0
Other Employment Costs	45.0
Travel	2.0
Contractual Services	192.7
Supplies and Materials	21.4
Capital Outlay	<u>18.0</u>

TOTAL -- Carvel Center	\$ 448.1
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(10-02-14) Information Planning & Administration

Salaries (10.0)	\$ 408.3
Other Employment Costs	103.1
Travel	7.7
Contractual Services	166.0
Energy	6.3
Supplies and Materials	4.7
Capital Outlay	<u>13.0</u>

TOTAL -- Information Planning & Administration	\$ 709.1
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(10-02-15) Information Systems

Salaries (7.0)	\$ 235.0
Other Employment Costs	65.4
Travel	10.0
Contractual Services	52.2
Supplies and Materials	7.9
Capital Outlay	<u>25.0</u>

TOTAL -- Information Systems	\$ 395.5
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TOTAL -- Office of the Budget	\$ 22,060.3	\$ 34,764.5
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(10-03-00) Delaware Development Office

(10-03-01) Office of the Director

Salaries (13.0)	\$	\$ 369.4
Other Employment Costs		92.7
Travel		11.0
Contractual Services	25.0	28.0
Energy		10.1
Supplies and Materials		4.9
Capital Outlay		.1
Teacher Recruitment		60.0
Sub-Total	\$ 25.0	\$ 576.2
Debt Service		213.5
TOTAL -- Office of the Director	\$ 25.0	\$ 789.7

(10-03-02) Delaware Tourism Office

Salaries (8.0)	\$	\$ 174.9
Other Employment Costs		48.8
Travel		29.6
Contractual Services		808.7
Supplies and Materials		10.6
Capital Outlay		2.5
Junior Miss		.5
Mother of the Year		.8
Young Mother of the Year		.8
Business Tourism Promotion	50.0	305.0
TOTAL -- Delaware Tourism Office	\$ 50.0	\$ 1,382.2

(10-03-03) Delaware Economic Development Authority

(3.0)ASF Salaries (31.0)	\$	\$ 106.6	\$ 1,004.1
Other Employment Costs		28.4	237.6
Travel		10.0	39.0
Contractual Services		979.5	766.2
Energy		5.0	
Supplies and Materials		8.9	27.3
Capital Outlay		10.0	14.6
General Obligation Bonds		350.0	227.3
International Trade			60.0
Other Items		650.0	160.0
Sub-Total	\$ 2,148.4	\$ 2,536.1	
Debt Service			1,368.2
TOTAL -- Delaware Economic Development Authority	\$ 2,148.4	\$ 3,904.8	

(10-03-04) State Housing Authority

(44.0)ASF Salaries	\$	\$ 948.6	\$
(3.0)NSF Other Employment Costs		281.7	
Travel		33.5	
Contractual Services		575.1	
Energy		22.0	
Supplies and Materials		40.1	
Capital Outlay		59.7	
Debt Service			61.4
Holly Square		77.0	
Huling Cove		123.7	
Huling Cove Annex		279.3	
Housing Development Fund		20,000.0	
Public Housing		443.6	
Home Improvement Insurance		190.0	
TOTAL -- State Housing Authority	\$ 23,074.3	\$ 61.4	
TOTAL -- Delaware Development Office	\$ 25,297.7	\$ 6,138.1	

(10-04-00) Office of State Personnel

(10-04-01) Administration

(2.0)ASF	Salaries (10.0)	\$ 47.4	\$ 340.6
	Other Employment Costs	12.7	89.0
	Travel	.5	6.0
	Travel - Commission		3.0
	Contractual Services	9.5	98.8
	Supplies and Materials	<u>5.5</u>	<u>20.5</u>

TOTAL -- Administration	\$ 75.6	\$ 557.9
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(10-04-02) Operations

(9.0)ASF	Salaries (19.0)	\$ 177.6	\$ 498.2
	Other Employment Costs	51.5	141.6
	Travel	2.1	4.5
	Contractual Services	13.0	112.6
	Supplies and Materials	29.5	5.8
	Capital Outlay	14.5	12.0
	Generic Aides (20.0)	<u> </u>	<u>293.8</u>

TOTAL -- Operations	\$ 288.2	\$ 1,068.5
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(10-04-04) Staff Development and Training

(1.0)ASF	Salaries (3.0)	\$ 15.6	\$ 117.9
	Other Employment Costs	4.9	28.5
	Travel	.5	1.5
	Contractual Services	1.0	53.4
	Supplies and Materials	1.0	23.9
	Blue Collar	<u>125.0</u>	<u> </u>

TOTAL -- Staff Development and Training	\$ 148.0	\$ 225.2
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(10-04-05) Insurance Coverage Office

(1.0)ASF	Salaries (1.0)	\$	\$ 45.5
	Other Employment Costs		11.5
	Contractual Services	<u>7,500.0</u>	<u>623.0</u>

TOTAL -- Insurance Coverage Office	\$ 7,500.0	\$ 680.0
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TOTAL -- Office of State Personnel	\$ 8,011.8	\$ 2,531.6
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(10-07-00) Criminal Justice(10-07-01) Criminal Justice Council

(3.5)NSF	Salaries (11.0)	\$ 342.4
	Other Employment Costs	74.7
	Travel	6.5
	Contractual Services	41.4
	Supplies and Materials	3.9
	Capital Outlay	1.4
	SENTAC	10.0
	Other	<u>52.0</u>

TOTAL -- Criminal Justice Council	\$ 533.1
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(10-07-02) Delaware Justice Information System

Salaries (6.0)	\$ 185.6
Other Employment Costs	46.6
Travel	3.9
Contractual Services	19.4
Supplies and Materials	<u>3.7</u>

TOTAL -- Delaware Justice Information System	\$ 259.2
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(10-07-03) Statistical Analysis Center

(2.0)NSF	Salaries (3.0)	\$ 108.1
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Other Employment Costs		28.0	
Travel		1.2	
Contractual Services		7.3	
Supplies		<u>2.2</u>	
TOTAL -- Statistical Analysis Center			\$ 146.8
TOTAL -- Criminal Justice			\$ 939.1
<u>(10-08-01) Planning and Coordination</u>			
Salaries (5.0)			\$ 161.5
Other Employment Costs		43.4	
Travel		4.8	
Contractual Services		65.5	
Supplies and Materials		6.5	
Capital Outlay		<u>1.2</u>	
TOTAL -- Planning and Coordination			\$ 282.9
TOTAL -- EXECUTIVE		\$ 55,584.6	\$ 45,989.4
<u>TOIAL POSITIONS</u>			
GF - 345.0			
ASF - 71.0			
NSF - 14.5			
<u>(12-00-00) OTHER ELECTIVE OFFICES</u>			
<u>(12-01-01) Lieutenant Governor</u>			
Salaries (5.0)			\$ 130.2
Other Employment Costs		30.6	
Travel		10.9	
Contractual Services		22.8	
Supplies and Materials		6.4	
Expenses - Lieutenant Governor		<u>6.4</u>	
TOTAL -- Lieutenant Governor			\$ 207.3
<u>(12-02-01) Auditor of Accounts</u>			
(15.0)ASF Salaries (41.0)	\$ 346.9	\$ 1,045.8	
Other Employment Costs	94.7	290.0	
Travel	3.6	4.5	
Contractual Services	197.5	129.2	
Supplies and Materials	10.8	12.5	
Capital Outlay	<u>5.0</u>	<u>6.2</u>	
TOTAL -- Auditor of Accounts	\$ 658.5	\$ 1,488.7	
<u>(12-03-00) Insurance Commissioner</u>			
<u>(12-03-01) Regulatory Activities</u>			
Salaries (17.0)	\$	\$ 433.0	
Other Employment Costs		120.1	
Travel	.8	8.1	
Contractual Services	9.9	164.1	
Supplies and Materials		6.9	
Capital Outlay		4.9	
Malpractice Review		<u>10.6</u>	
TOTAL -- Regulatory Activities	\$ 10.7	\$ 747.7	
<u>(12-03-02) Bureau of Examination, Rehabilitation and Guaranty</u>			
(24.0)ASF Salaries	\$ 821.1		
Other Employment Costs	194.2		
Travel	112.0		
Contractual Services	381.0		

Supplies	42.0	
Capital Outlay	41.2	
Contract Examiners	5,000.0	

TOTAL -- Bureau of Examination, Rehabilitation and Guaranty	\$ 6,591.5	
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TOTAL -- Insurance Commissioner	\$ 6,602.2	\$ 747.7
(12-05-001) State Treasurer		

(12-05-01) Administration

(6.0)ASF Salaries (20.0)	\$ 173.8	\$ 472.7
(1.0)NSF Other Employment Costs	51.9	134.2
Travel	7.2	5.0
Contractual Services	29.8	152.1
Banking Services	970.0	
Supplies and Materials	2.9	10.0
Capital Outlay	9.5	4.1
Data Processing	10.0	
Blood Bank Membership Dues		70.0

TOTAL -- Administration	\$ 1,255.1	\$ 848.1
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(12-05-02) Pensions

(37.2)ASF Salaries (1.3)	\$ 770.8	\$ 33.3
Other Employment Costs	203.1	11.0
Travel	15.8	.8
Contractual Services	4,802.4	3.1
Supplies and Materials	20.1	.5
Capital Outlay	101.2	.5
Data Processing	140.0	
Health Insurance - Retirees		14,559.8
Pensions - Paraplegic Veterans		16.8
Contingency- Filing & Microfilm	25.0	
Pension Increase - 89', 90'		5,428.0
Special Pension Increase - '89		62.0
Retired and Disabled Teachers		10.0

TOTAL -- Pensions	\$ 6,078.4*	\$ 20,125.8
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*All Administrative Expenses are paid out of State Employees Retirement Fund.

(12-05-03) Debt Management

Expense of Issuing Bonds	\$ 152.7
Debt Service - Regular	7,279.8
Debt Service - Local Schools	2,216.2
Debt Service - Farmers Bank Preferred Stock	1,559.5
Debt Service - Solid Waste Authority	450.3
Debt Service - Refunding	720.6
Defeasance Escrow	5.0
Premium/Interest Earnings	\$ 1,800.0

TOTAL -- Debt Management	\$ 11,800.0	\$ 12,384.1
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TOTAL -- State Treasurer	\$ 9,133.5	\$ 33,358.0
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TOTAL -- OTHER ELECTIVE OFFICES	\$ 16,394.2	\$ 35,801.7
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TOTAL POSITIONS

GF - 84.3
ASF - 82.2
NSF - 1.0

(15-00-001) LEGAL(15-01-01) Office of Attorney General

(2.0)ASF Salaries (145.0)	\$ 59.3	\$ 4,044.2
(21.5)NSF Other Employment Costs	16.6	1,018.1

Travel	10.0
Contractual Services	676.6
Energy	9.8
Supplies and Materials	36.8
Capital Outlay	40.7
Extradition	<u>48.0</u>

TOTAL -- Office of Attorney General	\$ 75.9	\$ 5,884.2
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(15-02-01) Public Defender

Salaries (74.0)	\$ 2,186.6
Other Employment Costs	533.0
Travel	1.9
Contractual Services	290.5
Supplies and Materials	23.2
Capital Outlay	<u>35.6</u>

TOTAL -- Public Defender	\$ 3,070.8
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(15-03-01) Board of Parole

Salaries (7.0)	\$ 176.6
Other Employment Costs	44.0
Travel	9.1
Contractual Services	19.1
Supplies and Materials	<u>5.5</u>

TOTAL -- Board of Parole	\$ 254.3
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TOTAL -- LEGAL	\$ 75.9	\$ 9,209.3
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TOTAL POSITIONS

GF - 226.0
 ASF - 2.0
 NSF - 21.5

(20-00-00) DEPARTMENT OF STATE(20-01-00) Office of the Secretary(20-01-01) Administration

Salaries (8.0)	\$	\$ 228.7
Other Employment Costs		47.3
Travel		4.6
Contractual Services		65.3
Supplies and Materials		5.5
Capital Outlay	<u>231.0</u>	<u>12.8</u>

Sub-Total	\$ 231.0	\$ 364.2
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Debt Service		\$ 147.5
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TOTAL -- Administration	\$ 231.0	\$ 511.7
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(20-01-02) Delaware Commission on Veterans Affairs

Salaries (2.0)	\$	41.1
Other Employment Costs		12.6
Travel		4.2
Contractual Services		7.0
Supplies and Materials		1.5
Capital Outlay		<u>2.5</u>

TOTAL -- Delaware Commission on Veterans Affairs		\$ 68.9
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TOTAL -- Office of the Secretary	\$ 231.0	\$ 580.6
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(20-05-01) Division of Corporations

(37.5)ASF Salaries (40.5)	\$ 719.6	\$ 804.5
Other Employment Costs	219.0	184.4
Travel	25.0	2.0
Contractual Services	217.2	187.3
Supplies and Materials	30.0	43.2
Capital Outlay	10.7	10.0
Other Items	<u>5.0</u>	<u> </u>

TOTAL -- Division of Corporations	\$ 1,226.5	\$ 1,231.4
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(20-06-00) Division of Historical and Cultural Affairs(20-06-01) Office of Administration

Salaries (3.7)	\$ 106.3
Other Employment Costs	27.6
Travel	1.0
Contractual Services	11.5
Supplies and Materials	2.0
Capital Outlay	9.5
Heritage Commission	<u>55.0</u>

Sub-Total	\$ 212.9
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Debt Service	\$ <u>195.9</u>
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TOTAL -- Office of Administration	\$ 408.8
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(20-06-02) Archives and Records Management

(4.0)NSF Salaries (12.0)	\$ 236.5
Other Employment Costs	77.5
Travel	1.8
Contractual Services	22.6
Supplies and Materials	10.8
Capital Outlay	<u>9.6</u>

TOTAL -- Archives and Records Management	\$ 358.8
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(20-06-03) Bureau of Archaeology and Historic Preservation

(4.0)NSF Salaries (4.0)	\$ 105.7
Other Employment Costs	27.1
Travel	.6
Contractual Services	8.8
Supplies and Materials	4.2
Capital Outlay	<u>.9</u>

TOTAL -- Bureau of Archaeology and Historic Preservation	\$ 147.3
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(20-06-04) Bureau of Museums and Historic Sites

Salaries (33.5)	\$ 628.5
Other Employment Costs	155.5
Travel	.7
Contractual Services	29.0
Energy	49.7
Supplies and Materials	54.7
Capital Outlay	<u>3.2</u>

Sub-Total	\$ 88.1	\$ 1,032.9
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Debt Service	<u> </u>	\$ <u>126.5</u>
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TOTAL -- Bureau of Museums and Historic Sites	\$ 88.1	\$ 1,159.4
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(20-06-05) Microfilm Services

Salaries (18.0)	\$ 12.4	\$ 323.6
Other Employment Costs	.4	83.1
Travel	1.5	1.6
Contractual Services	16.1	116.3
Supplies and Materials	8.4	78.6

Capital Outlay	6.0	12.0
TOTAL -- Microfilm Services	\$ 44.8	\$ 615.2
<u>(20-06-16) Office of Arts Council</u>		
(3.5)NSF Salaries (4.0)		\$ 83.2
Other Employment Costs		20.3
Travel		4.0
Contractual Services		99.1
Supplies and Materials		1.9
Capital Outlay		1.5
TOTAL -- Office of Arts Council		\$ 210.0
TOTAL -- Division of Historical and Cultural Affairs	\$ 132.9	\$ 2,899.5
<u>(20-15-01) Division of State Banking Commission</u>		
(34.0)ASF Salaries	\$ 788.9	
Other Employment Costs	220.3	
Travel	30.9	
Contractual Services	187.5	
Supplies and Materials	18.3	
Capital Outlay	46.2	
Other Items	2.0	
TOTAL -- Division of State Banking Commission	\$ 1,294.1*	
*Special Funds total budget appropriated per Chapter 1, Title 5, Delaware Code.		
TOTAL -- DEPARTMENT OF STATE	\$ 2,884.5	\$ 4,711.5
<u>TOTAL POSITIONS</u>		
GF - 125.7		
ASF - 71.5		
NSF - 11.5		
<u>(25-00-00) DEPARTMENT OF FINANCE</u>		
<u>(25-01-01) Office of the Secretary</u>		
Salaries (17.0)	\$ 495.6	
Other Employment Costs	133.9	
Travel	7.1	
Contractual Services	122.8	
Supplies and Materials	8.6	
Capital Outlay	10.0	
Other Items	5.0	
TOTAL -- Office of the Secretary	\$ 784.0	
<u>(25-05-01) Division of Accounting</u>		
Salaries (42.0)	\$ 1,068.0	
Other Employment Costs	301.1	
Travel	5.0	
Contractual Services	421.3	
Supplies and Materials	108.5	
Capital Outlay	10.0	
TOTAL -- Division of Accounting	\$ 1,913.9	
<u>(25-06-01) Division of Revenue</u>		
(6.0) ASF Salaries (221.0)	\$ 141.1	\$ 4,721.4
Other Employment Costs	33.9	1,243.3
Travel	3.0	30.8
Contractual Services	71.7	816.1
Energy		1.7
Supplies and Materials	2.8	83.3
Capital Outlay	13.2	191.6

Credit Card Processing		40.5	
Sub-Total	\$	306.2	\$ 7,088.2
Debt Service			\$ 208.4
TOTAL -- Division of Revenue	\$	306.2	\$ 7,296.6
(25-07-01) State Lottery Office			
(22.0)ASF Salaries	\$	517.5	
Other Employment Costs		127.5	
Travel		13.5	
Contractual Services		3,105.1	
Supplies and Materials		23.0	
Capital Outlay		59.6	
Multi-State Lottery		200.0	
TOTAL -- State Lottery Office	\$	4,046.2	
*Special Funds appropriated under Chapter 48, Title 29, Delaware Code.			
TOTAL -- DEPARTMENT OF FINANCE	\$	4,352.4	\$ 9,994.5
TOTAL POSITIONS			
GF - 280.0			
ASF - 28.0			
(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES			
(30-01-00) Administration			
(4.0)ASF Personnel Costs (49.0)	\$	82.8	\$ 1,393.0
Travel			9.4
Contractual		120.5	389.8
Supplies and Materials			41.1
Capital/Equipment			38.5
TOTAL -- Administration	\$	203.3	\$ 1,871.8
(-10) Office of the Secretary (15.0)	\$	548.6	
(1.0)ASF (-20) Fleet Management (2.0)		133.9	127.8
(3.0)ASF (-30) Capitol Police (28.0)		69.4	1,026.8
(-40) Public Employ. Rel. Board (4.0)			168.6
TOTAL -- Internal Program Units	\$	203.3	\$ 1,871.8
(30-03-00) Regulation and Licensing			
(22.0)ASF Personnel Costs (44.0)	\$	852.8	\$ 1,160.0
Travel		44.2	51.8
Contractual		1,334.0	144.4
Supplies and Materials		22.0	18.4
Capital/Equipment		21.5	40.6
TOTAL -- Regulation and Licensing	\$	2,274.5	\$ 1,415.2
(-10) Alcoholic Beverage Control Commission (23.0)	\$	22.0	\$ 691.7
(1.0)ASF (-20) Professional Regulation (21.0)		356.2	723.5
(21.0)ASF (-30) Public Service Commission		1,896.3	
TOTAL -- Internal Program Units	\$	2,274.5	\$ 1,415.2
(30-04-00) Support Operations			
(17.0)ASF Personnel Costs (22.0)	\$	441.7	\$ 470.9
Travel		11.4	
Contractual		6,235.4	25.9
Energy		14.4	
Supplies and Materials		235.7	11.1
Capital/Equipment		141.6	32.2

TOTAL -- Support Operations		\$ 7,080.2	\$ 540.1
(-10) Mail/Courier Services (11.0)	\$ 571.8	\$ 258.2	
(-20) Telephone Services (11.0)	5,186.7	281.9	
(17.0)ASF (-30) Graphics and Printing	<u>1,321.7</u>	<u> </u>	
TOTAL -- Internal Program Units		\$ 7,080.2	\$ 540.1
(30-05-00) Facilities Management			
(5.0)NSF Personnel Costs (95.0)			\$ 2,250.0
Travel			7.5
Contractual			2,391.1
Energy			700.2
Supplies and Materials			128.8
Capital/Equipment			<u>554.1</u>
Sub-Total			\$ 6,031.7
Debt Service			\$ <u>5,349.7</u>
TOTAL -- Facilities Management			\$ 11,381.4
(5.0)NSF (-10) Property Management (20.0)	\$ 6,639.1		
(-20) Building Oper./Maint. (75.0)	<u>4,742.3</u>		
TOTAL -- Internal Program Units		\$ 11,381.4	
(30-06-00) Purchasing			
(6.0)ASF Personnel Costs (18.0)	\$ 124.8	\$ 553.6	
(2.0)NSF Travel	10.7	12.1	
Contractual	83.1	109.9	
Energy	12.2	5.2	
Supplies and Materials	160.7	46.9	
Capital/Equipment	<u>90.6</u>	<u> </u>	
Sub-Total		\$ 482.1	\$ 727.7
Debt Service			\$ <u>1.1</u>
TOTAL -- Purchasing		\$ 482.1	\$ 728.8
(-10) Purchasing (10.0)	\$ 100.0	\$ 385.3	
(2.0)ASF (-20) Surplus Property (2.0)	93.7	98.9	
(4.0)ASF (-30) Food Distribution (6.0)	288.4	244.6	
(2.0)NSF	<u> </u>	<u> </u>	
TOTAL -- Internal Program Units		\$ 482.1	\$ 728.8
TOTAL -- DEPARTMENT OF ADMINISTRATIVE SERVICES		\$ 10,040.1	\$ 15,937.3
TOTAL POSITIONS			
GF - 228.0			
ASF - 49.0			
NSF - 7.0			

(35-00-00) DEPARTMENT OF HEALTH AND SOCIAL SERVICES

(35-01-00) Administration

(11.8)ASF Personnel Costs (110.3)	\$ 295.9	\$ 3,451.5
(51.3)NSF Travel	9.6	9.4
Contractual	146.1	360.8
Energy		49.1
Supplies and Materials	8.8	32.0
Capital/Equipment	40.8	320.3
Statewide Respira Care Program	<u> </u>	<u>75.0</u>
Sub-Total		\$ 501.2 \$ 4,298.1
Debt Service		<u> </u> \$ <u>1,492.0</u>

TOTAL -- Administration		\$ 501.2	\$ 5,790.1
(-10) Office of the Secretary (5.0)	\$ 47.1	\$ 333.1	
(8.8)ASF (-20) Business Administration (79.5)	312.6	3,176.5	
(34.1)NSF			
(3.0)ASF (-30) Health Planning (8.0)	136.4	329.1	
(17.2)NSF (-40) Planning, Research & Eval.(17.8)	<u>5.1</u>	<u>1,951.4</u>	
TOTAL -- Internal Program Units	\$ 501.2	\$ 5,790.1	
<u>(35-04-00) Medical Examiner</u>			
Personnel Costs (28.0)		\$ 1,148.7	
Travel		8.1	
Contractual		72.0	
Energy		32.9	
Supplies and Materials		83.4	
Capital/Equipment		<u>30.0</u>	
Sub-Total		\$ 1,375.1	
Debt Service		\$ <u>62.3</u>	
TOTAL -- Medical Examiner		\$ 1,437.4	
(-01) Medical Examiner (28.0)	\$ <u>1,437.4</u>		
TOTAL -- Internal Program Unit	\$ 1,437.4		
<u>(35-05-00) Public Health</u>			
(20.9)ASF Personnel Costs (373.3)	\$ 698.0	\$ 11,125.1	
(111.6)NSF Travel	7.0	26.4	
Contractual	495.3	1,803.3	
Energy		41.6	
Supplies and Materials	120.3	867.3	
Capital/Equipment	2.1	81.4	
Other Items:			
Renal Disease		228.2	
Streptococcal		11.1	
Right-to-know		37.1	
Treatment of Handicapped		98.0	
AIOS (4.0)		131.8	
Animal Bite Control (1.0)		<u>64.0</u>	
TOTAL -- Public Health	\$ 1,322.7	\$ 14,515.3	
(20.9)ASF (-02) Community Health (378.3)	\$ <u>1,322.7</u>	\$ <u>14,515.3</u>	
(111.6)NSF			
TOTAL -- Internal Program Unit	\$ 1,322.7	\$ 14,515.3	
<u>(35-06-00) Alcoholism, Drug Abuse and Mental Health</u>			
(1.0)ASF Personnel Costs (905.3)	\$ 36.4	\$ 22,843.1	
(20.0)NSF Travel		23.1	
Contractual	8.5	6,655.4	
Energy		1,007.5	
Supplies and Materials	.2	1,667.5	
Capital/Equipment		165.1	
Other Items:			
Sheltered Workshop		9.9	
Residential Oetox		<u>1,054.7</u>	
Sub-Total	\$ 45.1	\$ 33,426.3	
Debt Service		\$ <u>1,479.2</u>	
TOTAL -- Alcoholism, Drug Abuse and Mental Health	\$ 45.1	\$ 34,905.5	
(10.0)NSF (-10) Administration - MH (14.0)	\$	\$ 1,354.9	
(4.0)NSF (-20) Community Mental Health (133.2)		7,656.7	

(1.0)ASF (-30) Inpatient Mental Health (748.1)	44.9	22,756.5
(1.0)NSF		
(5.0)NSF (-40) Alcoholism & Drug Abuse (10.0)	2	3,137.4
TOTAL -- Internal Program Units	\$ 45.1	\$ 34,905.5

(35-07-00) Economic Services

(208.8)NSF Personnel Costs (196.9)		\$ 5,227.1
Travel		11.4
Contractual		1,835.9
Energy		28.1
Supplies and Materials		58.0
Capital/Equipment		39.2
Other Items:		
General Assistance		1,670.0
AFDC		12,352.1
Child Care		1,901.9
SSI Supplement		685.1
Homemaker		95.0
Emergency Assistance		217.0
First Step (9.0)		1,225.2
Medicaid - State		19,780.8
Medicaid - Non-State		30,991.2
TOTAL -- Economic Services		\$ 76,118.0

(208.8)NSF (-01) Economic Services (205.9)	\$ 76,118.0
TOTAL -- Internal Program Unit	\$ 76,118.0

(35-08-00) Visually Impaired

(3.3)ASF Personnel Costs (21.0)	\$ 78.5	\$ 664.7
(23.7)NSF Travel		2.3
Contractual	.4	154.1
Energy		31.4
Supplies and Materials		33.6
Capital/Equipment	4.0	10.0
Business Enterprise Program	516.4	
TOTAL -- Visually Impaired	\$ 599.3	\$ 896.1

(3.3)ASF (-01) Visually Impaired Services (21.0)	\$ 599.3	\$ 896.1
(23.7)NSF		

TOTAL -- Internal Program Unit	\$ 599.3	\$ 896.1
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(35-09 00) Facility-Based Long Term Care

(2.0)NSF Personnel Costs (1,150.8)	\$ 24,659.6
Travel	4.3
Contractual	1,929.8
Energy	1,053.5
Supplies and Materials	2,156.1
Capital/Equipment	114.9

Sub-Total	\$ 29,918.2
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Debt Service	\$ 1,481.9
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TOTAL -- Facility-Based Long Term Care	\$ 31,400.1
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(-10) Delaware Hospital for the Chronically III (721.5)	\$ 18,526.1
(2.0)NSF (-20) Emily Bissell (282.3)	8,305.0
(-30) Governor Bacon (147.0)	4,569.0

TOTAL -- Internal Program Units	\$ 31,400.1
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(25-10-00) Child Support Enforcement

(61.9)NSF Personnel Costs (30.2)	\$	\$ 757.5
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Travel		2.3
Contractual	25.0	278.7
Energy		5.9
Supplies and Materials		14.8
Capital/Equipment		2.0
TOTAL -- Child Support Enforcement	\$ 25.0	\$ 1,061.2
(63.9)NSF (-01) Child Support Enforcement (30.2)	\$ 25.0	\$ 1,061.2
TOTAL -- Internal Program Unit	\$ 25.0	\$ 1,061.2
<u>(35-11-00) Mental Retardation</u>		
Personnel Costs (891.8)	\$	\$ 19,894.5
Travel		7.6
Contractual		1,291.1
Energy		564.3
Supplies and Materials	22.0	939.7
Capital/Equipment		171.2
Other Items:		
Music Stipends		9.6
Purchase of Care		4,845.7
Purchase of Community Services		2,896.4
Post 21 Program		650.0
Sub-Total	\$ 22.0	\$ 31,270.1
Debt Service		\$ 400.6
TOTAL -- Division of Mental Retardation	\$ 22.0	\$ 31,670.7
(-10) Administration -- MR (17.0)	\$	\$ 1,378.8
(-20) Institutional Services (742.0)	22.0	18,999.0
(-30) Community Services (132.8)		11,292.9
TOTAL -- Internal Program Units	\$ 22.0	\$ 31,670.7
<u>(35-15-00) State Service Centers</u>		
(34.3)NSF Personnel Costs (43.2)		\$ 1,178.4
Travel		2.4
Contractual		1,141.0
Energy		289.2
Supplies and Materials		46.8
Capital/Equipment		10.0
Sub-Total		\$ 2,667.8
Debt Service		\$ 116.6
TOTAL -- State Service Centers		\$ 2,784.4
(34.3)NSF (-10) Family Support Services (25.7)	\$ 923.9	
(-20) Service Center Management (17.5)	1,860.5	
TOTAL -- Internal Program Units	\$ 2,784.4	
<u>(35-14-00) Aging</u>		
(10.8)NSF Personnel Costs (25.3)		\$ 747.2
Travel		4.0
Contractual		364.6
Energy		8.3
Supplies and Materials		1.7
Capital/Equipment		2.0
Nutrition Program		155.0
Sub-Total		\$ 1,282.8
Debt Service		\$ 3.9
TOTAL -- Aging		\$ 1,286.7

(10.3)NSF (-10) Community-Based Services (10.7)	\$ 823.5
(.5)NSF (-20) Client Care Services (14.6)	<u>463.2</u>

TOTAL -- Internal Program Units	\$ 1,286.7
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TOTAL -- DEPARTMENT OF HEALTH AND SOCIAL SERVICES	\$ 2,515.3	\$201,865.5
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TOTAL POSITIONS

GF - 3,790.1
ASF - 37.0
NSF - 526.4

(37-00-00) DEPARTMENT OF SERVICES FOR CHILDREN
YOUTH AND THEIR FAMILIES(37-01-00) Administration

(10.0)ASF Personnel Costs (74.2)	\$ 239.5	\$ 2,934.1
(8.4)NSF Travel		8.1
Contractual	370.4	698.1
Supplies and Materials		42.7
Capital/Equipment	<u>10.0</u>	<u>10.3</u>

TOTAL -- Administration	\$ 619.9	\$ 3,693.3
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(-10) Office of the Secretary (5.0)	\$	\$ 250.4
(-15) Office of the Director (3.0)		658.5
(10.0)ASF (-20) Fiscal Operations and		
(2.8)NSF Management (14.6)	619.9	453.8
(-30) Personnel Services (11.6)		324.4
(-35) Center. for Profess. Dev. (4.0)		173.9
(5.6)NSF (-40) Education (36.0)	<u>-----</u>	<u>1,832.3</u>

TOTAL -- Internal Program Units	\$ 619.9	\$ 3,693.3
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(37-02-00) Child Protective Services

(110.0)NSF Personnel Costs (123.0)	\$ 3,245.2
Travel	2.3
Contractual	5,060.9
Energy	27.5
Supplies and Materials	32.2
Capital/Equipment	32.4
Emergency Material Assistance	<u>30.0</u>

TOTAL -- Child Protective Services	\$ 8,430.5
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(3.0)NSF (-10) Office of the Director (18.0)	\$ 645.0
(22.0)NSF (-20) Report Investigation	
and Risk Assessment (28.0)	1,577.8
(38.0)NSF (-30) Family Preservation Services (55.0)	1,615.1
(40.0)NSF (-40) Substitute Care Services (14.0)	3,944.6
(7.0)NSF (-50) Adoption Services (8.0)	<u>648.0</u>

TOTAL -- Internal Program Units	\$ 8,430.5
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(37-03-00) Child Mental Health

Personnel Costs (159.0)	\$ 4,707.3
Travel	16.9
Contractual	7,713.0
Energy	102.5
Supplies and Materials	167.2
Capital/Equipment	<u>36.9</u>

Sub-Total	\$ 12,743.8
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Debt Service	\$ 18.8
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TOTAL -- Child Mental Health	\$ 12,762.6
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(-10) Office of the Director (15.5)	\$ 663.8
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(-15) Youth Diagnostic Services (13.0)	552.3
(-20) Terry Outpatient Treatment (15.5)	541.0
(-30) Terry Day Treatment (24.5)	899.2
(-40) Terry Inpatient Treatment (47.0)	1,379.1
(-50) Outpatient Treatment (7.3)	1,091.8
(-55) Day Treatment (1.1)	523.2
(-60) Residential Treatment (32.2)	3,761.1
(-70) Hospital & Other Individualized Contract Treatment (2.9)	<u>3,351.1</u>
TOTAL -- Internal Program Units	\$ 12,762.6

(37-05-00) Youth Rehabilitation Services

Personnel Costs (180.5)	\$ 5,400.6
Travel	11.5
Contractual	2,574.1
Energy	221.1
Supplies and Materials	198.6
Capital/Equipment	<u>34.4</u>
Sub-Total	\$ 8,440.3
Debt Service	\$ <u>356.5</u>
TOTAL -- Youth Rehabilitation Services	\$ 8,796.8

(-10) Office of the Director (16.5)	\$ 905.9
(-30) Community Based Services (35.0)	1,171.5
(-40) Alternatives to Incarceration (13.0)	2,530.9
(-50) Secure Care (116.0)	<u>4,188.5</u>

TOTAL -- Internal Program Units \$ 8,796.8
(37-08-00) Program Support

(20.6)NSF Personnel Costs (31.4)	\$ 1,018.2
Travel	8.3
Contractual	415.3
Supplies and Materials	17.1
Capital/Equipment	<u>14.3</u>

TOTAL -- Program Support \$ 1,473.2

(5.6)NSF (-20) Planning, Monitoring and Information Systems (7.4)	\$ 429.7
(4.5)NSF (-30) Office of Case Management (10.5)	295.3
(4.0)NSF (-40) Office of Prevention (9.0)	483.6
(6.5)NSF (-50) Licensing (4.5)	<u>264.6</u>

TOTAL -- Internal Program Units \$ 1,473.2

TOTAL -- DEPARTMENT OF SERVICES FOR CHILDREN,
YOUTH AND THEIR FAMILIES \$ 619.9 \$ 35,156.4

TOTAL POSITIONS

GF - 568.1
 ASF - 10.0
 NSF - 139.0

(38-00-00) DEPARTMENT OF CORRECTION(38-01-01) Office of the Commissioner

Salaries (33.0)	\$ 780.4
Other Employment Costs	207.5
Travel	8.2
Contractual Services	45.6
Energy	1.4
Supplies and Materials	9.2
Capital Outlay	5.7
Contingency - New Classifications	400.0
Contingency - Shakedowns	<u>40.0</u>

TOTAL -- Office of the Commissioner \$ 1,498.0

(38-02-00) Bureau of Administration and Operational Support

(38-02-01) Bureau Chief - Administration and Operational Support

Salaries (5.0)	\$ 154.4
Other Employment Costs	44.9
Travel	1.0
Contractual Services	157.7
Energy	18.9
Supplies and Materials	10.0
Capital Outlay	5.0
Medical Services	4,919.7
Contingency-AIOS Education & Counseling	<u>100.0</u>

Sub-Total \$ 5,411.6

Debt Service \$ 7.8

TOTAL -- Bureau Chief - Administration and Operational Support \$ 5,419.4

(38-02-02) Business Office

Salaries (14.0)	\$ 249.3
Other Employment Costs	72.4
Travel	1.0
Contractual Services	6.5
Supplies and Materials	5.0
Capital Outlay	<u>2.2</u>

TOTAL -- Business Office \$ 336.4

(38-02-03) General Administrative Services

Salaries (9.0)	\$ 228.6
Other Employment Costs	67.4
Travel	1.4
Contractual Services	14.8
Supplies and Materials	218.6
Capital Outlay	<u>4.7</u>

TOTAL -- General Administrative Services \$ 535.5

(38-02-04) Food Services

Salaries (42.0)	\$ 971.0
Other Employment Costs	285.4
Travel	1.8
Contractual Services	23.7
Supplies and Materials	2,885.3
Capital Outlay	<u>6.8</u>

TOTAL -- Food Services \$ 4,174.0

(38-02-05) Facilities Maintenance and Construction

Salaries (34.0)	\$ 857.4
Other Employment Costs	245.8
Travel	1.2
Contractual Services	201.7
Supplies and Materials	271.1
Capital Outlay	15.5
Maintenance/Restoration	<u>559.0</u>

Sub-Total \$ 2,151.7

Debt Service		\$	136.4		
TOTAL -- Facilities Maintenance and Construction		\$	2,288.1		
<u>(38-02-06) Personnel</u>					
Salaries (12.0)		\$	286.5		
Other Employment Costs			76.9		
Travel			1.0		
Contractual Services			21.6		
Supplies and Materials			8.9		
Capital Outlay			2.4		
TOTAL -- Personnel		\$	397.3		
<u>(38-02-07) Staff Training</u>					
Salaries (34.0)		\$	773.7		
Other Employment Costs			204.8		
Travel			1.8		
Contractual Services			31.9		
Energy			14.5		
Supplies and Materials			37.2		
Capital Outlay			5.0		
TOTAL -- Staff Training		\$	1,068.9		
TOTAL -- Bureau of Administration and Operational Support		\$	14,219.6		
<u>(38-03-00) Bureau of Industries and Services</u>					
<u>(38-03-01) Bureau Chief - Industries and Services</u>					
Salaries (9.0)		\$	236.7		
Other Employment Costs			62.9		
Travel			2.8		
Contractual Services			28.7		
Supplies and Materials			4.9		
Capital Outlay			3.2		
TOTAL -- Bureau Chief - Industries and Services		\$	339.7		
<u>(38-03-02) Prison Industries</u>					
(8.0)ASF	Salaries (20.0)	\$	169.4	\$	494.4
	Other Employment Costs		44.1		148.5
	Travel		1.0		
	Contractual Services		187.1		26.5
	Energy		2.5		
	Supplies & Materials		463.0		69.2
	Capital Outlay		25.5		
TOTAL -- Prison Industries		\$	892.6	\$	738.6
<u>(38-03-03) Education</u>					
(3.0)NSF	Salaries (19.0)		\$	693.1	
	Other Employment Costs			174.6	
	Travel			1.2	
	Contractual Services			46.0	
	Supplies and Materials			53.3	
	Capital Outlay			15.3	
TOTAL -- Education			\$	983.5	
TOTAL -- Bureau of Industries and Services		\$	892.6	\$	2,061.8
<u>(38-04-00) Bureau of Adult Correction</u>					
<u>(38-04-01) Bureau Chief - Adult Correction</u>					
	Salaries (21.0)		\$	608.8	
	Other Employment Costs			157.4	

Travel	1.7
Contractual Services	227.6
Supplies and Materials	6.8
Capital Outlay	72.3
Gate Money	<u>10.0</u>
Sub-Total	\$ 1,084.6
Debt Service	\$ <u>26.1</u>
TOTAL -- Bureau Chief - Adult Correction	\$ 1,110.7
<u>(38-04-02) Pre-Trial Annex</u>	
Salaries (25.0)	\$ 591.2
Other Employment Costs	166.5
Travel	1.6
Contractual Services	32.9
Energy	21.6
Supplies and Materials	28.5
Capital Outlay	<u>5.9</u>
TOTAL -- Pre-Trial Annex	\$ 848.2
<u>(38-04-03) Delaware Correctional Center</u>	
Salaries (427.0)	\$ 9,600.5
Other Employment Costs	2,761.9
Travel	3.6
Contractual Services	492.5
Energy	602.9
Supplies and Materials	613.6
Capital Outlay	<u>24.1</u>
Sub-Total	\$ 14,099.1
Debt Service	\$ <u>1,234.8</u>
TOTAL -- Delaware Correctional Center	\$ 15,333.9
<u>(38-04-04) Sussex Correctional Institution</u>	
Salaries (163.0)	\$ 3,818.0
Other Employment Costs	1,157.5
Travel	1.4
Contractual Services	123.4
Energy	213.3
Supplies and Materials	127.3
Capital Outlay	<u>12.4</u>
Sub-Total	\$ 5,453.3
Debt Service	\$ <u>378.4</u>
TOTAL -- Sussex Correctional Institution	\$ 5,831.7
<u>(38-04-05) Women's Correctional Institution</u>	
Salaries (43.0)	\$ 1,009.2
Other Employment Costs	271.9
Travel	2.0
Contractual Services	53.5
Energy	88.7
Supplies and Materials	59.5
Capital Outlay	<u>6.5</u>
Sub-Total	\$ 1,491.3
Debt Service	\$ <u>1.1</u>
TOTAL -- Women's Correctional Institution	\$ 1,492.4
<u>(38-04-06) Multi-Purpose Criminal Justice</u>	

Facility

Salaries (213.0)	\$ 4,722.3
Other Employment Costs	1,313.8
Travel	7.5
Contractual Services	233.1
Energy	299.8
Supplies and Materials	228.2
Capital Outlay	12.2
Maintenance/Restoration	<u>8.5</u>

Sub-Total	\$ 6,825.4
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Debt Service	\$ <u>2,107.4</u>
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TOTAL -- Multi-Purpose Criminal Justice Facility (38-04-07) Morris Correctional Institution	\$ 8,932.8
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Salaries (26.0)	\$ 639.2
Other Employment Costs	178.4
Travel	1.0
Contractual Services	35.0
Energy	23.9
Supplies and Materials	31.1
Capital Outlay	<u>3.0</u>

TOTAL -- Morris Correctional Institution	\$ 911.6
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(38-04-08) Transportation

Salaries (28.0)	\$ 843.2
Other Employment Costs	240.8
Travel	4.3
Contractual Services	4.5
Energy	10.4
Supplies and Materials	14.2
Capital Outlay	<u>6.9</u>

TOTAL -- Transportation	\$ <u>1,124.3</u>
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TOTAL -- Bureau of Adult Correction	\$ 35,585.6
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(38-05-00) Bureau of Field Services(38-05-02) Field Operations

Salaries (99.0)	\$ 2,219.7
Other Employment Costs	593.3
Travel	1.4
Contractual Services	344.4
Energy	10.6
Supplies and Materials	11.4
Capital Outlay	5.6
House Arrest/Hardware	<u>42.0</u>

TOTAL -- Field Operations	\$ 3,228.4
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(38-05-03) Special Services

Salaries (32.0)	\$ 668.9
Other Employment Costs	195.8
Travel	.6
Contractual Services	19.8
Supplies and Materials	<u>3.1</u>

TOTAL -- Special Services	\$ 888.2
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(38-05-04) Administrative Services

Salaries (24.0)	\$ 403.2
Other Employment Costs	105.8
Travel	.8

Contractual Services		19.5	
Supplies and Materials		3.5	
Capital Outlay		<u>8.2</u>	
TOTAL -- Administrative Services		\$	541.0
<u>(38-05-05) Community Corrections</u>			
Salaries (71.0)	\$	21.2	\$ 1,350.2
Other Employment Costs		3.9	385.5
Travel			3.4
Contractual Services		10.0	86.6
Energy			54.0
Supplies and Materials		13.0	52.9
Capital Outlay		<u>3.0</u>	<u>10.4</u>
Sub-Total	\$	51.1	\$ 1,943.0
Debt Service			<u>\$ 27.3</u>
TOTAL -- Community Corrections		<u>\$ 51.1</u>	<u>\$ 1,970.3</u>
TOTAL -- Bureau of Field Services		<u>\$ 51.1</u>	<u>\$ 6,627.9</u>
TOTAL -- DEPARTMENT OF CORRECTION	\$	943.7	\$ 59,992.9
<u>EQIAL POSITIONS</u>			
GF -		1,403.0	
ASF -		8.0	
NSF -		3.0	
<u>(40-00-00) DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL</u>			
<u>(40-01-00) Department Management</u>			
(10.0)ASF Personnel Costs (29.5)	\$	307.9	\$ 993.8
(9.5)NSF Travel		2.9	4.9
Contractual		13.4	88.7
Energy			17.2
Supplies and Materials		107.2	19.3
Capital/Equipment		5.2	24.7
Conservationist Magazine			<u>55.0</u>
Sub-Total	\$	436.6	\$ 1,203.6
Debt Service			<u>\$ 2,523.1</u>
TOTAL -- Department Management	\$	436.6	\$ 3,726.7
(10.0)ASF (-01) Department Management (29.5)	\$	436.6	\$ 3,726.7
(9.5)NSF			
TOTAL -- Internal Program Units	\$	436.6	\$ 3,726.7
<u>(40-05-00) Fish and Wildlife</u>			
(42.5)ASF Personnel Costs (65.0)	\$	1,471.4	\$ 1,882.7
(1.5)NSF Travel		39.8	10.3
Contractual		1,283.2	644.3
Energy		22.0	60.9
Supplies and Materials		515.8	284.2
Capital/Equipment		1,537.1	66.1
Spraying and Insecticides			350.5
Oyster Seeding & Cultivation			50.0
Other Items		<u>58.1</u>	<u>10.0</u>
Sub-Total	\$	4,927.4	\$ 3,359.0
Debt Service			<u>\$ 616.1</u>
TOTAL -- Fish and Wildlife	\$	4,927.4	\$ 3,975.1

	(-01) Management and Support		
(1.0)ASF	Fish & Wildlife (1.5)	\$ 123.6	\$ 609.4
(41.5)ASF	(-02) Wildlife/Fisheries (15.5)	4,690.3	931.4
	(-04) Mosquito Control (17.0)	10.0	997.8
	(-05) Dog Control	103.5	358.0
(1.5)NSF	(-06) Fish & Wildlife Enforcement(31.0)		<u>1,078.5</u>

TOTAL -- Internal Program Units \$ 4,927.4 \$ 3,975.1

(40-06-00) Parks and Recreation

(37.5)ASF	Personnel Costs (76.5)		\$ 2,242.5	\$ 2,139.0
	Travel		22.3	2.7
	Contractual		724.7	68.8
	Energy		81.0	152.1
	Supplies and Materials		893.5	42.1
	Capital/Equipment		2,226.2	115.2
	Other Items		<u>735.5</u>	<u>10.0</u>

Sub-Total \$ 6,925.7 \$ 2,529.9

Debt Service \$ 70.0 \$ 1,254.5

TOTAL -- Parks and Recreation \$ 6,995.7 \$ 3,784.4

	(-01) Management & Support		
(3.0)ASF	Parks and Recreation (6.0)	\$ 57.3	\$ 1,473.7
(29.5)ASF	(-02) Operations & Maintenance (50.5)	4,117.7	1,602.3
(3.0)ASF	(-03) Special Programs (5.0)	250.0	190.6
(2.0)ASF	(-04) Parks Technical Services (15.0)	<u>2,570.7</u>	<u>512.8</u>

TOTAL -- Internal Program Units \$ 6,995.7 \$ 3,784.4

(40-07-00) Soil and Water Conservation

	Personnel Costs (40.0)		\$ 2.6	\$ 1,088.6
	Travel		2.5	4.8
	Contractual		669.1	479.4
	Energy			50.5
	Supplies and Materials		4.0	222.4
	Capital/Equipment		6.0	48.6
	New Castle County Oredge			150.0
	Tax Oitches*			<u>180.0</u>

Sub-Total \$ 684.2 \$ 2,224.3

Debt Service \$ 1,285.4

TOTAL -- Soil and Water Conservation \$ 684.2 \$ 3,509.7

	(-01) Management & Support		
	Soil & Water (6.0)	\$	\$ 759.3
	(-02) Drainage (8.0)		1,036.8
	(-03) Beach Preservation (11.0)	671.2	682.5
	(-04) District Operations (3.0)		325.4
	(-05) Oredge Operations (12.0)	<u>13.0</u>	<u>705.7</u>

TOTAL -- Internal Program Units \$ 684.2 \$ 3,509.7

*Pursuant to Section 3921, Title 7, Delaware Code

(40-08-00) Water Resources

(43.0)ASF	Personnel Costs (64.0)		\$ 1,239.4	\$ 2,163.1
(24.0)NSF	Travel		15.5	16.7
	Contractual		263.7	367.1
	Energy			44.3
	Supplies and Materials		106.2	122.8
	Capital/Equipment		265.4	68.1
	Inland Bay Research Study			200.0
	Water Resources Agency			<u>15.0</u>

Sub-Total \$ 1,890.2 \$ 2,997.1

(-20) Communication (16.0)	89.7	730.3
(22.5)NSF (-30) EPD (7.5)		282.9
(1.0)NSF (-40) Highway Safety (4.0)		165.5

TOTAL -- Internal Program Units	\$ 224.7	\$ 2,178.5
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(45-06-00) State Police

(6.0)ASF Personnel Costs (638.0)	\$ 814.0	\$ 23,493.0
Travel	25.0	30.7
Contractual	138.8	1,693.3
Energy		198.9
Supplies and Materials	126.6	1,028.3
Capital/Equipment	171.0	811.6
Other Items	1.0	7,296.4

Sub-Total	\$ 1,276.4	\$ 34,552.2
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Debt Service		\$ 279.0
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TOTAL -- State Police	\$ 1,276.4	\$ 34,831.2
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(-01) Executive (37.0)	\$	\$ 9,614.9
(3.0)ASF (-03) Patrol (333.0)	159.7	13,883.2
(-04) Criminal Investigation (79.0)		3,199.9
(-05) Special Investigation (20.0)		849.5
(-06) Aviation (18.0)		1,152.6
(3.0)ASF (-07) Traffic (21.0)	1,056.7	790.7
(-08) State Bureau of Identification (28.0)	60.0	731.8
(-09) Training (6.0)		305.5
(-10) Communications (75.0)		2,554.6
(-11) Transportation (17.0)		1,572.2
(-12) Community Relations (4.0)		176.3

TOTAL - Internal Program Units	\$ 1,276.4	\$ 34,831.2
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(45-07-00) Licenses, Taxes & Registrations

(1.0)ASF Personnel Costs (212.0)	\$ 17.7	\$ 4,996.5
Travel	5.0	19.4
Contractual	219.2	539.3
Energy		84.2
Supplies and Materials	10.0	433.2
Capital/Equipment	25.0	19.1

Sub-Total	\$ 276.9	\$ 6,091.7
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Debt Service		\$ 108.6
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TOTAL -- Licenses, Taxes & Registrations	\$ 276.9	\$ 6,200.3
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(-01) Administration - t f & R (29.0)	\$ 259.0	\$ 1,155.8
(1.0)ASF (-10) Driver Services (67.0)	17.9	1,762.8
(-20) Vehicle Services (101.0)		2,680.9
(-30) Motor Fuel Tax (15.0)		600.8

TOTAL -- Internal Program Units	\$ 276.9	\$ 6,200.3
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TOTAL -- DEPARTMENT OF PUBLIC SAFETY	\$ 1,778.0	\$ 43,210.0
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TOTAL POSITIONS

GF - 897.5
ASF - 7.0
NSF - 23.5

(50-00-00) DEPARTMENT OF COMMUNITY AFFAIRS(50-01-00) Office of the Secretary(50-01-01) Administration

(2.5) ASF Salaries (12.0)	\$ 50.8	\$ 108.4
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Other Employment Costs	18.6	73.6
Travel		8.1
Contractual Services		109.6
Supplies and Materials		10.5
Capital Outlay	<u>11.0</u>	
Sub-Total	\$ 80.4	\$ 510.2
Debt Service		<u>\$ 96.1</u>
TOTAL -- Administration	\$ 80.4	\$ 606.3
<u>(50-01-02) Commission for Women</u>		
Salaries (3.0)		\$ 61.2
Other Employment Costs		19.6
Travel		4.4
Contractual Services		18.3
Supplies and Materials		<u>2.4</u>
TOTAL -- Commission for Women		\$ 105.9
<u>(50-01-03) Office of Handicapped Services</u>		
(4.6)NSF Salaries (1.5)		\$ 25.9
Other Employment Costs		7.1
Travel		.5
Contractual Services		4.1
Supplies and Materials		<u>.3</u>
TOTAL -- Office of Handicapped Services		<u>\$ 37.9</u>
TOTAL -- Office of the Secretary	\$ 80.4	\$ 750.1
<u>(50-02-01) Division of Community Services</u>		
(12.0)NSF Salaries (3.0)		\$ 93.1
Other Employment Costs		21.5
Travel		4.8
Contractual Services		22.6
Supplies and Materials		5.8
Congregate Feeding		<u>35.0</u>
TOTAL -- Division of Community Services		\$ 182.8
<u>(50-03-00) Division of Volunteer Services</u>		
<u>(50-03-01) Volunteer Services</u>		
(1.0)ASF Salaries (4.5)	\$ 19.4	\$ 99.4
Other Employment Costs	3.7	23.3
Travel	.4	2.6
Contractual Services	2.4	15.9
Supplies and Materials	.6	1.4
Kent County RSVP		<u>22.0</u>
TOTAL -- Volunteer Services	\$ 26.5	\$ 164.6
<u>(50-03-02) Foster Grandparents Program</u>		
Salaries (6.8)		\$ 162.0
Other Employment Costs		44.4
Travel		1.7
Contractual Services		573.3
Supplies and Materials		<u>5.3</u>
TOTAL -- Foster Grandparents Program		\$ 786.7
<u>(50-03-04) RSVP - New Castle</u>		
(2.4)NSF Salaries (3.1)		\$ 53.9
Other Employment Costs		11.0
Travel		3.5

Contractual Services		33.9	
Supplies and Materials		<u>5.9</u>	
TOTAL -- RSVP - New Castle	\$	108.2	
<u>(50-03-05) RSVP - Sussex</u>			
(1.4)NSF Salaries (2.8)	\$	46.6	
Other Employment Costs		10.7	
Travel		1.9	
Contractual Services		19.5	
Supplies and Materials		<u>3.0</u>	
TOTAL -- RSVP - Sussex		<u>81.7</u>	
TOTAL -- Division of Volunteer Services	\$	26.5	\$ 1,141.2
<u>(50-04-01) Office of the Public Advocate</u>			
(1.0)ASF Salaries (2.0)	\$	32.7	\$ 70.7
Other Employment Costs		9.7	16.3
Travel		4.4	4.0
Contractual Services		73.8	16.4
Supplies and Materials		<u>5.4</u>	<u>3.3</u>
TOTAL -- Office of the Public Advocate	\$	126.0	\$ 110.7
<u>(50-06-01) Office of Human Relations</u>			
(1.0)ASF Salaries (9.0)	\$	22.4	\$ 222.1
Other Employment Costs		4.6	55.9
Travel		3.0	8.0
Contractual Services		.1	25.7
Supplies and Materials		<u>—</u>	<u>3.7</u>
TOTAL -- Office of Human Relations	\$	30.1	\$ 315.4
<u>(50-10-01) Division of Libraries</u>			
(2.0)ASF Salaries (10.0)	\$	32.6	\$ 194.6
(10.0)NSF Other Employment Costs		9.8	60.2
Travel		1.0	2.5
Contractual Services		11.8	212.6
Energy		.2	—
Supplies and Materials		4.2	39.4
Capital Outlay		—	9.7
Library Standards		—	791.2
Book Bank		<u>10.0</u>	<u>—</u>
Sub-Total	\$	69.6	\$ 1,310.2
Debt Service		<u>—</u>	<u>2.9</u>
TOTAL -- Division of Libraries	\$	69.6	\$ 1,313.1
<u>(50-11-01) Division of Consumer Affairs</u>			
Salaries (12.0)	\$	302.5	
Other Employment Costs		79.3	
Travel		5.3	
Contractual Services		23.4	
Supplies and Materials		<u>3.6</u>	
TOTAL -- Division of Consumer Affairs		<u>414.1</u>	
TOTAL -- DEPARTMENT OF COMMUNITY AFFAIRS	\$	332.6	\$ 4,227.4
<u>TOTAL POSITIONS</u>			
GF - 69.7			
ASF - 7.5			
NSF - 30.4			

(55-00-00) DEPARTMENT OF TRANSPORTATION(55-01-01) Office of the Secretary

Salaries (2.0)	\$ 93.7
Other Employment Costs	19.0
Travel	2.1
Contractual Services	5.0
Supplies and Materials	<u>1.4</u>

TOTAL -- Office of the Secretary	\$ 121.2
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(55-02-01) Office of Administration

Salaries (62.0)	\$ 1,628.3
Other Employment Costs	438.6
Travel	5.5
Contractual Services	326.8
Supplies and Materials	20.9
Capital Outlay	<u>39.0</u>

TOTAL -- Office of Administration	\$ 2,459.1
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(55-04-00) Division of Highways(55-04-01) Office of the Director

(5.0)NSF Salaries (57.0)	\$ 1,735.5
Other Employment Costs	463.2
Travel	33.0
Contractual Services	246.7
Supplies and Materials	156.2
Capital Outlay	<u>23.0</u>

TOTAL -- Office of the Director	\$ 2,657.6
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(55-04-10) Pre-Construction

(97.0)NSF Salaries (42.0)	\$ 1,579.6
Other Employment Costs	<u>443.5</u>

TOTAL -- Pre-Construction	\$ 2,023.1
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(55-04-30) Bureau of Materials and Research

(47.0)NSF Salaries (11.0)	\$ 469.2
Other Employment Costs	126.7
Travel	3.1
Contractual Services	24.9
Supplies and Materials	25.1
Capital Outlay	<u>22.0</u>

TOTAL -- Bureau of Materials and Research	\$ 671.0
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(55-04-40) Bureau of Construction

(112.0)NSF Salaries (79.0)	\$ 2,426.8
Other Employment Costs	<u>680.2</u>

TOTAL -- Bureau of Construction	\$ 3,107.0
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(55-04-50) Bureau of Traffic

(5.0)NSF Salaries (104.0)	\$ 2,253.7
Other Employment Costs	623.7
Travel	1.8
Contractual Services	713.6
Energy	402.2
Supplies and Materials	723.6
Capital Outlay	<u>38.4</u>

TOTAL -- Bureau of Traffic	\$ 4,757.0
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(55-04-60) Field Services

(2.0)NSF	Salaries (12.0)	\$ 386.8
	Other Employment Costs	<u>99.9</u>
TOTAL -- Field Services		\$ 486.7

(55-04-70) Bureau of Maintenance

	Salaries (574.0)	\$ 11,131.4
	Other Employment Costs	3,509.9
	Travel	7.5
	Contractual Services	170.2
	Energy	582.8
	Supplies and Materials	<u>545.2</u>
TOTAL -- Bureau of Maintenance		\$ 15,947.0
TOTAL -- Division of Highways		\$ 29,649.4

(55-06-01) Delaware Transportation Authority

(13.0)NSF	Delaware Transportation Authority	
	Operations	\$ 1,002.9
	Delaware Transportation Authority	
	Capital	1,576.9
(121.0)NSF	Turnpike Operations	4,212.3
	Turnpike Operating Reserve	48.3*
	Turnpike Improvements	2,535.0
	Interstate Operations	2,172.9
	Interstate Improvements	1,139.7
	OART Operations "Public"	3,478.6
	OAST Operations "E & H"	829.0
	Taxi Services Support "E & H"	135.0
	Newark Transportation	39.3
	Kent and Sussex Transportation	
	"E & H"	682.1
	Rail Commuter Operations	1.0
	Rail Freight Improvements	240.0
	Aviation	25.0
	Contingencies	15.0
	Doover Transportation "E & H"	95.9
	Doover Capital "E & H"	34.0
	Administrative Support, 001	50.0
	Maintenance/Equipment	<u>8,532.8</u>
Sub-Total		\$ 26,852.7
	Debt Service	
	Motor Fuel Tax Bonds	\$ 13,841.0
	Turnpike Bonds	8,104.0
	General Obligations	32,728.8
	Transportation Trust Fund	<u>5,722.0</u>
TOTAL -- Delaware Transportation Authority		\$ 87,303.5**

*The Turnpike Operating Reserve Fund is established at \$331.9.

**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	\$87,303.5	\$ 32,229.7
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TOTAL POSITIONS

GF - 943.0
NSF - 402.0

(60-00-00) DEPARTMENT OF LABOR(60-01-00) Administration

(7.2)ASF Personnel Costs (1.8)		\$ 288.9	\$ 67.4
(17.0)NSF Travel		5.0	1.0
Contractual		40.5	11.4
Supplies and Materials		<u>3.7</u>	<u>.6</u>
TOTAL -- Administration		\$ 338.1	\$ 80.4
(7.2)ASF (-10) Office of the Secretary (.8)	\$ 338.1	\$ 37.5	
(17.0)NSF (-20) Office of Labor Market Information (1.0)		<u>42.9</u>	
TOTAL -- Internal Program Units	\$ 338.1	\$ 80.4	
<u>(60-06-00) Unemployment Insurance</u>			
(3.0)ASF Personnel Costs		\$ 80.4	\$
(166.0)NSF Travel		.3	
Contractual		20.9	31.9
Supplies and Materials		<u>14.8</u>	
TOTAL -- Unemployment Insurance		\$ 116.4	\$ 31.9
(3.0)ASF (-01) Unemployment Insurance	\$ <u>116.4</u>	\$ <u>31.9</u>	
(166.0)NSF			
TOTAL -- Internal Program Units	\$ 116.4	\$ 31.9	
<u>(60-07-00) Industrial Affairs</u>			
(6.5)NSF Personnel Costs (39.5)		\$	\$ 1,081.2
Travel		8.0	15.0
Contractual		5,000.0	126.7
Supplies and Materials		3.7	15.0
Capital/Equipment		<u>80.0</u>	<u>5.0</u>
TOTAL -- Industrial Affairs		\$ 5,091.7	\$ 1,242.9
(6.5)NSF (-01) Industrial Affairs (39.5)	\$ <u>5,091.7</u>	\$ <u>1,242.9</u>	
TOTAL -- Internal Program Units	\$ 5,091.7	\$ 1,242.9	
<u>(60-08-00) Vocational Rehabilitation</u>			
(6.2)ASF Personnel Costs		\$ 221.0	\$
(134.8)NSF			
Contractual			1,259.0
Supplies and Materials			33.6
Sheltered Workshop			293.4
Governor's Committee			<u>11.5</u>
TOTAL -- Vocational Rehabilitation		\$ 221.0	\$ 1,597.5
(6.2)ASF (-10) Vocational Rehabilitation			
(86.8)NSF Services	\$ 221.0	\$ 1,597.5	
(48.0)NSF (-20) Disability Determination Services			
TOTAL -- Internal Program Units	\$ 221.0	\$ 1,597.5	
<u>(60-09-00) Employment and Training</u>			
(1.0)ASF Personnel Costs (21.1)		\$ 43.8	\$ 555.2
(93.3)NSF Travel		.5	7.4
Contractual		998.5	102.0
Supplies and Materials		1.1	6.8
Capital/Equipment			3.0
Women's Vocational Services			48.2
Dislocated Workers' Program			92.2
Summer Youth Program			<u>145.7</u>
TOTAL -- Employment and Training		\$ 1,043.9	\$ 960.5

(63.3)NSF (-10) Placement Services (7.0)	\$		\$ 222.4
(1.0)ASF (-20) Training Services (14.1)		<u>1,043.9</u>	<u>738.1</u>
(30.0)NSF			

TOTAL -- Internal Program Units	\$	1,043.9	\$ 960.5
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TOTAL -- DEPARTMENT OF LABOR			<u>\$ 6,811.1</u>	<u>\$ 3,913.2</u>
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TOTAL POSITIONS

GF - 62.4
ASF - 17.4
NSF - 417.6

(65-00-00) DEPARTMENT OF AGRICULTURE(65-01-00) Resource Management

(2.0)ASF Personnel Costs (34.0)	\$	64.1	\$ 1,019.7
(2.0)NSF Travel		10.4	9.5
Contractual		56.3	191.2
Energy		5.4	47.3
Supplies and Materials		77.4	27.1
Capital/Equipment		<u>40.8</u>	<u>37.5</u>

Sub-Total	\$	254.4	\$ 1,332.3
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Debt Service			<u>\$ 56.3</u>
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TOTAL -- Resource Management	\$	254.4	\$ 1,388.6
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(1.0)ASF (-01) Administration (13.0)	\$	44.4	\$ 588.9
(-02) Agricultural Lands Preservation (3.0)			130.5
(1.0)ASF (-03) Forestry (17.0)		210.0	528.4
(2.0)NSF (-04) Harness Racing Commission (1.0)			<u>140.8</u>

TOTAL -- Internal Program Units	\$	254.4	\$ 1,388.6
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(65-02-00) Consumer Protection

(.5)ASF Personnel Costs (30.5)	\$	13.5	\$ 868.9
(1.0)NSF Travel			10.5
Contractual		.2	61.2
Energy			15.3
Supplies and Materials		1.4	41.1
Capital/Equipment		<u>9.3</u>	<u>21.8</u>

Sub-Total	\$	24.4	\$ 1,018.8
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Debt Service			<u>\$ 9.8</u>
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TOTAL -- Consumer Protection	\$	24.4	\$ 1,028.6
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(-02) Agriculture Compliance Lab (7.0)	\$	11.2	\$ 266.8
(-03) Weights & Measures (7.0)			216.4
(-05) Meat Inspection (14.0)			467.6
(.5)ASF (-07) Pesticides Compliance (2.5)		<u>13.2</u>	<u>77.8</u>
(1.0)NSF			

TOTAL -- Internal Program Units	\$	24.4	\$ 1,028.6
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(65-04-00) Promotion and Production Support

(14.5)ASF Personnel Costs (23.5)	\$	514.0	\$ 722.1
Travel		8.7	18.2
Contractual		11.4	323.6
Energy		1.2	20.3
Supplies and Materials		24.0	54.9
Capital/Equipment		13.0	22.0
Agriculture Development Program			<u>60.7</u>

TOTAL -- Promotion and Production Support		\$ 572.3	\$ 1,221.8
(10.5)ASF	(-04) Agriculture Products Grading (2.5)\$ 333.8	\$ 98.8	
	(-05) Marketing & Product Devel (4.0) 2.5	321.6	
	(-06) Plant Industry (6.0)	389.0	
	(-07) Poultry & Animal Health (8.0)	308.5	
(4.0)ASF	(-08) Seed Lab (3.0) 236.0	103.9	
TOTAL -- Internal Program Units		\$ 572.3	\$ 1,221.8
TOTAL -- DEPARTMENT OF AGRICULTURE		\$ 851.1	\$ 3,639.0

TOTAL POSITIONS

GF -88.0

ASF -17.0

NSF - 3.0

(70-00-00) DEPARTMENT OF ELECTIONS(70-01-01) Commissioner of Elections

Salaries (6.0)	\$ 134.2
Other Employment Costs	35.7
Travel	.8
Contractual Services	23.7
Supplies and Materials	3.7
Capital Outlay	8.0

TOTAL -- Commissioner of Elections	\$ 198.9
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(70-02-01) New Castle County Department of Elections

Salaries (11.0)	\$ 259.1
Other Employment Costs	58.4
Travel	5.4
Contractual Services	190.9
Energy	.9
Supplies and Materials	7.7
Capital Outlay	6.0

TOTAL -- New Castle County Department of Elections	\$ 528.4
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(70-03-01) Kent County Department of Elections

Salaries (5.0)	\$ 127.6
Other Employment Costs	38.1
Travel	.8
Contractual Services	45.2
Energy	3.9
Supplies and Materials	4.3
Capital Outlay	1.0
Other Items	5.7

TOTAL -- Kent County Department of Elections	\$ 226.6
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(70-04-01) Sussex County Department of Elections

Salaries (4.0)	\$ 120.0
Other Employment Costs	23.4
Travel	1.4
Contractual Services	26.7
Supplies and Materials	4.9
Other Items	8.0

TOTAL -- Sussex County Department of Elections	\$ 184.4
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TOTAL -- DEPARTMENT OF ELECTIONS	\$ 1,138.3
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TOTAL POSITIONS

GF - 26.0

(75-00-00) FIRE PREVENTION COMMISSION

(75-01-01) Office of the State Fire Marshal

(15.4)ASF Salaries (19.6)	\$ 336.9	\$ 533.5
Other Employment Costs	100.9	151.3
Travel	12.9	6.2
Contractual Services	53.5	59.9
Energy		11.1
Supplies and Materials	25.9	29.2
Capital Outlay	20.3	44.0
Juvenile Firesetter Intervention Program		10.0

Sub-Total	\$ 550.4	\$ 845.2
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Debt Service		\$ 5.4
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TOTAL -- Office of the State Fire Marshal	\$ 550.4	\$ 850.6
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(75-02-01) State Fire School

(5.3)NSF Salaries (12.7)	\$	\$ 324.4
Other Employment Costs		100.6
Travel	2.0	2.0
Contractual Services	20.0	119.1
Energy		48.8
Supplies and Materials	10.0	37.3
Capital Outlay		20.0

Sub-Total	\$ 32.0	\$ 652.2
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Debt Service		\$ 230.4
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TOTAL -- State Fire School	\$ 32.0	\$ 882.6
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(75-03-01) State Fire Prevention Commission

Salaries (1.0)	\$	\$ 15.8
Other Employment Costs		6.1
Travel		16.0
Contractual Services		20.3
Supplies and Materials		1.2
Statewide Fire Safety Education		50.0

TOTAL -- State Fire Prevention Commission		\$ 109.4
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TOTAL -- FIRE PREVENTION COMMISSION	\$ 582.4	\$ 1,842.6
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TOTAL POSITIONS

GF -33.3

ASF -15.4

NSF - 5.3

(76-00-00) DELAWARE NATIONAL GUARD(76-01-01) Delaware National Guard

(43.6) NSF Salaries (30.4)	\$	\$ 750.6
Other Employment Costs		198.2
Travel		4.3
Contractual Services		232.1
Energy		330.2
Supplies and Materials		97.4
Capital Outlay		82.1
Educational Assistance		65.0
Sick-Leave Entitlements		19.5
Unit Fund Allowance		15.0

Sub-Total	\$ 1,794.4
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Debt Service	\$ 186.2
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TOTAL -- DELAWARE NATIONAL GUARD \$ 1,980.6

TOTAL POSITIONS

GF - 30.4

NSF - 43.6

(77-00-00) ADVISORY COUNCIL FOR
EXCEPTIONAL CITIZENS

Salaries (2.0)	\$ 28.9
Other Employment Costs	5.3
Travel	4.8
Contractual Services	4.1
Supplies and Materials	.4
Capital Outlay	<u>.3</u>

TOTAL -- ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS \$ 43.8

TOTAL POSITIONS

GF - 2.0

(90-00-00) HIGHER EDUCATION

(90-01-00) University of Delaware

(90-01-01) University of Delaware

Operations	\$ 56,261.8
Scholarships	2,909.3
Agricultural Programs	528.7
Other Programs	<u>3,131.8</u>

Sub-Total \$ 62,831.6

Debt Service \$ 5,091.0

TOTAL -- University of Delaware \$ 68,722.6

(90-01-02) Delaware Geological Survey

Operations	\$ 701.4
River Master Program	<u>54.0</u>

TOTAL -- Delaware Geological Survey \$ 755.4

TOTAL -- University of Delaware \$ 69,478.0

(90-02-01) Delaware Institute of Medical
Education and Research

Operations	\$ <u>1,708.7</u>
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TOTAL -- Delaware Institute of Medical Education
and Research \$ 1,708.7

(90-03-00) Delaware State College

(90-03-01) Executive Services

(2.9)NSF Salaries (13.7)	\$ 304.1
Other Employment Costs	83.3
Travel	14.5
Contractual Services	32.5
Supplies and Materials	12.0
Work Study	2.2
Library Improvements (2.0)	259.8
Contingency - Salaries	<u>82.5</u>

TOTAL -- Executive Services \$ 790.9

(90-03-02) Academic Affairs

(35.8)NSF	Salaries (213.0)	\$ 6,003.7
	Other Employment Costs	1,625.4
	Travel	20.2
	Contractual Services	363.5
	Supplies and Materials	184.8
	Capital Outlay	335.7
	Summer School for Teachers	36.0
	Work Study	22.9
	Faculty Development	100.0
	Mishoe Scholarships	50.0
	Cooperative Extension	15.1
	Cooperative State Research	<u>88.6</u>

TOTAL -- Academic Affairs \$ 8,845.9

(90-03-03) Student Affairs

(37.9)NSF	Salaries (37.8)	\$ 752.2
	Other Employment Costs	224.5
	Travel	8.0
	Contractual Services	261.7
	Supplies and Materials	56.6
	Title VI Compliance	120.0
	Academic Incentive	50.0
	General Scholarships	86.0
	Athletic Grant	83.1
	Work Study	<u>84.0</u>

TOTAL -- Student Affairs \$ 1,726.1

(90-03-04) Business and Fiscal Affairs

(16.0)NSF	Salaries (123.8)	\$ 2,273.3
	Other Employment Costs	738.6
	Travel	8.0
	Contractual Services	486.5
	Energy	785.4
	Supplies and Materials	232.4
	Capital Outlay	333.7
	Work Study	<u>19.2</u>

Sub-Total \$ 4,877.8

Debt Service \$ 1,659.2

TOTAL -- Business and Fiscal Affairs \$ 6,537.5

(90-03-05) Sponsored Programs and Research

(37.5)NSF Salaries \$ _

TOTAL -- Sponsored Programs and Research \$ _

TOTAL -- Delaware State College \$ 17,900.4

TOTAL POSITIONS -- Delaware State College

Gf - 390.3

NSF - 130.1

(90-04-00) Delaware Technical and Community College

(90-04-01) Office of the President

(5.0)NSF	Salaries (34.0)	\$ 1,400.6
	Other Employment Costs	335.5
	Travel	6.5
	Contractual Services	192.5
	Energy	14.3
	Supplies and Materials	30.9
	Capital Outlay	23.3

Occupational Teacher Program		36.8
Academic Incentive		50.0
Dental Program		65.0
Salary Plan A Contingency		1,187.7
Salary Plan B Contingency		<u>238.0</u>
Sub-Total		\$ 3,581.1
Debt Service		<u>\$ 151.8</u>
TOTAL -- Office of the President		\$ 3,732.9
<u>(90-04-02) Southern Campus</u>		
(34.0)NSF Salaries (139.0)	\$	4,223.2
Other Employment Costs		1,145.8
Travel		5.8
Contractual Services		570.3
Energy		232.5
Supplies and Materials		58.6
Capital Outlay		96.5
NDSL Match		6.6
Aid to Needy Students		42.7
Work Study		<u>16.5</u>
Sub-Total		\$ 6,398.5
Debt Service		<u>\$ 702.3</u>
TOTAL -- Southern Campus		\$ 7,100.8
<u>(90-04-04) Wilmington Campus</u>		
(17.0)NSF Salaries (110.0)	\$	3,234.5
Other Employment Costs		790.1
Travel		4.0
Contractual Services		463.0
Energy		283.6
Supplies and Materials		47.1
Capital Outlay		84.3
Aid to Needy Students		47.0
Work Study		20.0
Other Items		<u>8.0</u>
Sub-Total	\$	8.0 \$ 4,973.6
Debt Service		<u>\$ 1,451.5</u>
TOTAL -- Wilmington Campus	\$	8.0 \$ 6,425.1
<u>(90-04-05) Stanton Campus</u>		
(26.0)NSF Salaries (133.0)	\$	4,127.4
Other Employment Costs		1,073.5
Travel		5.0
Contractual Services		53.7
Energy		75.6
Supplies and Materials		91.1
Capital Outlay		85.2
Aid to Needy Students		37.5
Work Study		21.0
Other Items		<u>10.0</u>
Sub-Total	\$	10.0 \$ 5,570.0
Debt Service		<u>\$ 721.6</u>
TOTAL -- Stanton Campus	\$	10.0 \$ 6,291.6
<u>(90-04-06) Terry Campus</u>		
(40.0)NSF Salaries (87.0)		\$ 2,492.3

Other Employment Costs	657.5	
Travel	4.0	
Contractual Services	287.2	
Energy	1.0	
Supplies and Materials	37.2	
Capital Outlay	50.0	
NOSL Match	56.9	
Aid to Needy Students	31.5	
Work Study	8.0	
Sub-Total	\$ 3,625.6	
Debt Service	\$ 437.9	
TOTAL -- Terry Campus	\$ 4,063.5	
TOTAL -- Delaware Technical and Community College	\$ 18.0	\$ 27,613.9
<u>TOTAL POSITIONS -- Delaware Technical and Community College</u>		
GF - 503.0		
NSF - 122.0		
<u>(90-07-01) Delaware Institute of Veterinary Medical Education</u>		
Subvention	\$ 146.5	
TOTAL -- Delaware Institute of Veterinary Medical Education	\$ 146.5	
<u>(90-08-01) Delaware Institute of Dental Education and Research</u>		
Subvention	\$ 93.5	
TOTAL -- Delaware Institute of Dental Education and Research	\$ 93.5	
TOTAL -- HIGHER EDUCATION	\$ 18.0	\$ 116,941.0
<u>TOTAL POSITIONS -- HIGHER EDUCATION</u>		
GF - 893.3		
NSF - 252.1		
<u>(95-00-00) PUBLIC EDUCATION</u>		
<u>(95-01-00) State Board of Education and State Board for Vocational Education</u>		
<u>(95-01-01) State Board of Education and Superintendent</u>		
(1.8)NSF Salaries (7.2)	\$ 340.7	
Other Employment Costs	69.2	
Travel	15.4	
Contractual Services	43.1	
Supplies and Materials	4.4	
Capital Outlay	12.0	
Computer/Software	4.0	
Education Compact of the States	29.6	
Teacher Incentive Program	25.0	
Administrative Reorganization (1.0)	86.0	
TOTAL -- State Board of Education and Superintendent	\$ 629.4	
<u>(95-01-02) Administrative Services</u>		
(16.5)NSF Salaries (33.0)	\$ 1,089.2	
Other Employment Costs	295.7	
Travel	9.9	
Contractual Services	43.0	
Supplies and Materials	7.6	
Capital Outlay	22.3	

Films	22.0	
Educational Assessment	271.9	
Private Business and Trade School	2.0	
Evaluation - Higher Education	1.0	
Computer/Software	11.8	
Quality Performance Profile (1.0)	62.5	
Tallman Scholarships	3.2	
Mather Library Endowment Fund	2.5	
Brown Trust Fund	35.0	
(1.5)ASF Film Library	57.8	
Department of Public Instruction Library	34.0	
Trailer Rental Fund	27.5	
DPI Publications	10.0	

TOTAL -- Administrative Services \$ 170.0 \$ 1,838.9

(95-01-03) Office of Educational Computing Services

(6.0)ASF Salaries (6.0)	\$ 192.6	\$ 193.5
Other Employment Costs	43.8	46.3
Operating Costs - Direct	220.0	230.2
Operating Costs - Training Lab		20.0
District Grants - Unit Allocations		460.0
Curriculum Software Development Program		250.0
Pupil Accounting System		41.8
Career Guidance System		16.5

TOTAL -- Office of Educational Computing Services \$ 456.4 \$ 1,258.3

(95-01-04) Instructional Services

(35.0)NSF Salaries (35.0)	\$	\$ 1,422.0
Other Employment Costs		343.6
Travel		12.8
Contractual Services		62.7
Supplies and Materials		14.9
Capital Outlay		21.3
Curriculum Improvement		107.9
(1.0)ASF Delaware Secondary School Athletic Fund	65.3	
Computer/Software		7.9

TOTAL -- Instructional Services \$ 65.3 \$ 1,993.1

(95-01-05) Educational Contingency

School District Appropriations

Division I Units (5716)

Formula Salaries (8,544.0)	\$172,514.9
Cafeteria Funds	1,757.4
Other Employment Costs	52,726.2

Division II (6622)

Other Costs	12,788.7
Energy	8,946.3

All Other Costs

Support-Local Fund Employment Costs	3,649.1
Other Items	232.1
Teacher of the Year	5.5
Principal of the Year	15.0
Delmar Tuition	550.2
General Contingency	1,578.1
Pension - Retired and Disabled Teachers	34.8
Desegregation Monitoring	125.0

Sub-Total	\$254,923.3
Debt Service - School Districts	\$ 9,215.7
Debt Service - State Board	\$ 2,178.7
TOTAL -- Educational Contingency <u>(95-01-06) Pass Through/K-12 Programs</u>	\$266,317.7
Pregnant Students Program	\$ 208.7
Related Services for the Handicapped	1,156.1
Private Placement of the Handicapped	2,439.5
Youth Organizations	103.6
Gifted and Talented Units	2,019.3
Summer School - Gifted and Talented	112.5
Homebound Instruction Program	667.7
Substitutes in Districts	1,618.6
Division III - Equalization	25,225.8
Basic Skills Units	5,200.6
Non-Public and Summer Driver Education	473.7
Operation and Maintenance - Driver Education Cars	148.7
Student Work Study	125.0
Center for Economic Education	150.0
Educational Resources Program	165.3
Exceptional Student Unit - Vocational	665.2
Disruptive Student Units	532.6
Parent Early Education Center	107.8
STRIVE - Green Circle Program	61.9
Advanced Studies	100.0
Lecturer in Residence	40.0
Education Refinement Program	3,971.1
Beach House	40.0
Four-Year Old Development Pilot Program	233.2
READ ALOUD Program	111.9
2 + 2 Pre-Technical Curriculum	84.4
Olympics of the Mind	14.0
Teacher in Space	6.0
Articulation	82.0
Summer Occupational and Vocational Education Program	622.6
Delaware Nature Society	6.3
Career Placement Counselors	1,224.9
Day Care Support	150.0
Innovation in Teaching and Learning	210.0
TOTAL -- Pass Through/K-12 Programs	\$ 48,079.0
<u>(95-01-02) Pass Through/Adult Programs</u>	
Adult Incarcerated	\$ 179.2
Adult Trade Extension	645.6
Apprentice Program	488.0
James H. Groves High School	857.5
Adult Basic Education	156.8
New Castle County Learning Center	147.0
Wilmington Skills Center	232.8
TOTAL -- Pass Through/Adult Programs	\$ 2,706.9
<u>(95-01-08) Pupil Transportation</u>	
Public School Transportation	\$ 27,627.3
Non-Public School Transportation Reimbursement	2,830.7
TOTAL -- Pupil Transportation	\$ 30,458.0
<u>(95-01-02) -- Teacher Development Services</u>	
Teacher Competency and Certification	\$ 30.0
Education in Math	22.6
Education in Science	22.6

Delaware Institute for Arts in Education		55.0
Tuition Reimbursement		400.0
Delaware Teacher Center		272.1
Critical Curriculum Area		508.5
Professional Development		402.8
Summer Institute		100.0
Sabbatical Leave		200.0
TOTAL -- Teacher Development Services		\$ 2,013.6
TOTAL -- State Board of Education and State Board for Vocational Education	\$ 691.7	\$355,294.9
TOTAL POSITIONS -- STATE BOARD OF EDUCATION		
GF - 83.2		
ASF - 8.5		
NSF - 53.3		
TOTAL POSITIONS -- PUBLIC SCHOOL DISTRICTS - 8,544.0		
(95-04-01) Delaware Advisory Council on Career and Vocational Education		
(1.5)NSF Salaries (3.5)	\$	53.2
Other Employment Costs		12.9
TOTAL -- Delaware Advisory Council on Career and Vocational Education	\$	66.1
TOTAL POSITIONS -- DELAWARE ADVISORY COUNCIL ON CAREER AND VOCATIONAL EDUCATION		
GF - 3.5		
NSF - 1.5		
TOTAL -- PUBLIC EDUCATION	\$ 691.7	\$355,361.0
TOTAL POSITIONS -- PUBLIC EDUCATION		
GF - 8,630.7		
ASF - 8.5		
NSF - 54.8		
TOTALS		
TOTAL -- DEPARTMENTS	\$209,037.9	\$ 571,734.6
TOTAL -- HIGHER EDUCATION	18.0	116,941.0
TOTAL -- PUBLIC EDUCATION	691.7	355,361.0
GRAND TOTAL -- DEPARTMENTS AND EDUCATION	\$209,747.6	\$1,044,036.6
TOTAL POSITIONS		
GF - 19,912.5		
ASF - 625.5		
NSF - 2,052.2		

GENERAL

Section 2. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Section 3. 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 4. 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 5. 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 6. The provisions of this Act to the contrary notwithstanding, any section, chapter or title of the Delaware Code and any Laws of Delaware providing for the application of "Sunset" shall be operative for those agencies, commissions or boards affected during the Fiscal Year commencing July 1, 1988.

Section 7. (a) The provisions for salaries in this Act are projected to cover the salaries and wages which shall become due and payable during the Fiscal Year ending June 30, 1989. All departments and agencies shall stay within their appropriations for salaries as well as positions authorized.

(b) Section 1 of this Act assumes salary savings in all branches of State government. All agencies in the Judicial, Executive, and Legislative branches of State government are directed to continue any and all vacancies within their respective agencies as necessary to remain within their level of funding for salaries and wages.

Section 8. All Departments/School Districts receiving energy funding in Section 1 of this Act must make monthly consumption and/or purchase reports to the Energy Office.

Section 9. At the close of the Fiscal Year, all unencumbered Appropriated Special Funds shall revert to the Budget Unit's holding account, except Title IV-D funds, unless otherwise specified.

Section 10. (a) For the Fiscal Year ending June 30, 1989, the salaries displayed below represent the July 1, 1988, salary in effect; in addition, those identified with an asterisk will be paid in accordance with Section 12(d)(2).

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(02-01-00)	Chief Justice	\$ 87.7	\$
(02-01-00)	Associate Justice	84.4	
(02-02-00)	Chancellor	83.2	
(02-02-00)	Vice Chancellor	79.9	
(02-03-00)	President Judge	83.2	
(02-03-00)	Judge	79.9	
(02-06-00)	Chief Judge	82.2	
(02-06-00)	Judge	77.7	
(02-08-00)	Chief Judge	82.2	
(02-08-00)	Judge	77.7	
(02-13-00)	Chief Magistrate	55.5	
(02-13-00)	Court Administrator	41.2*	

(02-13-00)	Magistrate	33.4	
(02-17-00)	Director	61.8	
(02-18-00)	Public Guardian	36.7	
(02-18-00)	Executive Secretary - Violent Crimes Comp.		41.3
(02-18-00)	Executive Director - Foster Care Review Board	31.0*	
(10-01-01)	Governor	70.0	
(10-02-01)	Budget Director	66.5	
(10-02-07)	Executive Director - Postsecondary Education Commission	47.5	
(10-02-15)	Executive Director - Information Systems	62.5*	
(10-03-01)	Director - Delaware Development Office	66.6	
(10-03-04)	Director - Delaware State Housing Authority		55.1*
(10-04-01)	Personnel Director General	61.1 All Other	
<u>Budget Unit</u>	<u>Line Item</u>	<u>Funds</u>	<u>Funds</u>
(10-07-01)	Executive Director - CJC	\$ 49.9	\$
(10-07-02)	Executive Director - DELJIS	40.6*	
(10-07-03)	Executive Director - SAC	47.0	
(10-08-01)	Director - Planning and Coordination	53.0	
(12-01-01)	Lieutenant Governor	33.4	
(12-02-01)	Auditor	50.0	
(12-03-01)	Insurance Commissioner	50.0	
(12-05-01)	State Treasurer	50.0	
(15-01-01)	Attorney General	72.1	
(15-02-01)	Public Defender	55.5	
(15-03-01)	Parole Board Chairman	45.8	
(20-01-01)	Secretary of State	55.5	
(20-05-01)	Director - Corporations	25.0*	25.0*
(20-06-01)	Director - Historical and Cultural Affairs	47.3*	
(20-15-01)	State Banking Commissioner		65.0
(25-01-01)	Secretary - Finance	72.1	
(25-05-01)	Director - Accounting	51.6*	
(25-06-01)	Director - Revenue	61.5*	
(25-07-01)	Director - State Lottery		55.5
(30-01-00)	Secretary - Administrative Services	55.5	

(30-01-00)	Fleet Management Administrator	41.4	
(30-01-00)	Executive Director - Public Employment Relations Board	38.6*	
(30-03-00)	Executive Secretary - Alcoholic Beverage Control Commission	43.3*	
(30-03-00)	Director - Professional Regulation	35.0*	
(30-03-00)	Director - Public Service Commission		40.9*
(30-04-00)	Director - Support Operations		39.1*
(30-05-00)	Director - Facilities Management	48.2*	
(30-05-00)	Executive Secretary - Architectural Accessibility Board	34.1	
(30-06-00)	Director - Purchasing	42.7*	
<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(35-01-00)	Secretary - Health and Social Services	\$ 66.5	\$
(35-01-00)	Director - Business Adm. and General Services	43.7*	4.7*
(35-01-00)	Planning Research and Evaluation	45.9*	
(35-04-00)	Chief Medical Examiner	82.1	
(35-05-00)	Director - Public Health	83.4*	
(35-06-00)	Director - Alcoholism, Drug Abuse and Mental Health	70.0*	
(35-07-00)	Director - Economic Services	29.1*	29.1*
(35-10-00)	Director - Child Support Enforcement	13.5	28.6
(35-11-00)	Director - Mental Retardation	58.2*	
(35-12-00)	Director - State Service Centers	41.4*	
(35-14-00)	Director - Aging	40.5*	
(37-01-00)	Secretary - Services for Children, Youth, and Their Families	61.1	
(37-01-00)	Director - Administration	51.0*	
(37-02-00)	Director - Child Protective Services	53.8*	
(37-03-00)	Director - Child Mental Health	70.0	
(37-05-00)	Director - Youth Rehabilitation Services	51.5*	
(37-08-00)	Director - Program Support	48.6*	
(38-01-01)	Commissioner - Correction	66.5	
(38-02-01)	Bureau Chief - Administration and Operational Support	47.0*	
(38-03-01)	Bureau Chief - Industries and Services	46.7*	
(38-04-01)	Bureau Chief - Adult	58.2*	

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(40-01-00)	Secretary - Natural Resources and Environmental Control	\$ 61.1	\$
(40-05-00)	Director - Fish and Wildlife	21.4*	21.4*
(40-06-00)	Director - Parks and Recreation	42.8*	
(40-07-00)	Director - Soil and Water	42.8*	
(40-08-00)	Director - Water Resources	58.8	
(40-09-00)	Director - Air and Waste	63.7	
(45-01-00)	Secretary - Public Safety	61.1	
(45-01-00)	Director - Boiler Safety	34.2	
(45-01-00)	Director - Emergency Planning and Operations	19.4*	19.5*
(45-01-00)	Director - Highway Safety	36.1*	
(45-06-00)	Superintendent - State Police	56.4*	
(45-06-00)	Assistant Superintendent - State Police	48.1*	
(45-07-00)	Director - Motor Vehicles	50.3*	
(50-01-01)	Secretary - Community Affairs	55.5	
(50-02-01)	Director - Community Services	38.0*	
(50-03-01)	Director - Volunteer Services	34.0*	
(50-04-01)	Public Advocate	48.9	
(50-06-01)	Director - Human Relations	38.0*	
(50-10-01)	State Librarian	37.2*	
(50-11-01)	Director - Consumer Affairs	38.0*	
(55-01-01)	Secretary - Transportation	66.5	
(55-02-01)	Chief - Administration	46.8*	
(55-04-01)	Director - Highways	64.8*	
(55-06-01)	Director - Delaware Transportation Authority		57.6*
<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(60-01-00)	Secretary - Labor	\$ 7.2	\$ 48.3
(60-06-00)	Director - Unemployment Insurance		48.2*
(60-07-00)	Director - Industrial Affairs	40.9*	
(60-08-00)	Director - Vocational Rehabilitation		48.2*
(60-09-00)	Director - Employment and Training	3.1*	45.1*
(65-01-00)	Secretary - Agriculture	50.0	

(65-01-00)	Director - Consumer Protection, Promotion and Production Support	43.1*	
(70-01-01)	Election - Commissioner	35.9*	
(70-02-01)	Administrative Director - New Castle County Elections	32.7*	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	32.0*	
(70-03-01)	Administrative Director - Kent County Elections	32.7*	
(70-03-01)	Deputy Administrative Director - Kent County Elections	32.0*	
(70-04-01)	Administrative Director - Sussex County Elections	32.7*	
(70-04-01)	Deputy Administrative Director - Sussex County Elections	32.0*	
(75-01-01)	Fire Marshal	25.8*	12.8*
(75-02-01)	Director - Fire School	27.7*	13.6*
(76-01-01)	Adjutant General	50.0	
(95-01-01)	Superintendent - State Board of Education	62.4	25.5
(95-04-01)	Executive Secretary - Advisory Council on Career and Vocational Education	27.1	27.1

(b) For the Fiscal Year ending June 30, 1989, the following line item salaries represent the maximum salaries appropriated within Salaries in Section 1 of this Act:

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(10-02-07)	Commission Members - Postsecondary	\$ 2.4	\$
(10-04-01)	Personnel Commissioners	7.5	
(12-05-02)	Board Members - Pensions		9.6
(15-03-01)	Board Members - Parole	15.0	
(25-06-01)	Board Members - Revenue	33.0	
(30-01-00)	Board Members - Public Employment Relations Board	7.4	
(30-03-00)	Board Members - Alcoholic Beverage Control Commission	8.6	
(30-03-00)	Board Members - Professional Regulations	40.2	
(30-03-00)	Board Members - Public Service Commission		80.0
(30-05-00)	Board Members - Architectural Accessibility Board	2.3	

(38-04-01)	Institutional Classification Board	12.0
(50-06-01)	Board Members - Human Relations	2.5
(50-11-01)	Board Members - Consumer Affairs	3.5
(60-07-01)	Board Members - Industrial Accident Board	84.0
(70-02-01)	Board Members - New Castle County Elections	10.5
(70-03-01)	Board Members - Kent County Elections	6.5
(70-04-01)	Board Members - Sussex County Elections	6.5
(95-01-01)	Board Members - State Board of Education	8.4

Section 11. Due to the pilot budget format, the restructuring of divisions into programs within divisions has created more exempt positions per division than allowed by law for the participating Departments; therefore, all exempt positions authorized by Title 29, Section 5903, Delaware Code prior to July 1, 1987, shall remain exempt for Fiscal Year 1989.

Section 12. (a) The General Assembly of the State of Delaware supports the State-wide policy that the pay plan for Merit System employees be developed in accordance with the results of valid surveys of salaries provided by a defined labor market. The Director of State Personnel shall conduct such surveys on a yearly basis and report the findings of such surveys by December 15 to the Governor and members of the General Assembly who will be responsible for recommending and approving yearly adjustments as are necessary to maintain the competitive posture of the plan. As the Director of State Personnel has conducted the required surveys for the Fiscal Year ending June 30, 1989, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1988, the following pay plans are established for State Merit System employees:

STATE OF DELAWARE PAY PLAN*
(Standard Work Schedule of 37.5 Hours Per Work Week)

PAY GRADE	75% of Midpoint	100% of Midpoint	125% of Midpoint
1	**10,154	12,659	15,823
2	10,159	13,545	16,931
3	10,870	14,494	18,117
4	11,631	15,507	19,384
5	12,445	16,594	20,742
6	13,317	17,756	22,195
7	14,248	18,997	23,747
8	15,245	20,327	25,408
9	16,313	21,750	27,188
10	17,455	23,274	29,092
11	18,676	24,901	31,127
12	19,984	26,646	33,307
13	21,383	28,511	35,638
14	22,879	30,506	38,132
15	24,482	32,642	40,803
16	26,195	34,927	43,659
17	28,028	37,371	46,714
18	29,990	39,986	49,983
19	32,090	42,786	53,483
20	34,337	45,783	57,229
21	36,740	48,987	61,234
22	39,312	52,416	65,520
23	42,063	56,085	70,106
24	45,009	60,012	75,014
25	48,159	64,212	80,265
26	51,531	68,707	85,884

* Annual Salary in \$

** By State Law, Minimum Salary in Delaware is \$10,154

STATE OF DELAWARE PAY PLAN*
(Standard Work Schedule of 40 Hours Per Work Week)

PAY GRADE	75% of Midpoint	100% of Midpoint	125% of Midpoint
1	**10,154	13,503	16,878
2	10,836	14,448	18,059
3	11,595	15,460	19,325
4	12,405	16,541	20,676
5	13,276	17,701	22,126
6	14,204	18,939	23,674
7	15,198	20,264	25,330
8	16,262	21,683	27,103
9	17,400	23,200	29,000
10	18,619	24,825	31,031
11	19,920	26,560	33,201
12	21,316	28,421	35,526
13	22,808	30,411	38,014
14	24,405	32,540	40,675
15	26,113	34,817	43,522
16	27,942	37,256	46,570
17	29,897	39,863	49,828
18	31,989	42,652	53,315
19	34,229	45,639	57,049
20	36,626	48,834	61,043
21	39,190	52,253	65,317
22	41,933	55,911	69,889
23	44,868	59,823	74,779
24	48,009	64,013	80,016
25	51,369	68,493	85,616
26	54,965	73,287	91,609

* Annual Salary in \$

** By State Law, Minimum Salary in Delaware is \$10,154

- (1) Merit Rule 5.0200 notwithstanding, the standard work week for employees in positions within the Correctional Officer class series, Correctional Security Superintendent class and Warden class series assigned to the Department of Correction, Meat Inspectors and Meat and Poultry Inspection Coordinators in the Department of Agriculture and Emergency Services Training Administrator class assigned to the State Fire School shall be 40 hours.
- (11) During the Fiscal Year ending June 30, 1989, the State Personnel Director may designate, with the concurrence of the State Budget Director and the Controller General, other appropriate classes or groups of employees to work and be paid according to a standard work week of 40 hours. Such designation shall be based upon the operational necessity of agencies to require employees to regularly and consistently work in excess of 37.5 hours per week and upon the availability of any required funding.

(b)(1) The defined labor market survey in Section 12(a) for Fiscal Year 1989 shall be limited to those governments as follows:

Delaware

New Castle County
Kent County
Sussex County
Wilmington
Newark
Dover
University of Delaware

Other Counties and Municipalities

Cecil County, Maryland
Caroline County, Maryland
Salisbury, Maryland
Chester County, Pennsylvania
Delaware County, Pennsylvania
West Chester, Pennsylvania

Other States

Maryland
Pennsylvania
New Jersey
North Carolina
Massachusetts
New York
Virginia

(11) The findings of the survey in Section 12(a) for Fiscal Year 1990 shall be calculated in the same manner as Fiscal Year 1989, using the same weighting formula and other components.

(c) Recognizing the need for flexibility to respond to critical external market pressures, selective market variations are permitted to the uniform pay plan structure for job classes that are key to the performance of State functions.

- (1) The appointing authority shall identify job classes or job families to be considered for selective market variations according to turnover rates, recruitment problems, vacancy rates, feasibility for the work to be performed on a contractual basis and other criteria established by the State Personnel Director.
- (2) Upon receipt of the identified classes, the State Personnel Director shall survey the appropriate labor market to determine the State's position in this labor market.
- (3) This survey information will be reviewed by the State Budget Director, the State Personnel Director and the Controller General who shall recommend approval or disapproval for the classes for selective market compensation variations.
- (4) Any such selective market variations which the State Personnel Director, the State Budget Director and the Controller General have determined to be warranted and have been approved by the Joint Finance Committee, shall be designated to become effective July 1, 1988, provided that such variations have been processed as part of the regular budgetary process and the funds for such changes shall be appropriated.
- (5) Upon approval, the minimum, mid-point and maximum salary values shall be raised according to the results of the labor market surveys for the job class.
- (6) Before application of the general pay increase in Section 12(d)(1), the salaries of employees whose current salaries fall below the adjusted minimum for the assigned job classification shall be raised to the adjusted minimum; the salaries of employees whose current salaries fall within the adjusted salary range shall not be increased.

(d) The amount appropriated by Section 1 of this Act for salaries includes the estimated amount needed to provide for a general salary increase for each State employee, unless as otherwise excepted by Subsections of this Section. This increase is to be provided as follows:

(1) Salary Adjustments for Departments 01 through 77:

- (i) Effective July 1, 1988, the salary of each employee shall be increased by 3 percent, unless otherwise noted in this Section.
- (ii) The salary of employees whose salary in effect as of June 30, 1988, is above the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1988, shall be increased by 1.5 percent.
- (iii) The salary of employees whose salary in effect as of June 30, 1988, is near the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1988, and where the general 3 percent increase would place that salary above the maximum salary, shall be increased by a percentage amount which would place the salary at the maximum or 1.5 percent, whichever is greater.
- (iv) Salaries of employees employed in accordance with Title 29, Section 5903(17), Delaware Code, shall be excluded from Subsection(d)(1)(i) of this Section and may receive a salary increase at the discretion of the agency.

(2) Effective January 1, 1989, the salary of each Merit System employee and each exempt employee whose position has been given a comparable classification rating pursuant to Section 14 of this Act with at least six (6) months' service whose salary, as of December 31, 1988, is below the midpoint of the assigned paygrade shall be increased by the lesser of an amount equal to the dollar value of 3 percent of the midpoint for the assigned paygrade or by an amount which would increase the employee's salary to the midpoint for the

assigned paygrade. Effective January 1, 1989, each Division Level Manager so designated in Section 10 with at least six (6) months' service whose salary, as of December 31, 1988, is below the midpoint of the evaluated pay range for his/her position shall be increased by the lesser of an amount equal to the dollar value of 3 percent of the midpoint of the range or by an amount which would increase the employee's salary to the midpoint of the range.

(3). Effective July 1, 1988, each Division Level Manager listed below shall receive a general increase in accordance with Section 12(d)(1). In addition, they will also receive a 5 percent salary increase in recognition that the evaluated pay ranges of these positions, based on the duties and responsibilities of the position increased the equivalent value of at least one paygrade during the Fiscal Year ending June 30, 1988, where the equivalent value of one paygrade is defined as a 7 percent increase in the dollar value of the evaluated pay range midpoint during a given period. Effective January 1, 1989, they will also receive a movement toward midpoint in accordance with Section 12(d)(2).

10-02-15	Executive Director - Information Systems
10-03-04	Director - Delaware State Housing Authority
35-01-00	Director - Planning, Research and Evaluation
37-01-00	Director - Administration
45-01-00	Director - Emergency Planning and Operations

(e) Other than those reclassifications approved in accordance with Section 12(f), no position shall be reclassified during the Fiscal Year ending June 30, 1989. Any such reclassifications which the State Personnel Director determines to be warranted as a result of the classification maintenance reviews regularly scheduled by the State Personnel Office shall be designated to become effective July 1, 1989, provided that such reclassifications have been processed as part of the regular budgetary process and the funds for such reclassifications shall be appropriated.

(f) The classification of any employee whose salary is covered by the appropriations in Section 1 of this Act, may be changed to be effective January 1, 1989, or July 1, 1989, if the requested change is certified critical by the appointing authority; and

- (1) The requested change is approved by the State Personnel Director prior to the effective date of January 1, 1989, or July 1, 1989; and
- (2) The funding source is approved by the State Budget Director; and
- (3) The requested change is approved by the Controller General.

(g) During the Fiscal Year ending June 30, 1989, the paygrade assigned to each job class shall not be changed. Any such paygrade changes which the Personnel Director determines to be warranted shall be designated to become effective July 1, 1989, provided that such paygrade changes have been processed as part of the regular budgetary process and the funds for such changes shall be appropriated.

(h) The salaries of teachers and administrators employed by State agencies and who are paid based on the Basic Schedule contained in Title 14, Section 1305, as amended by this Act, shall receive as salary an amount equal to the value specified in the appropriate training and experience cell multiplied by the base salary amount of \$14,058.00 and divided by .7 for ten months employment. If employed on an eleven or twelve month basis, the amount shall be multiplied by 1.1 or 1.2 respectively.

(i) In all instances where the State Merit Rules refer to a one-step increase or increment, such shall be interpreted to mean 5 percent of the paygrade midpoint unless otherwise noted in this Act.

- (1) Where Merit Rule 5.1011 refers to an increase, this shall be interpreted to mean the general salary increase referred to in Section 12(d)(1).
- (2) During the Fiscal Year ending June 30, 1989, paragraph 5.1100 of the Merit Rules for a Merit System of Personnel Administration shall be null and void.

(j) The administrative regulation and procedures necessary to implement this Section shall be promulgated by the State Personnel Director, the State Budget Director and the Controller General.

(k) The provisions of Subsection (d) of this Section shall not apply to the employees of the General Assembly - House or the General Assembly - Senate. Salaries for those employees will be established by the Speaker of the House of Representatives and the President Pro Tempore of the Senate respectively.

(1) The provisions of Subsection (d) of this Section shall not apply to the Governor, Uniformed State Police, employees of the University of Delaware, Delaware State College and members and employees of the Delaware National Guard excluding the Adjutant General. However, funds have been appropriated in Section 1 of this Act for Delaware State College to provide for an increase in salaries paid from General Funds.

(m) Salary schedules contained in Delaware Code, Title 14, Chapter 13, shall be revised as specified in this Subsection.

(1) Amend Delaware Code, Title 14, Section 1305, by striking said Section in its entirety and by substituting in lieu thereof the following:

"(a) The annual salaries of employees paid under this Section and who are employed on a ten-month contract, shall be based on the following Indexed schedule:

Years of Exp.	No Degree	Bach. Degree	Bach. Degree Plus 15 Grad. Credits	Bach. Degree Plus 30 Grad. Credits	Mast. Degree	Mast. Degree Plus 15 Grad. Credits	Mast. Degree Plus 30 Grad. Credits	Mast. Degree Plus 45 Grad. Credits	Doctor's Degree
0	.960	1.000	1.040	1.080	1.140	1.180	1.220	1.260	1.300
1	.985	1.025	1.065	1.105	1.165	1.205	1.245	1.285	1.325
2	1.010	1.050	1.090	1.130	1.190	1.230	1.270	1.310	1.350
3	1.110	1.150	1.190	1.230	1.290	1.330	1.370	1.410	1.450
4	1.150	1.190	1.230	1.270	1.330	1.370	1.410	1.450	1.490
5	1.190	1.230	1.270	1.310	1.370	1.410	1.450	1.490	1.530
6	1.230	1.270	1.310	1.350	1.410	1.450	1.490	1.530	1.570
7	1.270	1.310	1.350	1.390	1.450	1.490	1.530	1.570	1.610
8	1.310	1.350	1.390	1.430	1.520	1.560	1.600	1.640	1.680
9	1.350	1.390	1.430	1.470	1.560	1.600	1.640	1.680	1.720
10	1.390	1.430	1.470	1.510	1.600	1.640	1.680	1.720	1.760
11			1.510	1.550	1.640	1.680	1.720	1.760	1.800
12				1.590	1.680	1.720	1.760	1.800	1.840
13					1.720	1.760	1.800	1.840	1.880
14							1.840	1.880	1.920

(b) The base salary amount for Delaware Code, Title 14, Section 1305, for the Fiscal Year ending June 30, 1989, shall be \$14,058.00. The Bachelor Degree, 0 year experience point on the Index is defined as the base and has an Index value of 1.000. This amount is intended to be the equivalent of 70 percent of a recommended average total competitive starting salary. All other salary amounts shall be determined by multiplying the base salary amount by the Index value that corresponds with the appropriate training and experience cell, and then rounding to the nearest whole dollar.

(c) The Index values assigned in Subsection (a) above are intended to be constant. Future modification to this Index should be linked to specifically stated policy goals.

(d) All persons who are employed for more than ten months per year and are paid in accordance with Subsections (a) and (b) of this Section shall receive one-tenth of the amount computed in Subsection (b) in salary for each additional month of employment each year.

(e) Salary derived from Section (a) and (b) of this Section for ten months' employment shall mean a total of 185 days. The 185 days shall be full work days with 180 days devoted to actual school sessions for pupils and five days devoted to attendance in in-service education programs or other programs approved by the State Board of Education, except that the State Board of Education may reduce the number of days devoted to school sessions or in-service education programs on just cause or upon showing of unusual circumstances. Full work days shall be defined by the State Board of Education."

(2) Amend Delaware Code, Title 14, Subsection 1306(a), by striking said Subsection in its entirety and by substituting in lieu thereof the following:

"(a) A superintendent who is the chief school officer of a district and who holds a certificate appropriate for the position shall receive as a salary the amount for which he or she qualifies under Section 1316 of this Title and the schedule set forth in Subsections (a), (b) and (d) of Section 1305 of this Title, plus an annual amount for administrative responsibility. The amount for administrative responsibility

is to be determined either in accordance with the following schedule, or by multiplying the appropriate index value specified in the second schedule, by the annual salary provided under Subsections (a), (b) and (d) of Section 1305, whichever is greater:

Number of Division I Units of Pupils in the School District
Less Than

71	71-149	150-249	250 Plus
\$6,450	\$8,370	\$10,293	\$12,219

Number of Division I Units of Pupils in the School District
Less Than

200	200-399	400 Plus	"
.30	.40	.50	"

(3) Amend Delaware Code, Title 14, Section 1307, by striking said Section in its entirety and by substituting in lieu thereof the following:

"A principal who is subordinate to a chief school officer in a district shall receive as a salary the amount for which he or she qualifies under Section 1316 of this Title and the schedule set forth in Subsections (a), (b) and (d) of Section 1305 of this Title plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined either in accordance with the following schedule or by multiplying the appropriate index value specified in the second schedule by the amount provided under Subsections (a), (b) and (d) of Section 1305, whichever is greater.

(1) Full-time principals:

Years of Administrative Experience	Number of Division I Units				
	15-19	20-29	30-39	40-59	60 Plus
0	\$ 851	\$1,101	\$1,350	\$1,726	\$2,103
1	1,101	1,350	1,601	1,976	2,352
2	1,350	1,601	1,851	2,228	2,602
3	1,601	1,851	2,103	2,478	2,853
4	1,851	2,103	2,352	2,728	3,103
5	1,969	2,246	2,518	2,930	3,341
6	2,079	2,378	2,671	3,116	3,560
7	2,183	2,502	2,816	3,292	3,767
8	2,373	2,702	3,025	3,516	4,005
9	2,563	2,902	3,234	3,740	4,243

Years of Administrative Experience	Number of Division I Units		
	15-24	25-59	60 Plus
0	.07	.08	.09
1	.08	.09	.10
2	.09	.10	.11
3	.10	.11	.12
4	.11	.12	.13

(2) During the Fiscal Year beginning July 1, 1988, and annually thereafter, a reorganized school district may employ one full-time principal for each administrative unit in a school building or combination of school buildings having fifteen or more Division I state units of pupils who shall be paid from State funds for twelve months in accordance with this Section, and in accordance with the rules and regulations of the State Board of Education. Division I State units in excess of fifteen in one school building qualifying for a full-time principal shall not be counted toward entitlement for a principal for a combination of buildings.

(3) During the Fiscal Year beginning July 1, 1988, and annually thereafter, a reorganized school district may employ one full-time assistant principal for each full multiple of twenty Division I units of pupils in a school building beyond the first fifteen Division I units of pupils for which a full-time principal was authorized. This Section and Subsection 1321(e)(4) of this Title notwithstanding, one half the total number of assistant principals in a reorganized school district may be classified as supervisors. Assistant principals shall not be charged against the allotment of classroom teachers or other personnel provided by these units. All assistant principals shall be paid from State funds for twelve months per year the amount for which they are eligible under Subsections (a), (b) and (d) of Section 1305 of this Title plus an annual amount for administrative responsibility. The amount for

administrative responsibility is to be determined either in accordance with the following schedule or by multiplying the amount provided under Subsections (a), (b) and (d) of Section 1305 by the appropriate Index value specified in the second schedule, whichever is greater.

Years of Administrative Experience	Amount
0	\$ 725
1	850
2	976
3	1,101
4	1,226
5	1,285
6	1,343
7	1,400
8	1,487
9	1,582

Years of Administrative Experience	Index
0	.03
1	.04
2	.05
3	.06
4	.07

(4) Amend Delaware Code, Title 14, Section 1308(a), by striking the salary schedule contained in said Subsection in its entirety and by substituting in lieu thereof the following:

Years of Exper.	Clerk	Secretary	Senior Secretary	Financial Secretary	Administrative Secretary
0	\$ 7,461	\$ 8,511	\$ 9,104	\$ 9,471	\$10,019
1	7,850	8,899	9,514	9,897	10,457
2	8,238	9,299	9,921	10,302	10,862
3	8,625	9,705	10,326	10,709	11,289
4	9,014	10,110	10,731	11,121	11,730
5	9,418	10,516	11,147	11,562	12,170
6	9,825	10,922	11,586	12,003	12,610
7	10,230	11,355	12,027	12,443	13,051
8	10,637	11,796	12,468	12,883	13,492
9	11,043	12,236	12,910	13,324	13,933
10	11,485	12,676	13,352	13,765	14,372
11	11,924	13,117	13,793	14,205	14,812
12	12,366	13,556	14,233	14,644	15,252
13	12,806	13,997	14,674	15,083	15,694
14	13,247	14,438	15,112	15,523	16,133
15	13,684	14,877	15,554	15,963	16,574
16	14,099	15,302	15,984	16,396	17,015
17					17,452

(5) Amend Delaware Code, Title 14, Subsection 1308(e), by striking the value "25%" as it appears therein and by substituting in lieu thereof the value "12%."

(6) Amend Delaware Code, Title 14, Subsection 1311(a), by striking the salary schedule contained in said Subsection in its entirety and by substituting in lieu thereof the following:

Years of Exper.	Custodian	Custodian Fireman	Chief Custodian Supervising 5 or Fewer Custodians	Chief Custodian Supervising 6 or More Custodians	Maintenance Mechanic	Building & Grounds Supervisor
0	\$ 9,925	\$10,331	\$10,537	\$11,352	\$11,729	\$12,063
1	10,230	10,637	10,843	11,658	12,084	12,472
2	10,537	10,942	11,149	11,963	12,440	12,880
3	10,843	11,249	11,454	12,269	12,795	13,288

4	11,149	11,555	11,761	12,575	13,105	13,696
5	11,454	11,859	12,064	12,881	13,506	14,104
6	11,761	12,167	12,371	13,186	13,861	14,512
7	12,064	12,474	12,676	13,493	14,217	14,921
8	12,371	12,778	12,982	13,798	14,572	15,327
9	12,676	13,085	13,288	14,104	14,927	15,736
10	12,982	13,391	13,595	14,410	15,283	16,144
11	13,288	13,697	13,901	14,716	15,638	16,552 "

(7) Amend Delaware Code, Title 14, Subsection 1321(a), by striking said Subsection in its entirety and by substituting in lieu thereof the following:

"(a) A professional employee of the State Board of Education/State Board of Vocational Education having the qualifications required by the certifying board shall receive as an annual salary the amount for which he or she qualifies under Section 1316 of this Title and the schedule set forth in Subsections (a), (b) and (d) of Section 1305 of this Title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined in accordance with either the following schedule or by multiplying the amount provided under Subsections (a), (b) and (d) of Section 1305 by the index value specified in the second schedule that corresponds with the appropriate classification and experience level, whichever is greater.

STATE BOARD OF EDUCATION AND STATE BOARD FOR VOCATIONAL EDUCATION

Yrs. Exp.	Teacher	Specialist	Supv.	Director	Asst. Supt.	Deputy Supt.	State Supt.
0	To be paid	\$ 750	\$2,628	\$4,380	\$6,966	\$12,040	Total salary
1	as provided	1,126	3,003	4,796	7,454	12,571	shall be as
2	for in Sect.	1,503	3,379	5,207	7,962	13,102	specified in the
3	1305 of this	1,878	3,753	5,624	8,470	13,652	annual Budget
4	Chapter and	2,253	4,129	6,067	8,979	14,229	Act.
5	as shown	2,467	4,521	6,511	9,488	14,807	
6	below.	2,664	4,883	6,967	9,996	15,383	
7		2,850	5,225	7,455	10,504	15,959	
8		3,150	5,596	7,894	11,009	16,535	
9		3,450	5,967	8,333	11,514	17,114	

STATE BOARD OF EDUCATION AND STATE BOARD FOR VOCATIONAL EDUCATION

Yrs. Exp.	Teacher	Specialist	Supv.	Director	Asst. Supt.	Deputy Supt.	State Supt.
0	To be paid	.04	.08	.27	.37	.55	Total salary
1	as provided	.05	.09				shall be as
2	for in Sect.	.06	.10				specified in the
3	1305 of this	.07	.11				annual Budget
4	Chapter and	.08	.12				Act.
	as shown						
	below.						

The State Board of Education/State Board of Vocational Education shall be authorized to revise the salary to be paid to any of its professional personnel, which shall enable the Board to pay salary supplements up to the equivalent, but in no case to exceed the average of the 3 highest salaries for like positions paid by school districts.

The Board shall annually conduct a performance review of each of its professional employees and establish the salary to be paid to each employee which shall not be less than the amount shown in the above schedule nor shall it exceed the allowable maximum salary determined by the above method. The Board shall annually present its revised salary schedule to the State Treasurer who shall pay the additional amount required for each employee because of the application of the revised schedule for the General Fund, notwithstanding any other laws of this State."

(8) Amend Delaware Code, Title 14, Subsection 1321(c), by striking said Subsection in its entirety and by substituting in lieu thereof the following:

"(c) Each teacher, specialist, supervisor, administrative assistant, director and assistant superintendent employed by a district and having the qualifications required by the certifying board shall receive as an annual salary the amount for which he or she qualifies under Subsections (a), (b) and (d) of Section 1305 of this Title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined, either in accordance with the following schedule or by multiplying the amount provided under Subsections (a), (b) and (d) of Section 1305 by

the index value specified in the second schedule that corresponds with the appropriate classification and experience level, whichever is greater.

SCHOOL DISTRICTS					
Years of Admin. Experience	Teachers, Specialists	Supervisor	Administrative Assistants	Director	Assistant Superintendent
0		\$1,350	\$1,726	\$1,851	3,103
1	To be paid	1,601	1,976	2,478	3,728
2	as provided	1,851	2,228	3,103	4,353
3	for in Section	2,103	2,478	3,728	4,980
4	1305 of this	2,352	2,728	4,353	5,605
5	Chapter	2,518	2,930	4,710	6,080
6		2,671	3,116	5,039	6,518
7		2,816	3,292	5,350	6,932
8		3,025	3,516	5,850	7,479
9		3,234	3,740	6,350	8,026

SCHOOL DISTRICTS					
Years of Admin. Experience	Teachers, Specialists	Supervisor	Administrative Assistants	Director	Assistant Superintendent
0		.07	.08	.22	.27
1	To be paid	.08	.09		
2	as provided	.09	.10		
3	for in Section	.10	.11		
4	1305 of this	.11	.12		
	Chapter				

(9) Amend Delaware Code, Title 14, Subsection 1322(a) by striking the salary schedule contained in the first paragraph of said Subsection in its entirety and by substituting in lieu thereof the following:

"SCHOOL FOOD SERVICE MANAGERS

Number of Pupils in School Served by Cafeteria							
Yrs. of Exp.	Below 351	351-500	501-800	801-1200	1201-1600	1601-2000	2000+
0	\$ 8,947	\$ 9,607	\$10,267	\$10,927	\$11,589	\$12,247	\$12,910
1	9,276	9,936	10,598	11,258	11,918	12,579	13,239
2	9,607	10,267	10,927	11,589	12,247	12,910	13,570
3	9,936	10,598	11,258	11,918	12,579	13,239	13,900
4	10,267	10,927	11,589	12,247	12,910	13,570	14,232
5	10,598	11,258	11,918	12,579	13,239	13,900	14,563
6	10,927	11,589	12,247	12,910	13,570	14,232	14,892
7	11,258	11,918	12,579	13,239	13,900	14,563	15,222
8	11,589	12,247	12,910	13,570	14,232	14,892	15,554
9	11,918	12,579	13,239	13,900	14,563	15,222	15,884
10	12,247	12,910	13,570	14,232	14,892	15,554	16,213
11	12,579	13,239	13,900	14,563	15,222	15,884	16,553
12	12,910	13,570	14,232	14,892	15,554	16,213	16,900
13	12,239	13,900	14,563	15,222	15,884	16,553	17,230
14	13,570	14,232	14,892	15,554	16,213	16,900	17,562
15	13,900	14,563	15,222	15,884	16,544	17,233	17,894"

(10) Amend Delaware Code, Title 14, Subsection 1322(c) by striking the salary schedule contained in said Subsection in its entirety and by substituting in lieu thereof the following:

SCHOOL LUNCH COOKS AND GENERAL WORKERS		
Years of Experience	General Worker	Cook/Baker
0	\$5.16	\$5.72
1	5.24	5.80
2	5.34	5.89
3	5.42	5.97
4	5.50	6.06
5	5.62	6.17
6	5.71	6.26
7	5.77	6.33
8	5.84	6.39
9	5.91	6.46

10	6.00	6.57
11	6.11	6.66
12	6.20	6.75
13	6.30	6.85
14	6.38	6.93
15	6.46	7.01
16	6.58	7.13
17	6.67	7.22 "

(11) Amend Delaware Code, Title 14, Subsection 1324 by striking said Section in its entirety and by substituting in lieu thereof the following:

"§1324. Salary schedule for aides.

(a) Any school district having classes for the severely and trainable mentally handicapped, the orthopedically handicapped, the partially deaf or hard of hearing, the partially sighted, the blind, the deaf-blind, the autistic, or in State Board of Education approved intensive learning center programs as described in Section 1703 of this Title may employ aides as authorized and required subject to the qualifications promulgated by the certifying board.

(b) Aides actually working and paid for 10 months per year shall receive annual salaries in accordance with the following schedule:

Years of Experience	Service Aides	Instructional Aides
0	\$7,240	\$ 8,869
1	7,459	9,138
2	7,679	9,406
3	7,898	9,675
4	8,117	9,944
5	8,337	10,213
6	8,556	10,481
7	8,776	10,750
8	8,995	11,019
9	9,214	11,288
10	9,434	11,556
11	9,653	11,825

(c) All aides employed under Subsection (a) of this Section who are employed for more than ten months per year shall receive one-tenth of the amount specified in Subsection (a) in salary for each additional month of employment each year."

(12) Amend Delaware Code, Title 14, Section 1326, by striking the salary schedule contained in said Section in its entirety and by substituting in lieu thereof the following:

"Class A - \$51.83 per day
Class B - \$41.86 per day
Class C - \$31.87 per day"

(13) Amend Delaware Code, Title 14, Subsection 1332(a), by striking said Subsection in its entirety and by substituting in lieu thereof the following:

"(a) Director-specialist - whenever the State Board of Education designates a particular school district to serve as administrator for the State-wide program for autistic pupils, that district may employ as a State-wide director-specialist for a period of twelve months per year, a director-specialist for eight or more such units of autistic children. If a director-specialist is assigned responsibility for such a program for fewer than eight units, the support for that assignment shall be in the same ratio as the number of authorized units is to eight units. The director-specialist shall hold a doctorate degree in psychology or exceptional children and shall possess such other qualifications for certification as are required by the State Board of Education. "Years of experience" in determining salary shall be in accordance with rules and regulations adopted by the State Board of Education in this respect. The director-specialist shall be paid the amount for which he or she qualifies under Subsections (a), (b) and (d) of Section 1305 of this Title plus an amount for administrative responsibility determined in accordance with Subsection (c) of Section 1321 of this Title."

(n) Every ten-month employee of the public school system whose salary is computed in whole or in part in accordance with the index schedule contained in Delaware Code, Title

14, Section 1305, and who was an employee of the school system on June 30, 1988, shall receive a State salary for the Fiscal Year ending June 30, 1989, which at its minimum shall be \$390.00 more than the State salary the employee received for the Fiscal Year ending June 30, 1988, the provisions of Delaware Code, Title 14, Section 1305, to the contrary notwithstanding. Each eleven and twelve-month employee who was employed on June 30, 1988, shall receive a minimum salary increase of \$429.00 and \$468.00 respectively. This minimum increase applies only to that portion of the employee's salary otherwise computed under Section 1305 and shall not include salary increases authorized by other sections of Delaware Code, Title 14.

(o) Each School District shall continue to use salary schedules not less than those in Delaware Code, Title 14, Section 1322, for all school lunch employees.

(p) Effective July 1, 1988, the State shall continue to pay 31% of the annual salary rate for school lunch employees as set forth in the salary schedules in Delaware Code, Title 14, Section 1322 (a) and (b), and 27% of the salary rate for school lunch employees as set forth in the salary schedule in Delaware Code, Title 14, Section 1322(c). The remaining percentage of the hourly salary rate for school lunch employees shall be paid from local funds. The State shall pay Other Employment Costs for school lunch employees at the ratio of State supported salaries to total salaries, provided for by this Section, for school lunch employees.

(q) No provision in this Act shall be construed as affecting the eligibility of school lunch employees as an employee under Delaware Code, Title 29, Section 5501.

(r) Section 1 of this Act provides an amount for salaries and other employment cost for Formula Employees in Public Education. Additional amounts are included in some Pass Through/K-12 Programs (95-01-06). Local school districts must charge payroll for local share salary supplements and other employment costs and fringe benefits on a semi-monthly basis simultaneously with State-share charges. The amount of salary and OEC that can be charged to State Appropriations for any one pay period or for any one individual cannot exceed the amount the individual is entitled to receive based on the State salary schedules provided by this Act and Delaware Code, Title 14, Chapter 13, divided by the number of pays the individual has chosen to schedule per year. The provisions of this section do not apply to Division III-Equalization (APPR 0186) and Support for Local OEC (APPR 0197) which may be charged for local contractual obligations before local current operating funds are used.

(s) The State Board of Education is hereby authorized and directed to amend its rules and regulations regarding staffing allocations to provide that 12 percent of the clerical employees shall be classified as "clerks" and that up to 10 percent of the custodial employees may be classified as "maintenance mechanics" in each school district effective July 1, 1988.

(t) Amend Title 14, Section 9220, Delaware Code, by striking said Section in its entirety and by substituting in lieu thereof the following:

"Basic Salary Schedule, Plan A Employees

(1) Salaries paid to Delaware Technical and Community College Salary Plan A employees shall, upon full implementation, be based on the following Index Schedule:

"DELAWARE TECHNICAL AND COMMUNITY COLLEGE
INDEX SCHEDULE FOR PLAN A EMPLOYEES

Yrs. of Exp.	No Degree	Assoc. Degree	Bach. Degree	Bach. Degree Plus 15 Grad. Credits	Bach. Degree Plus 30 Grad. Credits	Mast. Degree Plus 15 Grad. Credits	Mast. Degree Plus 30 Grad. Credits	Mast. Degree Plus 45 Grad. Credits	Doctor's Degree
0	0.90	0.96	1.00	1.04	1.08	1.12	1.16	1.20	1.26
1	0.94	1.00	1.04	1.08	1.12	1.16	1.20	1.24	1.30
2	0.98	1.04	1.08	1.12	1.16	1.20	1.24	1.28	1.34
3	1.02	1.08	1.12	1.16	1.20	1.24	1.28	1.32	1.38
4	1.06	1.12	1.16	1.20	1.24	1.28	1.32	1.36	1.42
5	1.10	1.16	1.20	1.24	1.28	1.32	1.36	1.40	1.46
6	1.14	1.20	1.24	1.28	1.32	1.36	1.40	1.44	1.50
7	1.18	1.24	1.28	1.32	1.36	1.40	1.44	1.48	1.54
8	1.22	1.28	1.32	1.36	1.40	1.44	1.48	1.52	1.58
9	1.26	1.32	1.36	1.40	1.44	1.48	1.52	1.56	1.62
10		1.36	1.40	1.44	1.48	1.52	1.56	1.60	1.66
11			1.44	1.48	1.52	1.56	1.60	1.64	1.70

12		1.52	1.56	1.60	1.64	1.68	1.72	1.74
13			1.60	1.64	1.68	1.72	1.76	1.78
14				1.68	1.72	1.76	1.80	1.82
15	1.50	1.55	1.65	1.72	1.76	1.80	1.84	1.86
16				1.76	1.80	1.84	1.88	1.90
17								
18								
19								
20				1.80	1.85	1.90	1.95	2.00
25+				1.85	1.90	1.95	2.00	2.05"

INDEX DERIVATION

Base = 1.00

The base salary for 10-month Plan A employees of Delaware Technical and Community College shall be calculated by using the salary amount specified for the Bachelor Degree, 0 years experience amount from Title 14, Section 1305, Delaware Code, divided by .7 to account for 100% State funding.

(2) Twelve-month salaries shall be determined by multiplying the appropriate 10-month salaries by 1.2.

(3) The actual Fiscal Year 1989 salary paid to any Salary Plan A employee shall be determined as follows:

(a) Placement on the Index for Fiscal Year 1989 for any Salary Plan A employee shall be based on the employee's actual degree, additional credits, and years of relevant experience as certified by the College on July 1, 1988. Advancement in any of these areas after that date will become effective for salary purposes on July 1, 1989.

(b) For Fiscal Year 1989 the minimum increase for a 10-month Salary Plan A employee shall be \$557.00. The maximum increase for a 10-month employee shall be one-half the amount necessary to bring that employee to the full index value salary or \$557.00, whichever is greater. The minimum increase for a 12-month employee shall be \$669.00. The maximum increase for a 12-month employee shall be one-half the amount necessary to bring that employee to the full index value salary or \$669.00, whichever is greater.

(4) The Board of Trustees of the college may certify that specific instructional positions are in scarce supply and shall report that determination to the Budget Director and Controller General. After such certification, new hires on the Salary Plan A schedule who are to be engaged in positions of scarce supply may be offered a salary by the Board of Trustees that exceeds the scheduled salary by up to 15%.

(5) During Fiscal Year 1989, new hires in Salary Plan A shall not receive salaries in excess of the lowest paid employee occupying a cell with the same or higher index value, unless the provisions of paragraph (4) have been duly invoked.

(u) During Fiscal Year 1989, Delaware Technical and Community College will continue a merit system comparable pay system for Plan B employees. Such system shall be subject to the following provisions:

1. For salary purposes, the 37.5 hour merit salary schedule shall become the pay plan for Plan B employees in Fiscal Year 1989.

2. (a) The newly defined class specifications for positions occupied by Delaware Tech Plan B employees shall be assigned paygrades comparable to the Merit System pay plan using the same criteria authorized by the State Personnel Office for Merit System positions, through the use of Hay consultants.

(b) Periodic classification maintenance reviews will be processed under the normal State Personnel maintenance review processes. Critical reclassifications will be processed under the same general system as the State Merit System subject to final approval of a Committee composed of the President of the College, Budget Director and Controller General.

3. Effective July 1, 1988, all Plan B employees are eligible to receive general salary increases as provided by Section 12(d).

4. The College is authorized to hire at up to 80% of the midpoint of an assigned paygrade upon the signature of the appropriate Vice President and Campus Director; hiring beyond 80% of midpoint up to 100% of midpoint shall require the signature of the College President; hiring beyond the 100% of midpoint shall require the signatures of the Budget Director and Controller General.

5. Selective market variation and any other special considerations relative to standard compensation exceptions would be handled in accordance with hiring/compensation procedures outlined in the State Merit System.

6. Vacation and sick leave policies shall remain at the discretion of the College.

7. Part-time employees' salaries shall not exceed the hourly rate of the grade assigned to comparable full-time employees.

8. Delaware Tech will retain its practice of compensating Plan B employees for additional degrees as earned. This compensation will be in the form of a one-time bonus not added into the employee's base rate, and not paid out of State funds.

9. Delaware Tech shall retain the ability to underfill any position and to advance any employee in an underfilled position, upon determination of satisfactory performance to the paygrade to which the position is assigned.

10. Delaware Tech's flexible benefits plan shall remain at the discretion of the College.

Section 13. (a) For the purpose of this Section, the term "Department" means all State Departments and Agencies receiving appropriations as set forth in Section 1 of this Act.

(b) Where the number of employee positions has been set forth in the salary 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 therefore 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, 1989. No Department shall change the total number of positions without prior approval of the Delaware State Clearinghouse Committee, and no Department shall transfer a position between divisions except with the approval of the Delaware State Clearinghouse Committee. All Job Training Partnership Act funds expended for full-time positions shall be for employment within the State of Delaware.

Section 14. Salaries and wage rates for State employees who are not covered by the Merit System or by the provisions of Title 14, Chapter 13, Delaware Code shall have the following:

(a) The salary of employees shall be comparable to salaries and wage rates paid from funds appropriated by the State to employees with similar training and experience who serve in similar positions in the Merit System. In the event that there are no similar positions in the Merit System, the State Personnel Director shall establish an exempt position classification only for the purpose of assigning a salary or wage rate to said position. On or before August 15, 1988, the State Personnel Director shall publish a list of exempt positions and the comparable Merit System class and/or paygrade for each position. In addition, such listing shall show the name of the incumbent, if the position is filled, and shall show the statutory citation which authorizes the establishment of the exempt position(s). The State Personnel Director shall provide copies of such listing to members of the Joint Finance Committee and the Controller General. No exempt employee shall be hired until said list is published. No reclassification of exempt employee, otherwise permitted under Delaware law, shall become effective unless and until a new position is placed on the comparability list. In order to permit the development of the comparability list, State Agencies shall provide, to the State Personnel Director, job descriptions of all exempt positions and position classification questionnaires describing the duties and responsibilities of each of the positions. The certification of comparability by the State Personnel Director shall not be withheld unreasonably. Those positions assigned on a list

of comparability that are assigned a comparable class and/or paygrade in the Merit System shall be paid in accordance with Section 12(c), (d) and Merit System Rule 13.0110.

(b) The salary of employees whose salary in effect as of June 30, 1988, is below the minimum salary of the assigned paygrade of the pay plan shall be raised to the minimum salary. This adjustment shall be made after the implementation of the general salary increase in Section 12(d)(1).

(c) Notwithstanding any other provision of the Delaware Law or this Act to the contrary, civilian employees of the Delaware National Guard shall be compensated at a salary and wage rate established by the Federal Civil Service Commission.

Section 15. Funds provided in Section 1 of this Act may be expended for purposes in which agencies have specifically entered into agreement with the Federal Government for the reimbursement of such expenses; provided, however, that the Federal Government specifically requires such reimbursement procedures and that the agency has specific authorization in accordance with the provisions of Title 29, Chapter 76, Delaware Code, Federal Aid Coordination, to enter into such programs; and, provided, further, that such reimbursements be accounted for in conformance with the State accounting manual and that such reimbursements be used to fulfill the intent and purposes of Section 1 of this Act.

Section 16. (a) Except as specifically authorized to the contrary by the Delaware Code, no State employee whose title is designated in 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, unless prior approval has been granted by the Budget Director and the Controller General; 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 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. An agency may provide housing for such employee without reduction in the 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.

(b) A State employee whose salary is designated in this Act may perform additional duties for a State agency other than his principal employer, with the consent of his principal employer, and may be paid additional compensation therefore, provided such additional duties are not a part of his regular duties for the principal employer and not rendered during time paid for by the principal employer.

Section 17. Any employee eligible for termination pay, whose regular pay was from Special Funds, shall have termination pay paid from Special Funds. If the employee's regular pay is from both General and Special Funds, termination pay shall be on a pro-rata basis. Exceptions to this method of payment must have the approval of the Budget Director and Controller General.

Section 18. Notwithstanding any other provisions of this Act, in the event the appropriation set forth in Section 1 of this Act to any Department or Agency for salaries and other employment costs is excessive or inadequate, the Budget Director, with concurrence of the Controller General, is authorized to transfer funds appropriated for Salaries and Other Employment Costs among the various Departments and agencies in order to meet overall State Salary and Other Employment Costs requirements. Such authorizations for transfer can be between Salaries and Other Employment Costs and shall be in writing and shall be fully documented.

Section 19. Notwithstanding any other provisions of this Act, in the event the appropriation set forth in Section 1 of this Act in a memorandum budget of any Department or Agency for salaries is excessive or inadequate, the Budget Director, with concurrence of the Controller General, is authorized to make adjustments by a transfer between the several line item appropriations set forth in the memorandum budget. Such authorization for transfers shall be in writing and shall be fully documented.

Section 20. The abbreviations set forth in Section 1 of this Act for Special Fund authorized positions means funding from the following:

- ASF - Appropriated Special Funds
- NSF - Non-appropriated Special Funds

Section 21. (a) The Fiscal Year 1989 operating budget contemplates receipt of federal funds and State Special Funds for certain programs or functions administered by departments/agencies. Funds herein appropriated in Section 1 of this Act to match the Federal or State Special Funds shall be expended only to the extent that federal or State Special Funds shall have been made available.

(b) Upon being informed that such program or function is terminated or funds therefore are reduced, the head of the department/agency shall immediately notify, in writing, the people identified in this subsection and promptly:

- (i) Reduce proportionately the expenditure of funds from the matching General Funds of the State appropriated to match such federal or State Special Funds; and
- (ii) Submit, in writing, to the Governor, Chairman and Vice Chairman of the Joint Finance Committee, Controller General, Budget Director, and Secretary of Finance a plan describing how each individual program or function will be accomplished, including General Fund operating budget line item expenditure reductions.

(c) Upon notification that the federal or State Special Funds are reduced or terminated when the General Assembly is duly convened, the Governor or the Joint Finance Committee may propose legislation for consideration by the General Assembly to continue the program or function. In the event the General Assembly does not authorize continuation of the program or function, the Budget Director is hereby directed to revert the remaining matching General Funds.

(d) Agencies who are recipients of federal funds in support of programs or services, and have indirect costs or any costs identified as a Section II cost, per the Statewide Cost Allocation Plan (SWCAP), shall budget these costs when the application is presented to the Delaware State Clearinghouse.

Section 22. Title 29, Chapter 63, Delaware Code, requires the Governor to submit a proposed budget in a zero-based budgeting format. For Fiscal Years 1989 and 1990, this requirement is waived for those agencies which will be part of a new budgeting format.

Section 23. All agencies or schools receiving federal funds must transfer to the Budget Office two tenths of one percent of the federal funds received to a special fund account known as the "Federal Audit Set-Aside Account". Agreement has been signed with the federal government approving this methodology of paying for the single audit concept.

Section 24. All Departments with Internal Programs identified in Section 1 of this Act are hereby authorized to transfer funds and amend ASF estimated receipts, except Energy funds, within an Internal Program Unit in accordance with the transfer regulations outlined in Title 29, Section 6528, Delaware Code. These transfers shall not require the approval of the Budget Director and Controller General. Copies of these transfers shall be sent to the Controller General after entry into the State's accounting system.

Section 25. All Departments with Internal Programs identified in Section 1 of this Act are hereby authorized to transfer prior year funds between Internal Programs to complete the organization restructuring process. These transfers shall not require the approval of the Budget Director and Controller General.

Section 26. Amend Title 29, Chapter 65, Section 6519 of the Delaware Code as follows: Substitute "July 1" for "June 30".

Section 27. Amend Title 29, Chapter 65, Section 6528 of the Delaware Code by striking Subsection (d) in its entirety and redesignating Subsections (e) and (f) as Subsections (d) and (e) respectively.

Section 28. Notwithstanding any other provisions of this Act, in the event the appropriation set forth in Section 1 of this Act to any Department or Agency is excessive or inadequate, the Budget Director, with the concurrence of the Controller General, is authorized to transfer funds among the various departments in order to meet a specific, non-routine requirement. Such authorization for transfer shall be in writing. Furthermore, such transfers shall be recorded and controlled through separate accounts within Budget Office Contingencies (10-02-04). All transfers processed in prior years that

were approved by the Budget Director and/or the Controller General are deemed consistent with the intent of the relevant appropriations Acts.

Section 29. Those agencies which use commercial motor fuel credit cards must maintain records of motor fuel use and file for the motor fuel tax refund at appropriate intervals as per Federal regulations.

Section 30. In lieu of additional funding for those first purchase agencies who paid motor fuel tax during early calendar year 1988, motor fuel tax refunds received during FY 1989 may be retained and used for FY 1989 motor fuel purchases.

Section 31. In accordance with the Freedom of Information Act (Title 29, Section 10003, Delaware Code) an agency may charge a reasonable fee approved by the Budget Director for reproducing public documents. This fee shall be credited to Agency Accounts as expenditure reducing for reproduction costs as charged.

Section 32. Amend Title 29, Section 6508, Delaware Code, by Striking said Section in its entirety.

Section 33. Amend Title 29, Chapter 33, Section 3304 of the Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§3304. Effect of Commission report.

The remuneration for all offices specified in §3303 of this title established by the report shall take effect and have the force and effect of law as of February 1, 1989, unless the General Assembly shall by joint resolution reject the report in its entirety within 30 days following the commencement of its session."

CONTINUING APPROPRIATIONS

Section 34. For the fiscal year ending June 30, 1988, any sums in the Fiscal Year 1988 Legislature - House of Representatives account (01-01-01-01-98) shall remain as a continuing appropriation and shall not revert until June 30, 1989.

Section 35. For the fiscal year ending June 30, 1988, any remaining sums in the Fiscal Year 1986 Commission on Interstate Cooperation accounts (01-05-01-01-80) and (01-05-01-03-54) shall remain as continuing appropriations and shall not be subject to reversion until June 30, 1989.

Section 36. For the fiscal year ending June 30, 1988, any sums in the Fiscal Year 1987 Office of the Controller General Account (01-08-02-01-98) shall remain as a continuing appropriation and shall not revert until June 30, 1989.

Section 37. For the fiscal year ending June 30, 1988, any remaining sum in Superior Court, Administration, Fiscal Year 1988 appropriation for the Video Phone Pilot Link, One-Time appropriation (02-03-30-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 38. For the fiscal year ending June 30, 1988, any remaining sum in the Case Processing Fiscal Year 1987 One-Time appropriation, for the Installation of telephones and cables at the Sussex County Family Court facility (02-08-01-01-98), shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 39. For the fiscal year ending June 30, 1988, any remaining sum in the Public Guardian (02-18-01-01-97) Fiscal Year 1987 appropriation for the purpose of adequately caring for a ward or protected person until their income checks arrive and/or their property is sold (at which time the fund is to be repaid) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

The Public Guardian will be held responsible for administering the fund in accordance with Delaware law. A report must be filed with the State Budget Office and the Controller General on January 31, 1989, detailing the use of the funds and the balance of the account as of December 31 of the previous calendar year. Future appropriations to maintain adequate cash flow will depend upon documented proof of recovery or efforts to recover loans.

Section 40. For the fiscal year ending June 30, 1988, any remaining sum in the Office of the Governor Fiscal Year 1988 appropriation for the AOC Study (10-01-01-01-85) shall be a continuing appropriation to be used for Court Consolidation transition and shall not be subject to reversion until June 30, 1989.

Section 41. For the fiscal year ending June 30, 1988, any remaining sums in the Office of the Budget Fiscal Year 1987 and Fiscal Year 1988 appropriations (10-02-01-01-80) for the

Management Improvement Program, shall be continuing appropriations and shall not be subject to reversion until June 30, 1989. The disbursement of these funds are subject to approval by the Budget Director, the Controller General and the Secretary of Finance. These funds shall be used for improving the State's financial management systems.

Section 42. For the fiscal year ending June 30, 1988, any remaining sum in the Office of the Budget, Computer One-Times (10-02-01-01-82) from Fiscal Year 1988 appropriation shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 43. For the fiscal year ending June 30, 1988, any remaining sum in the Office of the Budget Fiscal Year 1988 appropriation for the Development Fund (10-02-01-01-85) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 44. For the fiscal year ending June 30, 1988, any remaining sum in the Office of the Budget Fiscal Year 1987 appropriation for the Budget Automation Program (10-02-01-01-91) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 45. For the fiscal year ending June 30, 1988, any remaining sum in the Office of the Budget Fiscal Year 1988 appropriation for the Budget Automation Program (10-02-01-01-91) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 46. For the fiscal year ending June 30, 1988, any remaining sum in the Office of the Budget Fiscal Year 1988 Contingency for Salaries and OEC (10-02-04-01-88) shall be a continuing appropriation to be used for prior and current years salary requirements and shall not be subject to reversion until June 30, 1989.

Section 47. For the fiscal year ending June 30, 1988, the remaining balance of account of Office of the Budget, Information Service Operations and Facilities Management, One-Time appropriation, Water Tower (10-02-09-01-98) from Fiscal Year 1987 appropriations shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 48. For the fiscal year ending June 30, 1988, any remaining sum in the Delaware Development, State Housing Authority Fiscal Year 1987 appropriation for the Housing Development Fund One Times (10-03-04-01-98) shall continue as a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 49. For the fiscal year ending June 30, 1988, any remaining sum in the Personnel Office, Personnel Administration for One-Times (10-04-01-01-98) from Fiscal Year 1988 appropriation shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 50. The sums appropriated in Fiscal Year 1989 to Criminal Justice Council (10-07-01) for criminal justice planning grants to State Agencies to provide funds to match grants from the Federal Government, which are not disbursed on June 30, 1989, shall continue to be available on a matching basis for the life of each criminal justice 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 51. For the fiscal year ending June 30, 1988, any remaining sums in the Delaware Justice Information Systems from Fiscal Year 1988 appropriation for computer/software needs (10-07-02-01-95) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 52. For the fiscal year ending June 30, 1988, any sums in the Fiscal Year 1988 Criminal Justice Council, DELJIS account (10-07-02-01-95) shall remain as a continuing appropriation and shall not revert until June 30, 1989.

Section 53. For the fiscal year ending June 30, 1988, any remaining sum in the State Treasurer's Office, Administration from Fiscal Year 1988 appropriation for a Telephone System (12-05-01-01-51) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 54. For the fiscal year ending June 30, 1988, any remaining sums in the Office of the State Treasurer, Administration, Fiscal Year 1988 One-Time Appropriation, for an AT&T Merlin System (12-05-01-01-98), shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 55. For the fiscal year ending June 30, 1988, any remaining sums in the Office of the State Treasurer, Administration, Fiscal Year 1988 Maintenance and Restoration appropriation for partitions (12-05-01-01-99), shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 56. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Division of Secretary from Fiscal Year 1987 One-Time appropriation for the (20-01-01-01-80) Bicentennial Committee shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 57. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Division of Historical and Cultural Affairs, Office of Administration from the Fiscal Year 1987 appropriation for Folklore (20-06-01-01-51) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 58. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Division of Historical and Cultural Affairs, Office of Administration Fiscal Year 1988 One-Time Appropriation (20-06-01-01-98) Bicentennial Projects shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 59. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Division of Historical and Cultural Affairs, Bureau of Archaeology and Historic Preservation, from the Fiscal Year 1988 One-Time appropriation for Survey catalog - State match (20-06-03-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 60. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Division of Historical and Cultural Affairs, Bureau of Museums and Historic Sites, from the Fiscal Year 1987 appropriation for Maintenance/Restoration (20-06-04-01-89) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 61. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Division of Historical and Cultural Affairs, Bureau of Museums and Historic Sites, Property Maintenance, (20-06-04-01-96) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 62. For the fiscal year ending June 30, 1988, the remaining balance in the Department of State, Division of Historical and Cultural Affairs, Bureau of Museums and Historic Sites for the Fiscal Year 1988 One-Time Appropriation for Public Markers (20-06-04-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 63. For the fiscal year ending June 30, 1988, any remaining sum in the Telephone Services Fiscal Year 1988 One-Time appropriation (30-04-20-01-98) for telephones for the Kent County Family Court and the Sussex County Family Court facilities shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989. Further, any remaining sum not expended for the telephones for the Sussex Family Court facility shall be available for use for the Kent County Family Court facility for telephones and security instruments.

Section 64. For the fiscal year ending June 30, 1988, any remaining balance in the Department of Administrative Services, Division of Facilities Management, Property Management, (30-05-10-01-96) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 65. For the fiscal year ending June 30, 1988, any remaining sum in the Property Management Fiscal Year 1988 One-Time appropriation (30-05-10-01-98) for furniture and office equipment for the Kent County Family Court facility, shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 66. For the fiscal year ending June 30, 1988, the remaining balances for Department-wide salaries and other employment costs shall be transferred to Business Administration (35-01-20) from Fiscal Year 1988 appropriations and shall be a continuing appropriation for the purpose of funding department-wide reclassifications and shall not be subject to reversion until June 30, 1989.

Section 67. For the fiscal year ending June 30, 1988, any remaining balance in the line (35-01-20-01-81) in the Administration Section, Business Administration IPU from Fiscal Year 87 appropriations shall be a continuing appropriation for the purpose of completing DCIS Part B and shall not be subject to reversion until June 30, 1989.

Section 68. For the fiscal year ending June 30, 1988, any remaining balance in the line (35-07-20-01-98) in the Administration Section, Business Administration IPU from Fiscal Year 88 appropriations shall be a continuing appropriation, of which an amount not to exceed \$41.7 may be used for the purpose of continuing development of an institutional client treatment tracking system and shall not be subject to reversion until June 30, 1989.

Section 69. For the fiscal year ending June 30, 1988, any remaining balance in the line (35-01-20-01-98) in the Business Administration IPU from Fiscal Year 1988 appropriation shall be a continuing appropriation and shall be used to continue development of an institutional computer system and shall not be subject to reversion until June 30, 1989.

Section 70. For the fiscal year ending June 30, 1988, any remaining balance in the line (35-06-01-01-98) in the Medical Examiner's Office IPU from Fiscal Year 1988 appropriation shall be a continuing appropriation and shall be used to erect a temporary laboratory facility and shall not be subject to reversion until June 30, 1989.

Section 71. For the fiscal year ending June 30, 1988, any remaining balance in the line (35-06-20-01-98) in the Community Mental Health IPU from Fiscal Year 1988 appropriation, shall be a continuing appropriation of which an amount not to exceed \$67.5 may be used to provide start-up costs for a group home for the mentally ill and shall not be subject to reversion until June 30, 1989.

Section 72. For the fiscal year ending June 30, 1988, any remaining sums in the Community Corrections Fiscal Year 1988 one-time appropriation for SCI Halfway House startup costs (38-04-10-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 73. For the fiscal year ending June 30, 1988, any remaining sum in the Department Management Fiscal Year 1987 Hazardous Spill appropriation (40-01-01-01-81) shall remain a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 74. For the fiscal year ending June 30, 1988, any remaining sum in the Department Management Fiscal Year 1987 One-Time appropriation for Superfund (40-01-01-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 75. For the fiscal year ending June 30, 1988, any remaining sum in the Management and Support, Parks and Recreation Fiscal Year 1986 Park Development appropriation (40-06-01-02-80) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 76. For the fiscal year ending June 30, 1988, any remaining sum in the Beach Preservation Fiscal Year 1986 Indian River appropriation (40-07-03-02-80) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 77. For the fiscal year ending June 30, 1988, any remaining sum in the Beach Preservation Fiscal Year 1986 shore stabilization appropriation (40-07-03-02-81) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 78. For the fiscal year ending June 30, 1988, any remaining sum in the Department of Natural Resources Dredge Operations IPU, Division of Soil and Water Conservation, Fiscal Year 1988 One-Time appropriation for dredging Roy Creek and Silver Lake, Dover, (40-07-05-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 79. For the fiscal year ending June 30, 1988, any remaining sum in the Management and Support, Air and Waste Fiscal Year 1988 One-Time appropriation, for the lease purchase of a portable gas chromatograph/mass spectrometer, (40-09-01-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 80. For the fiscal year ending June 30, 1988, any remaining sum in the Waste Management Fiscal Year 1988 One-Time appropriation, for the clean-up of hazardous spills, (40-09-03-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 81. For the fiscal year ending June 30, 1988, any remaining sum in the Department of Transportation, Bureau of Maintenance, Fiscal Year 1988 Computer Appropriation for a card-automated refueling system (55-04-70-01-95), shall be a continuing appropriation and shall not be subject for reversion until June 30, 1989.

Section 82. For the fiscal year ending June 30, 1988, any remaining sum in the Department of Transportation, Bureau of Maintenance, Fiscal Year 1988 One-Time Appropriation for a card-automated refueling system (55-04-70-01-98), shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 83. For the fiscal year ending June 30, 1988, any remaining sum in the Delaware Transportation Authority Fiscal Year 1987 appropriation for Commuter Rail (55-06-01-01-80) shall remain a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 84. For the fiscal year ending June 30, 1988, any remaining sum in the Department of Agriculture, Office of the Secretary, Fiscal Year 1988 appropriation for Crop Insurance, (65-01-01-01-80) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 85. For the fiscal year ending June 30, 1988, any remaining sum in the Delaware National Guard, Maintenance/Restoration from the Fiscal Year 1987 appropriation (76-01-01-01-83) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 86. For the fiscal year ending June 30, 1988, any remaining sum in the Delaware National Guard for Maintenance/Restoration, Fiscal Year 1988 appropriations (76-01-01-01-99) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 87. For the fiscal year ending June 30, 1988, any remaining sum in the Delaware National Guard, Maintenance/Restoration from the Fiscal Year 1986 appropriation (76-01-01-02-83) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 88. For the fiscal year ending June 30, 1988, any remaining sum in the Delaware National Guard, Maintenance/Restoration from the Fiscal Year 1986 appropriation (76-01-01-02-84) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 89. For the fiscal year ending June 30, 1988, any balances in the State Boundary Commission (90-01-02) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 90. For the fiscal year ending June 30, 1988, any remaining sum for Higher Education, Delaware State College, One-Time for Maintenance/Restoration for Fiscal Year 1988 appropriation (90-03-01-01-98) shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

Section 91. For the fiscal year ending June 30, 1988, any sum remaining in the appropriation for One-Time Items for Minor Capital Improvements for Public Education shall be a continuing appropriation and shall not be subject to reversion until June 30, 1989.

LEGISLATIVE

Section 92. Of the total positions authorized in Section 1 of this Act for the Office of the Research Director (01-08-01), the position of Research Assistant to the House and Senate Sunset Standing Committees shall be an exempt position and shall report to the Director.

Section 93. Section 1 of this Act provides an appropriation to the Office of the Controller General (01-08-02) for Salaries - Casual and Seasonal for Standing Legislative Committees. Requests from Chairmen of Standing Legislative Committees for professional staff assistance shall be submitted to the Legislative Council for approval or disapproval. Approvals for professional staff assistance shall be allowed within the limits of the appropriation and as provided by guidelines established by the Legislative Council.

Section 94. Section 1 of this Act provides an appropriation to the Office of the Controller General (01-08-02) for Contingency - Legislative Council. Requests from various task forces and committees of either the House of Representatives or the Senate for travel expenses, meeting expenses, contractual services and any other expenses shall be submitted to the Legislative Council for consideration.

JUDICIAL

Section 95. No funds are appropriated in Section 1 of this Act for Salaries in Judicial (02-00-00) for the purpose of "leveling up" salaries of non-Judiciary positions.

Section 96. Section 1 of this Act includes General Fund position authorizations and appropriations for the Superior Court and Budget Office associated with the addition of two (2) new Judges to the Superior Court as follows:

(02-03-10) Superior Court - Case Processing

(8) Positions	
Personnel Costs	\$283.7
Travel	2.2
Contractual Services	25.9
Supplies and Materials	4.3

(02-03-20) Superior Court - Presentence Investigation

(1) Position	
Personnel Costs	\$22.2
Travel	.3
Contractual Services	.4
Supplies and Materials	.2

(10-02-05) Budget Office - Other Items
(One-Time Appropriations)

(02-03-10) Office Equipment for New Positions	\$41.1
(02-03-20) Capital Equipment for Presentence Officer	2.0

These position authorizations and appropriations are contingent upon enactment of legislation allowing expansion of the Court to fourteen (14) Associate Judges. Should such legislation not become law prior to January 31, 1989, the appropriations shall be reverted to the General Fund and the position authorizations shall be rescinded. The position authorizations shall not be effective until after October 31, 1988.

Section 97. Section 1 of this Act authorizes (1) position and appropriates associated personnel costs of \$15.0 to the Court of Common Pleas (02-06-10). The authorized position and associated appropriation shall be for a Court Clerk II to be employed in Sussex County.

Section 98. The Legislature finds that through a cooperative agreement between the Division of Child Support Enforcement (35-10-00), Department of Health and Social Services, and the Family Court of Delaware (02-08-00), the Federal Government has been reimbursing the Court for General Funds disbursed for certain expenses incurred in the delivery of child support services by the Family Court of Delaware. The Legislature directs that:

- (a) The Family Court of Delaware and the Department of Health and Social Services shall continue such cooperative agreement for the purpose of seeking appropriate reimbursement from the Federal Government for General and Appropriated Special Funds expended for certain expenses incurred in the delivery of child support services by the Court.
- (b) Upon receipt of such reimbursement from the Federal Government, the Family Court of Delaware and the Department of Health and Social Services shall jointly remit such reimbursement into a Special Fund Account in the Office of the State Treasurer as established by the Budget Director.
- (c) This Fund shall be utilized for determining the next Fiscal Year's Appropriated Special Funds appropriation for Family Court and any other Agency receiving Title IV-D Funds as the Legislation so directs. In the event that an amount in this Fund represents a recovery based on the Statewide Cost Allocation Plan, then such amount shall not be considered for appropriation.
- (d) The balance of the Special Fund Account not appropriated for the next Fiscal Year shall revert to the General Fund prior to December 31.

Section 99. Section 1 of this Act appropriates Contractual Services to the Family Court (02-08-40). Of this amount, \$35.0 shall be used for telephone expense incurred by Kent County Family Court operations after occupancy of the New Family Court building in Kent County.

Section 100. The Fiscal Year in which bills are received will be the factor in determining the chargeable Fiscal Year for the Administrative Office of the Courts

(02-17-00) for payments to court-appointed, non-contract attorneys for billings that span multiple Fiscal Years.

EXECUTIVE

Section 101. (a) The appropriation in Section 1 of this Act for Data Processing - Development Projects to the Office of the Budget (10-02-01), contemplates information technology planning and procurement services for the following State Department/Agencies development projects and feasibility studies:

<u>DEPARTMENT/AGENCY</u>	<u>SERVICE NEED</u>
Legislative	Legislative Information System
Executive	
Budget Office	BIS Enhancements
State Personnel	Human Resource Management System
State	Information System Enhancements
Finance	
Division of Revenue	Information System Enhancements
Administrative Services	Information Systems Development and Implementation
Services for Children, Youth and Their Families	CYCIS Enhancements
Health and Social Services	PACT & Client Treatment Development
Public Safety	Motor Vehicle Information Systems Development and Commercial Drivers License
Department of Public Instruction	Instructional and Administrative Information System Planning

Allocation of the funds appropriated for this purpose shall be made by the Budget Director in consultation with the affected Department/Agency head. In the event there are federal funds available for match in support of a project or projects, the Budget Director and the Controller General may transfer such funds as are necessary for matching purposes to the Department/Agency involved.

(b) No computer or computer-programming related systems project identified in Subsection (a) of this Section may be initiated by the Departments/Agencies during Fiscal Year 1989 unless covered by a formalized plan approved by the Department/Agency head and the Budget Director. Such project will be in the form approved by the Budget Director, or his/her designee, and shall include:

- (i) statement of work to be done;
- (ii) existing work to be modified or displaced;
- (iii) total cost of systems development and conversion effort, including systems analysis and programming cost, establishment of master files, testing, documentation, special equipment costs, including full overhead, savings or additions in positions and operating costs that will result after development or conversion;
- (iv) other advantages or reasons that justify the work;
- (v) source of funding for the work and whether or not work is within scope of work envisioned under this Section; and
- (vi) estimated costs of such project shall include a three-year projection, i.e., current Fiscal Year and two succeeding Fiscal Years.

(c) No project is to be undertaken which is beyond the scope of work approved by the Department/Agency head and the Budget Director. This requirement applies to all computer or computer-programming related systems development performed by the Office of Information Systems in the Office of the Budget, Department/Agency itself or an outside consultant or

contractor. Further, this requirement applies to new computer programs or systems purchased or otherwise acquired and placed in use.

(d) Status reports, sufficiently descriptive in nature, of each project shall be prepared by each Department/Agency and provided periodically to the Budget Director and the Controller General.

(e) In support of all projects executed between Information Systems in the Office of the Budget and the concerned Department/Agency, Information Systems shall maintain staff support to the benefit of Department/Agency at the projected level of effort (subject to recruitment delays) until the project work has been accomplished.

(f) No funds appropriated in Section 1 of this Act may be used to employ data or word processing professionals in support of current or proposed data or word processing systems without prior written approval of the Budget Director.

Section 102. Appropriations authorized in Section 1 of this Act for computers, telecommunications equipment, and systems development, will be deposited in the Development Fund to be controlled by the Budget Office.

Section 103. Any Internal Program Unit/Budget Unit having energy funding (electricity, natural or propane gas and heating oils) for the purpose of reimbursing a host Internal Program Unit/Budget Unit must release the remaining sums to the host Internal Program Unit/Budget Unit in the event that the tenant Internal Program Unit/Budget Unit vacates the premises. It is the responsibility of the host Internal Program Unit/Budget Unit to initiate the transfer request.

Section 104. The amount appropriated to the Budget Office entitled, Contingency - Prior Years' Obligations, shall be used to pay Salaries and Wages, Other Employment Costs, reimbursement of overpayment of fringe benefits, and other obligations which require adjustment of the State's accounts. Any use of the Prior Years' Obligations Fund for Fiscal Year 1988 obligations, by any Agency receiving funds in Section 1 of this Act, in excess of the amount reverted on June 30 from the Fiscal Year 1988 applicable line code will require the requesting Agency or school district to reimburse the Prior Years' Obligation Fund by the amount equal to the excess requested. A line code reversion sum does not negate the necessity of encumbering sufficient funds to cover known expenses; prior year funds requested under these circumstances are not excluded from the reimbursement clause. All requests for prior year funds to complete the payment of one-time items will require a reimbursement to the Prior Years' Obligation Contingency by the requesting Agency. The reimbursement can be removed from the current Fiscal Year's budget. The reimbursement clause shall not apply to legal judgments against the Agency or school district. A reimbursement under this Section shall not be deemed to be prohibited by Title 10, Section 8111, Delaware Code.

Section 105. Section 1 of this Act contains \$200.0 for an energy contingency. The following eight sub-sections establish the rules of operation and eligibility for the contingency.

(a) This Section establishes rules for the use of the energy price contingency in the Contingency Budget Unit of the Budget Office, (10-02-04). The contingency will include the following energy types: electricity, natural gas, propane gas and numbers 2, 4, 5 and 6 heating oils.

(b) No Internal Program Unit/Budget Unit may receive funds for electricity before May of the Fiscal Year nor before March of the Fiscal Year for gas and/or heating oils. No funds will be transferred from the contingency for an energy type (electricity, gas and heating oils) while surplus funds exist in other type or types of energy used by the requesting Internal Program Unit/Budget Unit.

(c) No request will be allowed unless prices paid exceed 102 percent of the amount budgeted and then only for the amount in excess of 102 percent. The funding allowance for electricity will be limited to a maximum of 110 percent over the budgeted amount. The contingency will only cover the General Fund portion of the energy appropriations. The price paid per unit data will begin with the first billing received for Fiscal Year 1989. Any fine or late payment penalty paid will not be counted as part of an energy cost. No funding will be allowed for any Internal Program Unit/Budget Unit which has supplied incorrect or false data for any energy type.

(d) The University of Delaware and the Public Education School Districts do not receive their energy appropriation on the basis of consumption units. Therefore, they are not eligible to receive funding from the contingency.

(e) This contingency will not provide any funding for the consumption of energy units in excess of the amounts agreed to during the annual energy meetings. This includes facilities which were left out of the budgeting process due to lack of information being provided to the Energy Office function of the Department of Administrative Services.

(f) The appropriation is based on the data supplied by the Agencies; therefore, it will be the requesting Internal Program Unit's/Budget Unit's responsibility to provide all data necessary to substantiate their request.

(g) Any heating oils payment which had a per gallon cost higher than the Division of Purchasing contract prices may not receive contingency funds for the cost over the contract price.

(h) In the event that there is an unexpected cost increase or energy emergency, the Budget Director may, with the concurrence of the Controller General, transfer energy appropriations as necessary to meet the energy cost need.

(i) The continuing analysis of the Statewide energy data has led to adjustments to all heating oil prices and almost all gas and electricity prices. The adjustments have been developed by Agency, the University of Delaware and the School Districts. The new energy total for the University of Delaware is \$1,894.3 and the new School District Division II allowance for energy is \$1,310 per unit. The Budget Office shall make, at the discretion of the Budget Director, the necessary adjustments to accommodate the new energy values while loading the Fiscal Year 1989 budget into the State Accounting System.

Section 106, Section 1 of this Act makes an appropriation to the Budget Office - Contingencies (10-02-04) for Prior Years' Obligations - Salaries and Other Employment Costs. This line item is to be allocated as follows:

Delaware Technical and Community College - Plan "B"	\$ 119.0
Merit System Comparable Employees - FLSA Payments	250.0
Merit System Comparable Employees - Retro-Reclassifications	500.0
Merit System Employees - Pay Scale Equitability	348.0
Total	\$1,217.0

If the various amounts are insufficient for a particular line item, the Budget Director and the Controller General can reallocate funds among these various line items as needed.

Section 107. The amount appropriated to the Budget Office entitled, Contingency-Payscale Equitability shall be administered in the following manner:

As a result of the requirement that the salaries of all employees promoted during the Fiscal Year ending June 30, 1987 be increased by at least 5% and then placed on the next higher percentage of midpoint column of the newly assigned paygrade, certain salary inequities resulted. To correct these inequities, the following salary computations and adjustments are to be implemented by September 15, 1988:

(a) State agencies shall identify, for each employee promoted during the Fiscal Year ending June 30, 1987, any other equally qualified employees within the same job class whose salaries were passed as a result of the promoted employee's salary being placed on a percentage of midpoint column. Employees whose salaries would have been passed by the normal 5 percent promotional increase alone are not to be included.

(b) For each employee identified in Subsection (a) above, agencies shall designate the date the employee's salary was passed, the annual salary of the promoted employee and the annual salary of the identified employee.

(c) Agencies shall adjust the salaries of each employee identified in Subsection (a) above to the same dollar amount as the salary of the promoted employee whose salary passed the identified employee during the Fiscal Year ending June 30, 1987. This adjustment is to be made retroactive to the date the salary of the identified employee was passed.

(d) Prior to implementing the salary adjustments required in Subsection (c) above, agencies shall report such salary adjustments to the State Personnel Director for the Director's verification that appropriate employees were identified and that salary adjustments were computed accurately. This reporting shall be in a format designated by the State Personnel Director.

Section 108. Funds provided in Section 1 in the Office of the Budget Contingencies (10-02-04) for Salaries and Other Employment Costs may be used for prior and current year obligations.

Section 109. The appropriation in Section 1 of this Act to the Budget Office - Contingencies (10-02-04) for Contingency - State Special Funds for \$20,000.0 shall be used to make adjustments in the amount of State Special Fund appropriations in the event additional State Special Funds are received which were not previously anticipated. Such adjustments shall be made in accordance with the approval of the State Budget Director and the Controller General.

Section 110. Section 1 of this Act provides an appropriation to Budget Office - Other Items (10-02-05), Contingency - Other Items of \$12,587.9 for the fiscal year ending June 30, 1989. It is the intent that the appropriations for these Other Items shall be considered as one-time expenditure items. The Budget Director shall transfer the appropriations as itemized to the departments except as restricted by Section 111 of this Act. Each receiving department shall identify the line item, object code and, for all practical purposes, complete and separate accountability for each appropriation amount transferred. Also, any appropriation for a computer system, in any agency, is subject to and shall be administered by the State Budget Office through its Data Processing - Development Projects procedure. No appropriation shall be transferred without the State Budget Director and Controller General approvals.

Further, it is the legislative intent that none of the appropriations for Other Items be included, or be considered, as a part of the basic budget request for the Fiscal Year 1990 Appropriation Bill.

Where applicable, the appropriations to Budget Office - Other Items (10-02-05) are subject to the following terms and conditions:

<u>D-D-S</u>	<u>Amount</u>	<u>Purpose</u>
01-01-01	61.0	Court Tracking
01-08-01	13.0	Electrostatic Master Imager
	1.5	Video Cassette Recorder
01-08-02	75.0	Post 21 Task Force
02-03-10	20.0	Board of Canvass
	41.1	Office Equipment for New Positions
02-03-20	2.0	Capital/Equipment for Pre-sentence Officer
02-03-50	3.4	Equipment/Supplies for New Positions
	48.0	Lease with New Castle County for Computer and Data Processing Time
	42.0	Telephone System and Cabling
02-03-70	2.6	Reproduce Docket Book
02-06-10	1.8	Office Equipment for New Positions
	10.0	Security Equipment - Statewide
	2.7	Recording Equipment
02-08-40	12.5	Moving Expense - Kent County Building
02-17-01	99.0	Word Processing
10-02-09	1.5	Office Equipment and Furniture
10-03-02	38.0	Flags and Pins
10-03-03	60.8	Computer Equipment
	200.0	Business Advertising
	2,282.8	General Obligation Bonds
10-03-04	3,000.0	State Housing Trust Fund
10-04-01	8.5	Travel and Operating Costs for the Compensation Commission
10-04-02	30.0	Contractual Consultant for Employee Performance Evaluation Process and Printing New Evaluation Forms
	30.0	Contractual Professional Support to Begin Four-Year Classification Review Cycle
10-07-02	247.7	Offender Status Phase I
	284.5	Criminal History Conversion
	463.9	Offender Status Phase II
	15.0	Offender Status Hardware
12-01-01	5.0	Two Personal Computers
12-02-01	24.0	6 Portable Computers
12-03-01	3.6	Local Area Networking
12-05-02	15.0	NASIO Conference
15-01-01	50.0	Computer Networking and Equipment
15-02-01	100.0	Office Automation and Networking
20-01-01	31.6	Veterans' Cemetery Equipment

20-06-04	3.0	Maintenance - Hale Burns
	1.3	Historical Marker - Baltimore Hundred
	17.2	Abbotts Mill
20-06-16	10.0	Governor's Arts Award
30-01-40	2.9	Furniture
	1.5	Micro-Computer
	2.3	Telephone Equipment
30-03-20	100.0	Computerization
35-01-10	5.1	Computer Equipment
35-01-20	120.0	Institutional Computer System
	10.0	Personal Computers and Related Equipment
	5.0	One Car for Welfare Fraud Unit
35-01-30	3.7	Personal Computer
	10.5	Car
35-04-01	15.0	One Duty Wagon
35-05-02	82.6	Computer System for Community Services
	67.9	Seven Cars
35-06-20	88.4	Group Home Start-up
	28.0	Psycho-social Program Start-up
	4.6	MCU Computer Link to Mainframe
	3.0	Computerized Neurological Testing
35-07-01	20.0	Four new cars for Medical Reviews
	100.0	UB-82 Uniform Billing Procedure
35-08-01	25.2	Equipment for Training Centers
35-09-20	9.0	Automated Preventive Maintenance System
	76.3	Renovation/Start-up Alzheimers Expansion
35-09-30	30.0	Remove Toxic Waste
35-10-01	6.9	Two Cars
	4.4	10 DACSES Terminals
35-11-10	12.0	One Car
35-11-20	19.5	Replace Beeper/Communication System
	.9	PACT Terminal
35-11-30	200.0	Community Home Start-up
	37.0	Day Program Start-up
35-12-10	5.9	Personal Computer for Demographic Analysis
35-12-20	50.0	Replace Telephone System
37-01-10	.5	Office Equipment and Furniture
37-02-10	76.0	8 Replacement Cars
37-03-10	10.6	Office Equipment and Furniture
37-03-55	60.0	Start-up Costs for Day Treatment Programs
38-02-04	31.6	Food Service Equipment
38-04-03	200.0	2 Guard Towers
38-04-05	.1	Recreational Equipment
38-04-07	9.7	Vehicle
38-04-08	36.0	Two Vans
	30.0	Bus Replacement
38-05-02	29.1	Three Cars
	2.1	Office Furniture
	44.0	House Arrest Monitors
	29.1	Vehicles
38-05-03	2.1	Office Furniture
40-07-02	15.0	Drainage Projects
40-09-03	125.0	Hazardous Spill Revolving Fund
45-01-01	7.0	Computer
45-06-01	75.0	Bullet-proof Vests
	3.1	Chemical Labs Equipment
	34.9	Bomb Disposal Trailer and Hardware
45-06-03	117.2	Recruit Class Equipment
	15.0	Radar Units
45-06-05	6.0	Body Microphones
45-06-11	141.3	Vehicles
45-07-30	10.0	Automobile
50-06-01	9.7	Automobile
50-10-01	9.7	Three Four-section Stands of Movable Shelving
55-04-01	10.0	CADD System Computer Training and Road Design Manuals

55-04-70	60.0	Two Vans with Aerial Units
60-01-10	2.5	IBM System II Personal Computer
	5.0	Telephone System
65-03-03	40.0	Motor Fuel Test Vehicle
65-04-05	50.0	Study - Alternative Crop/Marketing
65-04-08	7.0	Seed Germinator
70-01-01	112.9	Presidential Election Costs
70-02-01	614.9	Presidential Election Costs
70-03-01	94.7	Presidential Election Costs
70-04-01	79.8	Presidential Election Costs
75-01-01	5.2	Arson Investigation (AIMS) Program GF Share
75-03-01	7.5	Word Processing Station Equipment
90-01-02	24.0	Furnishings
	16.9	Coastal Sussex County Water Quality Study
	203.5	Maps
90-04-04	25.0	Library Books
90-04-05	25.0	Library Books
90-04-06	15.0	Library Books
	19.0	Computer Match
95-01-02	24.0	Photo Copiers
	35.0	Wang Upgrade
95-01-03	27.0	Air Conditioner for Computer Room
	55.6	Micro-Host Computer
95-01-06	200.0	Extended Day Latchkey Program
	475.0	Day Care Program - Renovations
95-01-08	619.0	Buses
	68.2	Stop-Arm Retrofit - Continuation
95-01-09	29.8	Teacher Development Center Equipment

TOTAL 12,587.9

Section 111. Section 1 of this Act appropriates to the Budget Office - Other Items (10-02-05) various funds for computer/word processing hardware and software and contemplates the development of computer-related systems. All such funding shall be transferred into the line Data Processing-Development Projects in the Office of the Budget - Administration (10-02-01). The allocation of these funds shall be made by the Budget Director upon the approval of a formalized plan approved by the Department/Agency head and the Director of Information Planning and Administration.

Section 112. Section 1 of this Act makes an appropriation to Postsecondary Education (10-02-07) for scholarships. Of this amount, \$100.0 shall be made available for scholarship/loans for Delaware students who pursue degrees in nursing in accordance with Chapter 34, Title 14 of the Delaware Code. In addition, \$150.0 shall be used for scholarship/loans for the Christa McCauliffe Teacher Incentive Scholarship/Loan Program in accordance with the provisions of House Bill 707 of the 133rd General Assembly.

Section 113. Section 1 of this Act appropriates funds for the Engineering and Science Fund to Postsecondary Education (10-02-07). This appropriation of \$25.0 shall revert to the General Fund of the State of Delaware upon failure of the General Assembly to pass legislation implementing Senate Substitute No. 1 for Senate Bill 334 of the 134th General Assembly.

Section 114. Duties and responsibilities of the Office of Information Systems within the Office of the Budget, shall be those already defined by law, modified as follows:

(a) Title 29, Chapter 88, Sections 8804 and 8805 of the Delaware Code stipulates that the Director of the Division of Central Data Processing shall exercise certain approval or disapproval authority. For the fiscal year ending June 30, 1989, this power, duty and function shall vest with the Executive Director, Office of Information Systems.

(b) Title 29, Chapter 88 of the Delaware Code gives the Department of Administrative Services certain powers, duties and functions with regard to information services and information resource management. For the fiscal year ending June 30, 1989, such powers, duties and functions shall vest with the Executive Director, Office of Information Systems.

(c) Information management, telecommunications management, management of certain informational facilities, information planning, and data administration functions within the Office of Information Systems are hereby reaffirmed for the purposes of meeting the coordinated management informational needs of the three branches of Delaware state government. The duties and responsibilities of the Office of Information Systems shall include those identified in Title 29, Chapter 88, Delaware Code as vesting in the Office of Planning Systems Development, as well as the following:

- (i) Management control and policy direction over all aspects of computerized data requirements definition, data acquisition, data storage and dissemination, data retention, and data retirement standards.
- (ii) The creation and maintenance of a state-wide data dictionary in which each element of data is defined, collection responsibilities are affixed, and data access by legitimate users clearly defined.
- (iii) To those ends, no agency shall:
 - a. Claim unreasonable proprietary ownership of public domain information needed by another agency in the performance of its lawful duties except as specifically excluded by the Delaware Code.
 - b. Create a computerized data base without the approval of the Executive Director of OIS or his designee.

(d) Section 1 of this Act provides an appropriation for the Health and Social Services Information Systems Budget Unit, i.e. the "Biggs Data Center". Through this appropriation, the Budget Director or his designated representative shall exercise management control over all aspects of computerized systems within Health and Social Services. Specifically:

- (i) The Budget Director shall evaluate the status of current system development within Health and Social Services. If the scope of developmental activities is deemed by the Budget Director to be beyond the capabilities of the resources made available herein, alternative courses of action shall be explored.
- (ii) All data processing personnel, hardware, software, and other informational resources currently under the management control of the Budget Director are to so remain; and, wherever such information resources continue to appear in appropriations made to Health and Social Services in Section 1 of this Act, they shall be construed to be under the management control of the Budget Director or his designee.

(e) The Office of Information Systems, via the Director of the Office of Telecommunications Management, shall:

- (i) Cause a state-wide telecommunications plan to be implemented and maintained;
- (ii) Monitor and control the execution of said plan;
- (iii) Review and approve all agency plans, and shall advise the Budget Director regarding budget requests and acquisitions, with regard to telecommunications resources and activities;
- (iv) Report on status to an Advisory Committee as is required;
- (v) Provide technical assistance and consultation to state agencies with regard to meeting agency needs for telecommunications goods and services;
- (vi) Coordinate telecommunications plans and activities with related state-wide information resource management functions;
- (vii) Assume those communications powers, duties and functions specified in Title 17, Chapter 16, Sections 1601 through 1605 of the "Delaware Code".

(f) The "Advisory Committee on Information and Technology" shall continue under the chairmanship of the Executive Director of the Office of Information Systems. Its members shall include: four members from the Legislature, two of whom shall be appointed by the President Pro Tempore of the Senate and two appointed by the Speaker of the House of Representatives; one member of the Judiciary to be appointed by the Chief Justice; the Budget Director; the Secretary of the Department of Finance; the Secretary of the Department of Administrative Services; a representative of the Department of Public Instruction; the Secretary of the Department of Health and Social Services; the Secretary

of the Department of Transportation; and the Secretary of Public Safety. In addition, the Governor shall appoint the following persons to the committee: a representative of a major private company not in the information systems business, but who has experience in managing informational resources; a member of the tri-county association, and a member of the Delaware League of Local Governments. The duties and responsibilities of the Advisory Committee, meeting at periodic intervals at the call of the chairman, shall be as follows:

- (i) Provide overall policy guidance to the planning, operation and control of the State of Delaware's Informational resources;
- (ii) Provide guidance in the setting of policies and standards for plan implementation and control;
- (iii) Assist and consult with the Executive Director, Office of Information Systems as he/she requires to discharge his/her duties and responsibilities.

(g) Section 1 of this Act provides appropriations in support of Wang-based Informational services previously managed by the Department of Public Instruction in support of many residents of the Townsend Building in Dover. It is the intent of this paragraph that management control over those resources shall be exercised by the Executive Director, Office of Information Systems. The Budget Director and the Controller General shall resolve the budgetary movement of any applicable resources not accommodated by Section 1 of this Act.

(h) To assist the Executive Director, Office of Information Systems in discharging his duties as "Chief Information Officer" in the coordination and statewide management of informational resources, each cabinet level agency shall name an individual to act as that agency's "Information Resource Manager" or "coordinator". It is the intent of this paragraph that such coordinators will act as the primary points of contact for appropriate communications between the Office of Information Systems and the agencies. It is further intended that the Legislature, the Judiciary, and Other Elective Offices similarly assign such a coordinator. The Executive Director, Office of Information Systems, shall cause the collective body of coordinators to meet regularly for purposes of statewide coordination of Delaware's informational resources.

Section 115. Listed below are the allocations of Data Processing Services for Fiscal Year 1989:

Agency	Fiscal Year 1989 Projections	
	General Funds	Other Funds
Legislative	4.0	
Judicial	105.0	5.0
Executive	119.0	30.0
Other Elective	135.0	95.5
Legal	13.0	
State	774.5	195.0
Finance	4,031.8	21.0
Administrative Services	146.0	
Health and Social Services (Dover)	187.8	58.5
Health and Social Services (Biggs)	773.1	645.8
Children, Youth and Their Families (Dover)	19.0	10.0
Children, Youth and Their Families (Biggs)	155.3	
Correction	48.0	
Natural Resources and Environmental Control	78.0	9.5
Public Safety	1,717.6	223.0
Community Affairs	26.0	
Transportation	566.0	29.0
Labor	18.0	
Agriculture	3.2	
Elections	41.5	
Fire Prevention	9.6	28.5
National Guard	2.6	
Higher Education	18.4	
Public Education	212.7	
Total:	\$ 9,205.1	\$ 1,350.8
GRAND TOTAL	\$ 10,555.9	

Section 116 Section 1 of this Act appropriates \$160.0 for Other Items to Delaware Economic Development Authority (10-03-03). Of this amount, \$45.0 shall be used in support

of the Small Business Development Center and \$30.0 shall be allocated for the Delmarva Advisory Council.

Section 117. (a) Section 1 of this Act appropriates to the Delaware State Housing Authority (the "Authority") \$3,074.3 for its Fiscal Year 1989 Discretionary Operating Expenses. Discretionary Operating Expenses include salaries, other employment costs, travel, contractual services, supplies and materials and other normal business expenses of the Authority which are not required to be made pursuant to bond resolutions, trust indentures, agreements with the Federal Department of Housing and Urban Development, or otherwise required by operating agreements of the Authority. Notwithstanding any other provision of this Act, all parts or portions of the several sums appropriated by this Act which, on the first day of July, 1989, shall not have been paid out of the State Treasury, shall not revert to the General Fund, but shall revert to the Authority to be expended for any lawful purpose of the Authority.

(b) Nothing herein shall be construed to require any prior approval for the Authority to meet its previously contracted obligations including debt service requirements under bond resolution or trust indenture of the Authority nor shall anything contained herein require any such prior approval for any expenditure by the Authority under any such bond resolution or trust indenture or under any agreement with the Federal Department of Housing and Urban Development.

(c) Further, nothing contained herein shall authorize the General Assembly to approve an amount for Discretionary Operating Expenses for the Authority in any subsequent years in an amount less than the amount actually incurred as Discretionary Operating Expenses by the Authority in its last prior Fiscal Year plus an inflation factor equal to the United States Consumer Price Index (CPI) or successor indices, annualized at November of the year prior to the year for which such budget is prepared, unless the budget prepared by the Authority, with the approval of the Director of the Delaware Development Office, requests a lesser amount.

Section 118. Amend Section 6102 (h), Title 29 of the Delaware Code by striking the phrase "or the Department of Community Affairs and Economic Development" and the phrase "or Department" and inserting after the phrase "for such purposes" the phrase "provided, further, that any interest or other earnings which accrue on balances in any accounts managed by the Delaware State Housing Authority shall not be deposited in the General Fund except on General Fund appropriations."

Section 119. Any Department with classified positions filled or unfilled and temporary and/or seasonal personnel paid from funds other than those appropriated from the General Fund of the State shall pay to the Office of State Personnel from the Special Funds a prorated share of the expense of the Office of State Personnel, as approved by the Budget Director and the Controller General. Such payments shall be used by the Office of State Personnel to supplement the funds appropriated to the Office from the General Fund of the State in Section 1 of this Act.

Section 120. During the Fiscal Year ending June 30, 1989, no Department or Agency shall engage a consultant or authorize expenditure of any General or Special Funds for the purpose of studying personnel policies and/or the wage and salary classification of employees without the written authorization of the Personnel Director, Budget Director and the concurrence of the Controller General.

Section 121. Section 1 of this Act makes an appropriation to the Budget Office - Other Items (10-02-05) for One-Time Items for DELJIS (10-07-02). At the request of the agency, these amounts may be transferred among the various projects listed with the approval of the Budget Director and the Controller General.

OTHER ELECTIVE OFFICES

Section 122. Of the total positions authorized in Section 1 of this Act for (12-02-01) Auditor of Accounts, the position of Public Information Officer shall be exempt from classified service.

Section 123. Section 1 of this Act reflects for the Auditor of Accounts (12-02-01) sufficient State-match funding for federally-mandated audit services. If during the first three months of Fiscal Year 1989, the State Auditor should experience a cash flow deficit in fulfillment of Federal audit responsibilities, the Budget Director shall, upon the request of the State Auditor, promptly advance sufficient funding from the Federal Audit Set-Aside Accounts.

Section 124. (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, Health

Insurance, Worker's Compensation and Unemployment Compensation are reflected herein within each department or agency budget for the current fiscal year. These Other Employment Costs shall be calculated and charged to the appropriate funds as determined by the covered payroll and credited to the respective payee funds.

(b) The State Treasurer is hereby directed to collect on each pay cycle all the Other Employment Costs from all funds.

Section 125. The State Treasurer's Office, Administration (12-05-01) may request a transfer from the Budget Office Prior Years' Contingency Fund for payment of any lost or outdated checks.

Section 126. Section 1 of this Act provides a Special Fund appropriation of \$1,255.1 to the State Treasurer, Administration (12-05-01) Cash Management Policy Board, authorized by Title 29, Chapter 27, Delaware Code, for the purpose of providing staff support and operational expenses; including payment of fees for banking services. The \$1,255.1 in interest income on bank deposits shall be coded as Special Fund revenue to provide funds for operation of the Cash Management Policy Board.

Section 127. Three million three-hundred thousand dollars (\$3,300.0) is hereby advanced from the General Fund of the State to the State Treasurer, Administration (12-05-01) in order that monthly advance payments can be paid for Health Insurance. This advance is to be repaid by June 30, 1989.

Section 128. The Deferred Compensation Council's accounting liability to the Office of State Treasurer in the sum of \$137,570.32 is hereby forgiven.

Section 129. Upon being notified of the death of an individual receiving a pension under the plan for Retired and Disabled Teachers, the Budget Director shall transfer \$3.0 from an existing contingency line item in the Office of the Budget Director to the State Treasurer, Administration (12-05-01), for the purpose of paying a death benefit of \$3.0 to his or her designated beneficiary or in the absence of a designated beneficiary, the amount shall be paid to the deceased pensioner's estate.

Section 130. In the event that the amount authorized in the memorandum budget in Section 1 of this Act for the State Treasurer, Pensions (12-05-02) for Contractual Services (Investment expenses) is insufficient, the memorandum budget may be amended to adjust for such insufficiency upon request of the Board of Pension Trustees and approved by the Budget Director and the Controller General.

Section 131. Section 1 of this Act contains General Fund appropriations to the State Treasurer - Pensions (12-05-02) labeled "Pension Increase '89, '90", "Retired and Disabled Teachers" and "Special Pension Increase '89". These appropriations are contingent upon enactment of legislation during the 134th General Assembly granting pension benefit increases for State Pensioners having retired before July 1, 1987. Upon enactment of said legislation, the appropriation labeled "Pension Increase '89, '90" shall be used to supplement general fund appropriations contained in Section 1 for "Other Employment Costs" applicable to pensions and attributable to general fund appropriations for Salaries and Personnel Costs; the appropriation labeled "Special Pension Increase '89" shall be deposited into the Special Pension Fund created by Volume 61, Chapter 455, Laws of Delaware to fund benefit increases for special pensioners, and, the appropriation labeled "Retired and Disabled Teachers" shall be used to fund the pension benefit increases provided by said legislation for those pensioners benefitting from the appropriation to "Pension - Retired and Disabled Teachers" contained in (95-01-05) of this Act.

Further, the Pension Office shall determine the pension rate factor necessary to effectuate the pension benefit increases contained in said legislation. The rate factor shall be applied against all applicable Salaries pursuant to Title 29, Chapter 63, Section 6340, Delaware Code, for the fiscal year beginning July 1, 1988.

Section 132. Whenever the annual valuation of the market value of the assets of the Special Pension Fund exceeds the actuarial value of benefits available to persons entitled to receive special pensions by a factor of at least 20%, the Board of Pension Trustees, in its sole discretion, may transfer the excess over 20% or any part of it to the State Employees Pension Fund for the benefit of that Fund.

Section 133. Section 1 of this Act authorizes \$152.7 for Bond Issuing Expense in the Office of the State Treasurer, Debt Management (12-05-03), for payment of expenses relating to the issuance of State Long Term Debt. Disbursement from the Bond Issuance Expense fund shall not be made without the prior approval of the State Treasurer and the Secretary of Finance.

Section 134. Section 1 of this Act authorizes an appropriation for Contractual Services for the Office of Attorney General (15-01-01). Of this amount, \$286.7 shall be used for the purpose of providing services covering family violence in New Castle County and \$162.2 shall be used for the purpose of providing services covering family violence in Kent and Sussex Counties.

Section 135. Of the total Deputy Attorneys General authorized in Section 1 of this Act to the Office of Attorney General (15-01-01), two shall be assigned to the Family Court for service in Kent and Sussex Counties. Additionally, one Special Fund Deputy Attorney General shall be assigned to the Family Court to be used to increase the existing staff assigned to prosecute Child Support Cases.

Section 136. The Industrial Accident Board of the Department of Labor shall be assigned two Deputy Attorneys General on a full-time basis. The two Deputy Attorneys General shall come from the existing complement of Deputy Attorneys General assigned to the Office of Attorney General (15-01-01), as authorized in Section 1 of this Act.

STATE

Section 137. Amend Section 2311(e), Chapter 23, Title 29, Delaware Code, by deleting "\$100,000" where it appears and substituting in lieu thereof "\$250,000".

Section 138. Section 1 of this Act provides an appropriation to the Department of State, Division of Historical and Cultural Affairs, Bureau of Archaeology and Historic Preservation (20-06-03) for Contractual Services. Of that amount, \$2.0 shall be used to provide staff training and tuition reimbursement for employees.

Section 139. Section 1 of this Act provides an appropriation to the Department of State, Division of Historical and Cultural Affairs, Bureau of Museums and Historic Sites (20-06-04) in Salaries for Casual and Seasonal. Of that amount, \$12.0 shall be used to provide for a grounds keeper and maintenance for the John Dickinson Mansion.

Section 140. The allocation of Fiscal Year 1989 microfilm services listed for budget unit 20-06-05 Microfilm Services is based on approved agency service requests. These allocations are subject to change by the Bureau of Archives and Records Management (B/ARM) in the event of agency defaults in records preparation of other related developments during Fiscal Year 1989. Agencies may be added or deleted from the service authorization list based on the terms of their formal agreement with the B/ARM and subject to the Bureau's standard operating procedures.

Agency	Fiscal Year Projections	
	GF	ASF
Legislative	3.2	
Judicial	130.8	
Executive	15.7	
Other Elective	32.6	5.3
State	62.1	27.5
Finance	99.8	
Administrative Services	3.5	5.3
Health and Social Services	66.2	2.0
Children, Youth and Their Families	13.6	
Correction	31.4	
Natural Resources and Environmental Control	10.4	
Public Safety	73.1	
Transportation	31.4	.7
Labor	9.5	
Agriculture	3.5	
Fire Marshal	12.0	
Elections	1.6	
Delaware National Guard	4.7	
Higher Education	8.4	
<u>Grand Total</u>	<u>\$ 613.5</u>	<u>\$ 40.8</u>

Section 141. All purchases or rental of hardware and equipment used to create, duplicate, process, read or print microfilm shall require the prior written approval of the Bureau of Archives and Records Management of the Division of Historical and Cultural Affairs. Also, all microfilm supply purchases must meet established standards and receive the Bureau's prior approval. The Department of Finance may not approve for payment any requests for micrographics-related purchases or rentals without such approval.

Section 142. For the fiscal year ending June 30, 1989, the new position added to the Division of State Banking Commission (20-15-01) in Fiscal Year 1987 shall be an exempt position.

Section 143. For the Fiscal Year ending June 30, 1989, one of the new positions added to the Office of the State Bank Commissioner (20-15-01) in Fiscal Year 1989 shall be an exempt Secretary/Administrative Assistant.

FINANCE

Section 144. Section 1 of this Act provides \$12.5 in the Contractual Services line of the Division of Accounting (25-05-01) which shall be paid in support of the Council of State Governments' Governmental Accounting Standards Board Research Activity.

Section 145. The Division of Revenue is authorized to establish and maintain a special fund with the State Treasurer for the purposes of contracting for the collection of delinquent State taxes. The contracts will provide for the collection of delinquent accounts from persons and businesses presently located out-of-State and for audits of out-of-State businesses. Deposits to the special fund shall be from the collection of delinquent taxes under such contracts. Deposits which are not required to carry out the purposes described in this Section, which purpose shall be deemed to include recording of Division of Revenue judgments and warrants in the offices of clerks of various courts, shall be transferred by the Director of Revenue to the General Fund within 30 days from the end of each quarter of the calendar year. A detailed report on all expenditures from and collections to this special fund shall be sent bi-annually to the Budget Director and the Controller General.

Section 146. The Director of Revenue shall have the authority to accept, on whatever terms and conditions he may establish by regulation, payment of delinquent taxes by credit card. Such authority shall include a determination not to accept such payments or to permit payment only for certain classes of taxes to be specified by the Director. The Director is authorized to enter into contracts for the processing of credit card payments and fees associated with such contract may be paid. Section 1 of this Act establishes an appropriated Special Fund account "Credit Card Processing" from which fees and associated costs may be paid and into which tax remittances by credit cards may, at the discretion of the Director, be deposited. Initial funding of the account may be accomplished by a temporary transfer of funds from other Appropriated Special fund accounts for Contractual Services, but not in excess of \$5.0. Any transfer into this account shall be reversed prior to June 30, 1989. The Secretary of Finance shall submit to the Controller General a detailed statement of expenditures from the "Credit Card Processing" account and revenues generated as a result of credit card tax remittances. Said report shall be submitted for the fiscal year ending June 30, 1989, before January 1, 1990.

Section 147. The Director of Revenue shall have the authority to enter into agreements according to which contingency fees are provided to finders of property to be escheated to the State. When the Director deems it to be appropriate, he may enter into escrow, custodian, or similar agreements for the purpose of protecting the State's interest in property to be escheated or fees payable pursuant to the aforesaid agreements. The Director may direct that payment for said fees or other costs incident to escheat of property under the aforesaid agreements as well as advertising under escheat laws and travel or litigation expenses incident to escheat administration be made out of such money held in the escrow, custodian, or other account established under this paragraph. No account shall be used to pay for employees of the Division of Revenue. A semi-annual report of amounts in escrow or custodian accounts shall be furnished to the Budget Director and Controller General.

Section 148. The Division of Revenue (25-06-01) is authorized to require payment of fees for issuance of certificates or other documents reflecting the status of taxes, if any, owed by the taxpayer requesting such certificate. Payment of these fees shall be deemed to reduce the contractual services expenditures of the Division and shall be recorded as expenditure reducing items.

Section 149. The appropriation of the Division of Revenue (25-06-01) includes an appropriated special fund to be called the delinquent collections account. All positions and other expenditures funded through in this account shall be devoted to the collection of delinquent accounts. All collections on cases which have been referred to the Division's Bureau of Tax Collections shall be deposited to this special fund until the amount deposited shall reach \$300.0. Unencumbered balances on June 30, 1989, in excess of \$50.0 shall revert to the General Fund. The Director of Revenue shall submit to the Controller General a report detailing expenditures from this account and revenues generated as a result of expenditure from the delinquent collections account. Said report shall be for the fiscal year ending June 30, 1989, and submitted before January 1, 1990.

At the close of Fiscal Year 1989, if it is not demonstrated that collections are in excess of six times the salary expense for the new collections unit, then no funds will be authorized to be expended from the Special Fund for positions after December 31, 1989.

Section 150. (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 Controller General and the Budget Director; provided, the total operating budget for the fiscal year ending June 30, 1989, shall not exceed 20 percent of gross sales as limited by Title 29, Chapter 48, Delaware Code.

(b) The memorandum budget for the State Lottery Office (25-07-01) provides for the services of a resident auditor and additional audit services under the appropriation for Contractual Services. In addition to the duties of the resident auditor, other duties shall be performed as assigned by the Secretary of Finance.

Section 151. Section 1 of this Act authorizes \$200.0 ASF to the State Lottery Office (25-07-01) which shall be used for Contractual Services in the event that the Delaware State Lottery is successful in joining other states comprising a Multi-State Lottery. Should a Multi-State Lottery including Delaware not occur during Fiscal Year 1989, said authorization shall remain unexpended. Further, the Department of Finance shall report to the Joint Finance Committee by January 31, 1989, concerning progress in creation of a Multi-State Lottery including Delaware.

Section 152. Amend §4812, Chapter 48, Title 29 of the Delaware Code, by striking the words "for the specific purpose of awarding additional prizes in order to comply with subsection (a) of §4815 of this title." as they appear in the second sentence, and inserting in lieu thereof a ".".

ADMINISTRATIVE SERVICES

Section 153. All State agencies are directed to remit payment for Carvel Building Parking to the Department of Administrative Services, Office of Fleet Management, within thirty days after receipt of invoice.

Section 154. Amend 29 §8813 by adding the following:

"(8) Create and operate a Central Motor Pool system for the use of State officials and employees, promoting efficient and economical use of vehicles.

(9) Provide for rules and regulations governing the use, rental and maintenance of State vehicles.

(10) Establish a revolving account for the deposit of Agency reimbursements which will be utilized to sustain the total cost and operation of the Central Motor Pool including staff salaries, new vehicle acquisition, fuel, maintenance and repair. The Central Motor Pool is authorized to receive all proceeds from sale of all covered vehicles or vehicle parts, less costs for disposal as established by the Division of Purchasing."

Section 155. Of the positions in Capitol Police, Administration, Department of Administrative Services (30-01-30), at least one position will be assigned to provide security services to Superior Court in each County.

Section 156. (a) Of the funds appropriated in Section 1 of this Act to the PERB, Administration, Department of Administrative Services (30-01-40), the following amounts will revert to the General Fund if House Substitute No. 1 for House Bill 100 is not enacted into law:

Personnel Costs (2)	\$58.2
Contractual Services	7.8
Supplies and Materials	2.3

(b) Of the funds appropriated in Section 1 of this Act to the Budget Office - Other Items, Office of the Budget, Executive (10-02-05), the following amounts will revert to the General Fund if House Substitute No. 1 for House Bill 100 is not enacted into law:

(30-10-40) Furniture	\$2.9
Micro Computer	1.5
Telephone Equipment	2.3

Section 157. Of the General Fund positions in Professional Regulation, Regulation and Licensing, Department of Administrative Services (30-03-20), one (1.0) positions will be assigned to the Real Estate Commission.

Section 158. Section 1 of this Act appropriates Special Funds for the Office of the Public Advocate to perform studies consistent with the goals and objectives of the Public Utility Revolving Fund as defined in Title 26, Chapter 1, Delaware Code. The Budget Director, with concurrence of the Controller General, is authorized to transfer up to \$126.0 from the Public Service Commission's Revolving Account (8600) to the Public Advocate's Appropriated Special Fund Account.

Section 159. The sum of \$1,357.2 is hereby advanced from the General Fund of the State to the Division of Support Operations (30-04-00) in order that telephone charges can be paid on a reasonable, timely basis.

Section 160. The sum of \$120.0 is hereby advanced from the General Fund of the State to the Division of Support Operations (30-04-00), in order that postage charges can be paid on a reasonable, timely basis.

Section 161. All State Agencies are directed to remit payment for services received by the Division of Support Operations (Mail/Courier Services, Telephone Services, and Graphics and Printing) within thirty days after receipt of invoice. Services may include postal metering, paper supplies, facsimile, printing, telephone, photocopiers, etc.

Section 162. If a timely payment problem exists, the Department of Administrative Services may require all agencies and school districts paying telephone system payments through the Division of Support Operations (30-04-00) to make monthly estimated payments toward their telephone bills. The estimated payment is due within five working days of the beginning of each month. The estimated payment should equal the average of the last three months of actual reconciled payments; or, payments based on a schedule established by the Division of Support Operations. The Division of Support Operations will continue to be responsible for the actual payments to the telephone companies and the reconciliation of accounts with the user agencies and school districts.

Section 163. The purchase of the central automated publishing system in the Division of Support Operations, Graphics and Printing Internal Program Unit is subject to and shall be approved by the State Budget Office through its Data Processing, Development Projects procedures.

Section 164. With the exception of the custodial work associated with Legislative Hall and the Governor's Office, during Fiscal Year 1989, the Department of Administrative Services (30-00-00) may not hire any permanent, full-time custodial employees without the approval of the Budget Director and the Controller General.

Section 165. The Department of Administrative Services will be responsible for developing standards for office furniture and equipment for the Carvel State 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 that will vacate space in the Carvel State 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 166. In addition to the positions authorized in Section 1 of this Act, an additional 4.0 FTE custodial positions are authorized until such time they become vacant. As the positions become vacant, they are to be deauthorized. These positions shall not be requested for Fiscal Year 1990.

Section 167. (a) During Fiscal Year 1989, the Division of Purchasing (30-06-00) will distribute the Delaware Code Supplement copies per Title 1, Chapter 1 of the Delaware Code to the extent possible with the number of copies provided by the Code Revisors Budget Unit (01-08-03). Funding for additional copies will be the responsibility of the requesting Agency.

(b) During Fiscal Year 1989, the Division of Purchasing (30-06-00) is required to purchase twenty two complete sets of the Delaware Code at a sum not to exceed \$13.2. Funding for additional copies will be the responsibility of the requesting Agency.

Section 168. All State agencies are required to determine if the Division of Purchasing, Department of Administrative Services (30-06-00) can meet the needs of the agency prior to ordering equipment from vendors.

HEALTH AND SOCIAL SERVICES

Section 169. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Administration, Office of the Secretary (35-01-10) for the "Statewide Respite Care Program" in the amount of \$75.0. These funds shall be used to provide respite care on a per diem basis for aged, disabled, physically handicapped and mentally ill individuals. Individuals shall qualify solely on the basis of the above criteria regardless of income level.

These funds shall provide respite care at two-thirds of the established per diem with the individual's family providing the remaining one-third.

Section 170. Results of investigations conducted by the Welfare Fraud Investigation Unit concerning General Assistance and Aid to Families with Dependent Children cases that indicate possible error or fraud shall be transmitted to the Office of the Attorney General directly by the Secretary of the Department of Health and Social Services without approval by any other authority, which office shall prosecute those cases deemed actionable and return the rest to the Department of Health and Social Services for collection of overpayment. The Secretary of the Department of Health and Social Services shall file a quarterly report directly with the Budget Director, the Controller General, the Director of Research of Legislative Council, members of the Joint Finance Committee, and the Chairmen of the House and Senate Committees on Health and Social Services by the twentieth day of next month after the end of a quarter, which report shall not be subject to prior review by any other authority.

Section 171. The Secretary of the Department of Health and Social Services (35-01-10), shall submit a report to the Budget Director and the Controller General as to the status of the nursing shortage in the Department. This report shall be made on or before December 15, 1988.

Section 172. Temporary, casual and seasonal RN's and LPN's in the Department of Health and Social Services may be allowed to work more than 130 working days in a fiscal year upon the approval of the Department Secretary. These positions shall not be considered positions of a continuing nature or regular employment.

Section 173. If, at any time during the fiscal year ending June 30, 1989, there should be a temporary delay in receiving federal matching funds for the Aid to Families with Dependent Children Program within the Department of Health and Social Services, such funds as may be required to assure the timely distribution of the public assistance checks shall be advanced and shall be paid by the State Treasurer from the General Fund. The Department of Health and Social Services shall promptly reimburse the General Fund upon receipt of the federal matching funds. However, there shall not be an advance of funds for the purpose described above, if all such previous advancements have not been fully reimbursed.

Section 174. The sum of \$170.0 is hereby advanced from the General Fund of the State to the Business Administration IPU (35-01-20), in order that the Public Welfare Revolving Fund emergency checks can be paid on a timely basis and without interruption.

Section 175. Amend Title 29, Chapter 61, Section 6102, Part VI of the Delaware Code by adding a new subsection as the last section:

"A Revenue Management Unit shall be established, within the Division of Business Administration and General Services, for the administration of all responsibilities and duties related to the revenue collection function of the institutions and agencies operated by the Department, including all policies and procedures pertaining to the administration of Title 29, Chapter 79, Subchapter III of the Delaware Code.

An Appropriated Special Fund is to be designated as the Department of Health and Social Services Revenue Management Fund, which shall be used for the operation of the Revenue Management Unit, to be funded through the Department revenues which the unit collects. On or about July 1 of each Fiscal Year, the total amount of the ASF appropriation for this unit for the Fiscal Year shall be deposited in the aforementioned holding account. At the close of the Fiscal Year, the unspent and unencumbered balance in said line shall revert to the General Fund.

Section 176. (a) Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Administration, Business Administration (35-01-20) for Contractual Services. Of that amount, \$35.0 shall be used for the purpose of nurse recruitment.

(b) The Delaware Development Office shall provide professional expertise to assist the Department of Health and Social Services in its initiative of nurse recruitment.

Section 177. The Secretary of the Department of Health and Social Services shall annually issue a report to the Budget Director and Controller General on what the Health Care Cost Containment Program has accomplished relative to containing health care costs.

Section 178. In addition to the positions authorized in Section 1 of this Act for the Community Health IPU (35-05-02), an additional 2.0 FTE positions are authorized for the Rodent Control Program until such time as they become vacant through attrition or placement into another position. As soon as the positions become vacant, the IPU shall notify the Office of the Budget to initiate deauthorization.

Section 179. The Division of Public Health currently operates the following programs for which a fee for service is charged to cover the cost of the program:

- Handicapped Children
- Maternal and Child Health Services
- Home Health Aides
- Family Planning Services
- Medicare Occupational/Physical Therapy
- Speech Therapy
- Home Health Care/In-house Supplies
- Home Health Care/Outside Supplies
- Home Health Skilled Nursing

Notwithstanding, the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and expend fees from the aforementioned accounts. Corresponding Appropriated Special Fund spending authority has been provided in Section 1 of this Act.

The purpose of this section is to hold the Division harmless in its ability to provide services funded from these fee sources. The Division should continue, as it has in the past, to deposit monies to the General Fund in excess of those needed to maintain program activities.

Section 180. Section 1 of this Act provides an appropriation of \$129.9 in Appropriated Special Funds and three positions in Health Planning (35-01-30) for the purpose of operating a Delaware Health Statistics Program which would collect, maintain and analyze health-related data to assist the health community in planning, administering and evaluating the quality, quantity and appropriate combination of health services.

Revenues for the purpose of funding this program shall be derived from the sale of copies of vital statistics records for birth, death and marriage certificates and shall be deposited in a holding account. In February 1986, the Board of Health, under a separate provision, raised the fee for such records. Notwithstanding the provisions of Title 29, Section 6102 and Title 16, Section 3137 of the Delaware Code, the Internal Program Unit shall be allowed to retain and expend only the portion of the fee above the amount of \$2.50 per copy up to the appropriation limit. The balance shall continue to be deposited to the General Fund.

Section 181. Section 1 of this Act provides an appropriation to the Division of Public Health, Community Health (35-05-02) for Contractual Services. Of that amount, \$118.0 shall be used for the purpose of providing school nursing services three days a week to non public schools in New Castle County.

The Secretary of the Department of Health and Social Services will ensure that the contracts with the various schools in this program are executed no later than August 15 of each year. The Secretary will also ensure that timely payments are made to all contractors.

Section 182. Section 1 of this Act provides an ASF appropriation to the Division of Public Health, Community Health (35-05-02) of \$104.2 ASF. This amount and 4.0 ASF positions shall be used for Health Facilities Licensing only if enabling legislation is enacted into law.

Section 183. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Public Health, Community Health (35-05-02) for Contractual Services. Of that amount, \$11.0 shall be used to purchase formula for persons identified as having metabolic diseases and other handicaps that result in mental retardation and other physical and mental anomalies if a special diet is not provided.

Section 184. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-02) for Supplies and Materials. Of that amount, \$20.0 shall be used for the purchase of

cyclosporine for eligible recipients of transplanted organs. Criteria shall be established by the Board of Health for medical and financial eligibility.

Section 185. (a) Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Public Health, Community Health (35-05-02) for Personnel Costs, Travel, Contractual Services, Supplies and Materials and Capital Outlay. Of those amounts, \$20.0, \$1.0, \$76.8, \$5.0 and \$1.0 respectively shall be used for expansion of the Adolescent Health Program.

(b) Local school boards shall promulgate regulations and guidelines concerning the operation of school-based adolescent health clinics established within their school districts.

Section 186. Section 1 of this Act provides appropriations to the Department of Health and Social Services, Public Health, Community Health (35-05-02) for the Office of Narcotics and Dangerous Drugs. Of those amounts, \$15.0 shall be used for equipment and Contractual Services.

Section 187. Section 1 of this Act in the Department of Health and Social Services, reflects the transfer of the Public Health component of the Pre-Admission Screening Unit to the Division of Economic Services. The Secretary of the Department of Health and Social Services shall investigate to insure that the Division of Economic Services component of the Pre-Admission Screening Unit is functioning properly and serving the public in a timely, courteous and appropriate manner. The Secretary shall report his findings and corrective action plan (if needed) in writing to the Controller General and Budget Director no later than December 1, 1988.

Section 188. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Public Health, Community Health (35-05-02) for personnel costs. Of that amount, 1.0 position and \$27.4 shall be used for the SERT team.

Section 189. Section 1 of this Act provides an appropriation of \$780.0 in the Administration-MH IPU of the Division of Alcoholism, Drug Abuse and Mental Health (35-06-10) for a residential, educational program for seriously emotionally-disturbed individuals, age 18 - 20, who are required under P.L. 94-142 to be provided with an education by the State. The Division of Alcoholism, Drug Abuse and Mental Health shall contract with a private or non-profit agency to provide twelve residential placements to the aforementioned individuals who shall be referred by the State Board of Education or the Department of Services for Children, Youth and Their Families in consultation with the Division of Alcoholism, Drug Abuse and Mental Health. The State Board of Education shall be responsible for certifying the education component of the program and will, with the Division of Alcoholism, Drug Abuse and Mental Health, jointly monitor this program. The State Board and the Division shall also make a joint recommendation to the Controller General and the Budget Director by November 1, 1988, as to the appropriateness of lowering the minimum age of admission to this program from its current age of 18. In addition to the twelve residential placements which this program will provide with its current level of funding, the applicable State Agencies may contract separately for other similarly afflicted individuals, in lieu of the current practice of out-of-State placement, if the contractor is willing to expand the number of beds.

Section 190. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Community Mental Health (35-06-20) for Contractual Services. That line reflects an additional amount of \$290.0 to increase case management services for the mentally ill over Fiscal Year 1988.

Section 191. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Community Mental Health (35-06-20) for Contractual Services. Of that amount, \$65.0 shall be used to provide operating costs for 3 months for an additional group home for the chronically mentally ill.

Section 192. Section 1 of this Act provides an appropriation to the Inpatient Mental Health (35-06-30) (Delaware State Hospital) for Salaries and Wages. Of this amount, \$75.0 has been provided to create a pool of trained, casual seasonal workers who can be called upon to cover shifts when overtime would normally be used. The Secretary of the Department shall report to the Budget Director and the Controller General no later than January 1, 1989, as to the effectiveness of this strategy in reducing overtime at the State Hospital.

Section 193. In addition to the positions authorized in Section 1 of this Act for the Community Mental Health IPU (35-06-20), an additional 1.0 FTE Substance Abuse Supervisor position is authorized until such time as it becomes vacant through attrition or placement

into another position. As soon as the position becomes vacant, the IPU shall notify the Budget Office to initiate deauthorization.

Section 194. Section 1 of this Act provides funds for a Dietitian position in the Inpatient Mental Health (35-06-30). The purpose of this position is to allow the IPU to provide services by a registered Dietitian as required for certification. This position shall also provide Dietitian services to the Terry Children's Psychiatric Center.

Section 195. Section 1 of this Act includes funding for a Pharmacist position in the Inpatient Mental Health (35-06-30). This position shall continue to provide once a month drug inspections to the Terry Children's Psychiatric Center.

Section 196. Inpatient Mental Health maintains appropriation accounts 35-06-30-86-06 and 86-08 to receive reimbursement for providing a work study program for local nursing schools and for assigning residents to work at the Medical Center of Delaware on a rotating basis respectively. Notwithstanding, the provisions of Title 29, Section 6102, of the Delaware Code, the Division shall be allowed to collect and expend the proceeds from the aforementioned accounts.

Section 197. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Inpatient Mental Health (35-06-30) for personnel costs. Of that amount, 1.0 position and \$14.1 shall be used for an additional Chaplin Assistant at Delaware State Hospital.

Section 198. Section 1 of this Act provides an appropriation for contractual services to the Alcoholism and Drug Abuse (35-06-40) IPU. Of this amount, \$397.0 shall be used for the purpose of providing contracted alcohol and drug treatment and rehabilitation for individuals under the jurisdiction of the Department of Correction.

Section 199. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40) for Contractual Services. Of that amount, \$85.0 shall be used for compulsive gambling services.

Section 200. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40) for Contractual Services. Of that amount, \$28.1 in General Funds and \$16.4 in Special Funds for a total of \$44.5 shall be used for Hispanic drug/alcohol program.

Section 201. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40) for Contractual Services. Of that amount, \$20.0 shall be used for an intake worker for the Alcohol/Drug Detox contract.

Section 202. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40) for Contractual Services. Of that amount, \$55.8 shall be used for a half-way house for alcoholics in Kent County.

Section 203. Section 1 of this Act provides an appropriation to the Division of Economic Services (35-07-00) in the Medicaid non-State line. Of this amount, \$45.0 shall be used to provide the General Fund Medicaid match necessary to draw Federal Medicaid dollars to reimburse the Division of Public Health (35-05-00) for the cost of vaccines provided to Medicaid eligible individuals. The Division of Public Health shall keep such reimbursement in an ASF holding account and shall be allowed to spend such funds in accordance with ASF accounting procedures.

Section 204. (a) The amount appropriated by Section 1 of this Act to the Department of Health and Social Services for Title XIX Federal Programs (Medicaid) - Other than State Institutions shall be expended solely in accordance with the following conditions and limitations:

- (1) This appropriation shall be used for the purpose of continuing the program of medical assistance provided for within the State Plan under Title XIX of the Social Security Act and the requirement 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;
- (11) The State Plan of Medical Care to be carried out by the Department of Health and Social Services shall meet the requirement 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) Rural health clinics services
- (4) Laboratory and X-ray services
- (5) Skilled nursing facility services
- (6) Early and periodic screening, diagnosis, and treatment services
- (7) Family planning services
- (8) Physician services
- (9) Home health services
- (10) Other licensed practitioners with limitations
- (11) Clinic services
- (12) Prescribed drugs with limitations
- (13) Services for individuals, age 65 or older, in institutions for mental disease
- (14) Intermediate care facility services
- (15) Emergency hospital services
- (16) Transportation
- (17) Co-insurance and deductibles for Title XVIII and Title XIX recipients
- (18) Limited services in the following areas:
 - Prosthetic devices
 - Diagnostic services, as defined in 42 CFR §440, Sub-part A and as limited by the Medicaid State Plan.
- (19) Private duty nursing services with limitations
- (20) Nurse-midwife services
- (21) Services provided to eligible individuals in the home or community offered under a Federal waiver pursuant to Section 2176 of the Omnibus Budget Reconciliation Act of 1981, as an alternative to institutionalization, including but not limited to:
 - (a) Case Management
 - (b) Clinical Support
 - (c) Day Habilitation
 - (d) Residential Habilitation
 - (e) Respite Care
 - (f) Homemaker Services
 - (g) Adult and Medical Day Care
 - (h) Emergency Response Systems
 - (i) Medical Equipment, supplies and appliances
- (22) Services provided to pregnant women and infants up to age 2 in families with incomes up to 100% of the Federal poverty level shall be eligible to receive Medicaid Services as provided under Title XIX regulations.
- (23) Services to eligible special needs children who are receiving an adoption subsidy from the Department of Services for Children, Youth and Their Families.
- (24) Hospice services.
- (25) Case management for high-risk pregnancies.

(b) The amount appropriated by Section 1 of this Act to the Department of Health and Social Services for Title XIX - State Institutions shall be expended solely in accordance with the following conditions and limitations:

- (i) Such 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; and
- (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.

(c) Patients who reside in skilled care nursing homes, intermediate care nursing homes, or State facilities and who receive services covered by the Medicaid Program shall be eligible for Medicaid if their income is no more than 180 percent of the Federal

Supplemental Security Income monthly payment standard and if they meet other eligibility requirements. Funds appropriated to the Department of Health and Social Services for Title XIX are sufficient to pay the State's share of Medicaid costs for such patients.

(d) Certain disabled children, age 18 or under, who are living at home, who would otherwise be eligible, if they were in a medical institution, for SSI or a State supplemental payment under Title XVI of the Social Security Act and, therefore, for Medicaid under the State Plan.

Section 205. Amend Title 31, Chapter 5, Section 503, Delaware Code by striking the second paragraph of Subsection (d) in its entirety and substituting in lieu thereof the following:

"The standard of need for Aid to Families with Dependent Children (AFDC) on and after October 1, 1988, shall be as follows, based on family size:

1-person household	\$184.00 per month
2-person household	\$247.00 per month
3-person household	\$333.00 per month
4-person household	\$402.00 per month
5-person household	\$470.00 per month
6-person household	\$538.00 per month
7-person household	\$606.00 per month

and for each additional person beyond seven in the household which qualifies for assistance, the monthly standard of need amounts will be 43% of the 1987 Poverty Income Guidelines issued by the U.S. Department of Health and Human Services."

Section 206. (a) Section 1 of this Act provides an appropriation for Contractual Services to the Division of Economic Services (35-07-00). Of that amount, \$200.0 shall be used to provide medical coverage for AFDC recipients for the first year of employment as specified in Department regulations.

(b) The program will serve persons who are removed from the welfare rolls and lose their Title XIX (Medicaid) coverage because of employment; who are not covered by medical insurance plans offered by their employers or who have to pay for such coverage; who are not eligible for any other medical insurance plans and whose income is too low to enable them to pay for individual health insurance plans. The program shall not pay for health benefit costs that would otherwise be paid by the employer for individuals in a similar work situation.

Medical assistance may be reimbursed in the following ways:

- (1) If the employer has a health insurance plan paid for by the employee, the program may pay all or part of the costs;
- (2) If the employer does not have a health benefits plan, the participant may be enrolled in an HMO; or
- (3) Where there is neither a health plan nor an available HMO, the program is to contract with medical providers to case manage the enrollee under a capitation rate, to assure that covered health care services are delivered efficiently, appropriately and in the most cost effective manner consistent with good care.

(c) The Division of Economic Services is to develop policies and procedures detailing eligibility, covered services, service limitations, administration and other program elements.

(d) Because this Pilot program is entirely State funded, the provisions of Title XIX (Medicaid) are not applicable. The Division of Economic Services may assign recipients to providers, establish limitations, request partial payments or develop any other program guidelines which are compatible with cost containment as well as access to health care.

(e) Eligible persons shall be enrolled in this program to the extent that funds are appropriated and available.

Section 207. For the Fiscal Year ending June 30, 1989, the Division of Economic Services of the Department of Health and Social Services shall transfer \$25.0 from 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 208. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Facility-Based Long-Term Care, Delaware Hospital for the Chronically Ill (35-09-10) for Contractual Services. Of that amount, \$47.5 (6 months operating) shall be used for the establishment of an Alzheimers Day Treatment Program for lower Kent/Sussex Counties.

Section 209. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Facility Based Long-Term Care, Emily Bissell (35-09-20) for Contractual Services, Supplies and Materials and One-Time Items. Of those amounts, \$51.0, \$6.0 and \$76.3 (6 months operating) respectively shall be used to expand the Alzheimers Day Treatment Program.

Section 210. Amend Title 29, Chapter 61, Section 6102(g) by striking it in its entirety and replacing it with the following:

"All revenue collected by the Division of Child Support Enforcement, as established under the Social Services Amendments of 1974 (Public Law 93-647, 42 U.S.C.A. § 651 et seq.) pursuant to its functions under the Delaware Child Support Enforcement and Paternity Program, except for an amount to be specified annually in the Budget Act as an Appropriated Special Fund which shall be considered an incentive payment to enable the Division to increase child support collections, shall be deposited into a special fund account known as the Delaware Child Support Enforcement Account. The revenue deposited into the Delaware Child Support Enforcement Account shall not be a part of the General Fund of the State and shall only be handled in accordance with § 457 of the Social Services Amendments of 1974. Further, such portions of these funds deposited to the credit of the Delaware Child Support Enforcement Account, as shall be periodically determined to belong to the State, shall be deposited to the credit of the General Fund of the State."

Section 211. (a) Section 1 of this Act provides an appropriation of \$75.0 on the One-time list for Legislative Council, Office of the Controller General (01-08-02), for technical assistance in the development of an operational program and long-range plan for services to adults with severe developmental/behavioral disabilities. The Division of Mental Retardation is hereby designated as the lead agency in the development, coordination, and operation of an inter-agency service delivery system for such persons.

The Post 21 Task Force is hereby created to provide guidance in the development of a program to provide appropriate services to adults with severe developmental/behavioral disabilities. The Co-Chairmen of the Joint Finance Committee shall chair this Task Force. Appointments to the Task Force shall be made by the Co-Chairmen of the Joint Finance Committee. Members shall consist of two individuals from the Budget Office, two individuals from the Office of Controller General, one person from the Division of Mental Retardation, one person from the Division of Alcoholism, Drug Abuse, and Mental Health, one person from the Department of Public Instruction, one person from the Division of Vocational Rehabilitation, and one person from the Division of Child Mental Health. Other State Agency staff, as needed, shall be utilized by the Task Force. Expenses of the Task Force shall be paid from the One-time appropriation of \$75.0.

This Task Force shall review available, relevant reports, visit related programs in other states, engage consultants as needed, and take public testimony.

The Post 21 Program Development Plan shall include:

- (1) Specific Operational Plan for services to adults with severe developmental disabilities
- (2) A census and estimate of the number of clients to be served
- (3) Service Delivery Model for clients identified
- (4) Estimated Program costs
- (5) Long-Range Plan for next three to five years
- (6) Detail Inter-agency Cooperative Agreements

(b) Section 1 of this Act provides an appropriation of \$650.0 to the Department of Health & Social Services, Division of Mental Retardation, Administration (35-11-10) in the line item "Post 21 Program". These funds shall be used to provide appropriate services to nine adults with severe developmental/behavioral disabilities who have previously been served by the funds appropriated to Public Education during FY 1988.

If, during FY 1989, the Task Force is able to develop programs which could be implemented during FY 1989, the Budget Director and Controller General are authorized to transfer funds to support the establishment of such programs with the concurrence of the Joint Finance Committee.

(c) Section 1 of the Act provides an appropriation to the Department of Health & Social Services, Division of Mental Retardation, Administration (35-11-10) in Personnel Costs in the amount of \$56.0 to establish a new position "Post 21 Program Director". This individual shall have the responsibility of operating the "Post 21 Program" during FY 1989. In addition, this individual shall serve as staff to the Post 21 Task Force and shall coordinate the efforts of consultants employed in developing the Post 21 Program.

Section 212. Section 1 of this Act provides an appropriation for Contractual Services to (35-11-20) Division of Mental Retardation, Institutional Services, Department of Health and Social Services. Of this amount, \$10.0 shall be available for services provided by Camp Barnes.

Section 213. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, Mental Retardation, Community Services (35-11-30) for Personnel Costs. Of that amount, \$50.0 and 1.0 General Fund position shall be allocated to provide for a Director of the Community Mental Retardation Programs. The Joint Finance Committee shall approve any reorganization of (35-11-00).

Section 214. The Division of State Service Centers, Family Support Services, maintains appropriation accounts (35-12-10-80-00) and (35-12-10-80-02) for the purposes of loaning car seats to families who cannot afford to buy them and to publish a Human Services Directory respectively. A federal grant provided the funds which allowed the original purchase of the car seats and original publishing of the directory with the intent that future replacements of the car seats and printing of the directory should be funded through a fee charged for each. Notwithstanding the provisions of Title 29, Section 6102, of the Delaware Code, the Division shall be allowed to collect and expend the fees from the aforementioned account.

Section 215. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, State Service Centers, Service Center Management (35-12-20) for Contractual Services. Of that amount, \$50.0 shall be used to contract for Information Services.

Section 216. Section 1 of this Act provides an appropriation to the State Service Centers, Family Support Services (35-12-10), for Contractual Services. Of that amount, \$255.0 is to be used to contract with Human Service Agencies that offer shelter as part of their human service functions. This amount is to be matched by the Human Service Agencies as specified in Department regulations. The match may be made with in-kind services. The Secretary of the Department of Health and Social Services shall formulate a list of certified shelter facilities in the State for this program.

The Division of State Service Centers and the Division of Economic Services shall work together to determine the feasibility of amending the Emergency Assistance State Plan to include the provision of emergency shelter as an allowable cost eligible for Federal matching funds. The purpose of this change would be to count these funds as eligible for Federal match when used to provide emergency shelter to families with children receiving public assistance as required under Federal Regulations. Prior to implementing any changes as a result of this proposal, the Divisions shall develop a plan for spending any additional federal funds and shall present such plan to the Budget Director and the Controller General.

Section 217. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Aging, Community-Based Services (35-14-10) for Contractual Services. Of that amount, \$30.0 shall be used for respite care for the elderly and \$30.0 for respite care for Alzheimers patients on a statewide basis.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 218. The Secretary of the Department of Services for Children, Youth and Their Families shall keep the Budget Director and Controller General informed about any and all developments relating to the possible sale of any portion of the Ferris School property and any and all developments relating to the possible new use or sale of any portion of the Woods Haven-Kruse property.

Section 219. For the Fiscal Year ending June 30, 1989, the Department of Services for Children, Youth and Their Families may use their General Fund appropriations to support the initial start-up costs including six positions associated with the Fair Share Collections Revolving Fund. The Fair Share Collections Revolving Fund shall reimburse the General Fund appropriations on or before June 30, 1989. This shall in no way hinder General Fund program performances.

Section 220. Funds which are appropriated for foster care of children in Section 1 of this Act in the Department of Services for Children, Youth and Their Families, Division of Child Protective Services (37-02-00), are made available with the goal of limiting the number of children who remain in foster care for more than two years. For the year beginning October 1, 1988, the goal will be 165 children. This goal statement is intended to satisfy the requirements of the Federal Adoption Assistance and Child Welfare Act (P.L. 96-272).

Section 221. For the period of May 1, 1987 through June 30, 1987, the annual salary of the Director for the Division of Mental Health Services, Department of Services for Children, Youth and Their Families (37-03-10) was \$66,002.88.

Section 222. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Child Mental Health, Youth Diagnostic Services (37-03-15) for personnel costs. Of that amount, \$73.9 and 3.0 positions shall be used for the Family Court Screening Project.

Section 223. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Child Mental Health Hospital and Other Individualized Contract Treatment (37-03-70) for Contractual Services. Of that amount, \$200.0 shall be used for mental health services for children as an alternative to Delaware State Hospital.

Section 224. The Secretary of the Department of Services for Children, Youth and Their Families shall certify to the Governor and the General Assembly that the mixing of adjudicated and non-adjudicated youth shall not take place in Ferris School.

Section 225. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Program Support, Licensing (37-08-50) for contractual services. Of that amount \$50.0 shall be used for training to ensure that employees of day care providers hosted by the Public Schools are properly trained to care for the children they are responsible for.

CORRECTION

Section 226. Section 218 of this Act relates to the possible new use or sale of any portion of the Woods Haven-Kruse property. Should such sale result in the Department of Correction assuming full or partial responsibility for custodianship of said property, the Commissioner of the Department of Correction shall keep the Budget Director and Controller General Informed, on a timely basis, about any and all plans relating to the Woods Haven-Kruse property.

Section 227. Section 1 of this Act provides an appropriation for Contractual Services to the Department of Correction - Office of the Commissioner (38-01-01). Of the total amount appropriated, \$15.0 shall be used to contract with attorneys on a part-time basis to oversee the para-legal staff assigned to the Department of Correction - Education (38-03-03).

Section 228. Of the General Fund positions authorized in Section 1 of this Act for the Department of Correction, one vacant position shall be reclassified as an Environmental Sanitarian. The function of this position will be the monitoring of adherence to health and safety standards within the correctional facilities and will be directly reportable to the Commissioner of Corrections.

Section 229. Section 1 of this Act includes funding for five positions for an Internal Affairs Unit in the Department of Correction (38-01-01). The Internal Affairs Investigator positions must have at least ten years of investigative experience and are to be classified as exempt positions.

Section 230. Section 1 of this Act provides an appropriation to the Department of Correction, Bureau Chief - Administration and Operational Support (38-02-01) for Medical Services. Administration of the Medical Services contract shall be the responsibility of the Bureau Chief - Administration and Operational Support under the supervision of the Commissioner of Correction.

Section 231. Section 1 of this Act provides an appropriation of \$100.0 for AIDS Education and Counseling in the Office of the Bureau Chief - Administration and Operational Support (38-02-01). Should the Department be successful in obtaining a federal grant for AIDS Counseling and Education, the General Fund Appropriation for AIDS counseling equalling the federal grant but not to exceed \$100.0 shall revert promptly to the General Fund of the State of Delaware.

Section 232. Section 1 of this Act provides an appropriation to the Department of Correction (38-00-00), Bureau Chief - Administration and Operational Support (38-02-01) for Medical Services. None of these funds may be transferred and any funds remaining unexpended or unencumbered on June 30, 1988, shall revert to the General Fund of the State of Delaware.

Section 233. Section 1 of this Act appropriates Maintenance and Restoration Funds to Facilities Maintenance and Construction (38-02-05). A proposed plan for the expenditure of these funds shall be presented to the Controller General and to the Budget Director by July 31, 1988. Deviations from this plan for unanticipated maintenance projects shall be permitted at the discretion of the Department. A Quarterly Report as to the expenditure of such funds and to the respective projects shall be submitted to the Controller General and to the Budget Director. The Department shall submit a plan for maintenance projects for Fiscal Year 1990 by March 1, 1989, to the Budget Director and Controller General.

Section 234. In addition to the positions authorized in Section 1 of this Act for the Department of Correction (38-00-00), additional positions are authorized for Staff Training (38-02-07) for the purpose of training classes. During the training sessions, up to 30 positions will be made available to accommodate the class being trained. At the end of the training sessions, these 30 positions shall be discontinued. These positions shall be used no more than three times.

Funding is authorized to seed the first-time use of these 30 positions. In order to utilize these positions for the second and third classes, the Department will use salary savings realized throughout the year.

Section 235. Section 1 of this Act includes funding for relief positions in the Staff Training Division of the Department of Correction (38-02-07). These positions shall be used for training relief only.

Section 236. Section 1 of this Act provides an appropriation for Capital Outlay to the Department of Correction - Adult Bureau Chief (38-04-01). Of the total, \$64.0 shall be used to provide law books and reference resources for the libraries within the adult correctional institutions.

Section 237. Section 1 of this Act appropriates the sum of \$10.0 in "gate money" or "release money" to the Department of Correction, Adult Bureau Chief (38-04-01), for prisoners being released from an adult correctional facility. The funds thus appropriated shall be used for the express purpose of providing cash payments to eligible inmates being released from an adult correctional facility and shall be expended as follows:

(a) Except as restricted by Subsections (b), (c), and (d) of this Section, any resident of Delaware who has been incarcerated in an adult correctional institution for a period of not less than 90 days shall be paid in cash the sum of at least \$32 from their account and/or the release account, upon release from such institution, said money to be used for necessities during the transition to an open society.

(b) Upon release, a prisoner who within 30 days prior to release has \$32 or more in his/her inmate account or accounts shall not be eligible for such payment, but shall be paid in cash the amount in his/her inmate account or accounts.

(c) Upon release, a prisoner who has less than \$32 in his/her inmate account or accounts shall be paid in cash the amount remaining in his/her account or accounts plus an additional sum sufficient to make the total cash payment at release \$32.

(d) Any prisoner who is a non-resident of Delaware and who has served a term of incarceration of not less than 90 days, shall have the option between (c) above or a one-way bus ticket to his/her place of residence.

Section 238. Section 10(b) of this Act lists a General Fund appropriation for Institutional Classification Board (38-04-01) of \$12.0. This appropriation provides a per meeting payment of \$90.00 and is contingent upon passage of Senate Bill No. 392 of the 134th General Assembly.

Section 239 (a) Of the total positions authorized in Section 1 of this Act for Morris Correctional Institution (38-04 07), two positions shall be used to continue the existing highway beautification project in the Central District.

(b) Of the total positions authorized in Section 1 of this Act for Delaware Correctional Center (38-04 03), two positions shall be used to continue the existing highway beautification project in the Northern District.

(c) Of the total positions authorized in Section 1 of this Act for Sussex Correctional Institution (38-04-04), two positions shall be used for a highway beautification project in the Southern district.

Section 240. Section 1 of this Act makes an appropriation for Contractual Services to the Department of Correction, Morris Correctional Institution (38-04-07). Of this amount, \$4.0 shall be used for "tipping" fees.

Section 241. Section 1 of this Act provides an appropriation for Contractual Services to the Department of Correction, Field Operations (38-05-02). If an acceptable contractor for third party custody is not selected by January 1, 1989, \$52.0 may be transferred to Salaries and Wages for the purpose of hiring four (4.0) Probation and Parole Officers to provide custody for pre-trial inmates.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 242. It is the intent of the Joint Finance Committee that the Licensing and Regulation of dogs in Fiscal Year 1990 be the responsibility of each County.

Section 243. Section 1 of this Act makes an appropriation to Water Resources, Management and Support (40-08-01) for Contractual Services. Of that amount, \$176.0 is to provide New Castle County's portion of the expenses of the Water Resources Agency. However, before these funds are to be expended by the State of Delaware, all necessary memorandum of understanding or agreements regarding the Water Resource Agency between the Water Resource Agency and the State of Delaware or New Castle County shall be amended to provide for the Director of Water Resources, Department of Natural Resources and Environmental Control of the State of Delaware to assume all the voting powers of New Castle County on the Policy Board, all committees and all subcommittees.

Section 244. Section 1 of this Act makes an appropriation for Extremely Hazardous Substance Risk Management to Waste Management (40-09-03). Of this amount, \$50.6 in Personnel Costs, \$5.0 in Contractual Services and \$5.0 in Capital Outlay shall revert to the General Fund of the State of Delaware and the number of General Fund positions shall be reduced by two (2) upon failure of the General Assembly to pass House Bill No. 555 of the 134th General Assembly.

Section 245. The Department of Natural Resources is authorized to transfer and expend an amount not to exceed \$139.8 from the Superfund account for Fiscal Year 1987, (40-01-01-98), for the purpose of providing the Water Resources Technical Services laboratory, 40-08-02, with a loan for the purpose of achieving the earliest possible Environmental Protection Agency (EPA) certification that will allow this IPU to handle the laboratory test work for Superfund site testing.

For the period of this Fiscal Year, three Environmental Lab Technician III's, one Environmental Chemist II, one Environmental Chemist IV, and one Secretary positions are converted from ASF to GF and shall be paid from the loan account. Funds to repay the loan and operate this portion of the laboratory will be derived from Federal grant funds that now are used to pay outside source laboratories. The funds generated by the Technical Services laboratory will be Appropriated Special Funds (ASF). Therefore, the loan repayment will be made as ASF into a Department Management holding account specific to the purpose of receiving the loan repayments. The Department Management Internal Program Unit (IPU) will be responsible for insuring the loan repayment and that expenditures from the ASF Superfund account are for Superfund purposes. The loan repayment must be completed by June 30, 1990.

PUBLIC SAFETY

Section 246. Of the funds appropriated in Section 1 of this Act to the Self-Insurance Contingency Fund in the Budget Office, an amount not to exceed \$20.0 may be used to reimburse Volunteer Fire Companies which incur extraordinary expenses. These funds may be disbursed to Volunteer Fire Companies only for extraordinary expenses at the discretion of the Secretary of the Department of Public Safety upon the request of the State Fire Prevention Commission. An extraordinary expense under the provisions of this Act includes reimbursement to a volunteer fire service for expenses incurred in providing food, lodging, clothing, transportation, medical assistance, protection from the elements and other citizen needs during disasters.

Section 247. Section 1 of this Act makes an appropriation to State Police - Patrol (45-06-03). Of this amount, the following sums are provided to train an additional recruit class during Fiscal Year 1989.

Personnel Costs	\$301.6
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Contractual Services	25.0
Supplies	52.0
Total	\$378.6

Section 248. Section 1 of this Act makes an appropriation to the Division of State Police, Executive (45-06-01). Included in this budget are funds for Implementation of a Career Development Program. Any adjustment received under this program will be added to base compensation and will be included to determine retirement benefits.

COMMUNITY AFFAIRS

Section 249. The Division of Community Services (50-02-01) is charged with the support of the Council on Hispanic Affairs. Members of the Council on Hispanic Affairs shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties.

Section 250. If at any time during the Fiscal Year ending June 30, 1989, there should be a temporary delay in receiving federal funds to start up the Low Income Energy Assistance Program (LIEAP) within the Department of Community Affairs, Division of Community Services, such funds as may be required to assure initial awards to eligible households receiving energy assistance shall be advanced from the Oil Overcharge Funds approved by the Clearinghouse for the Weatherization Program. The Department of Community Affairs, Division of Community Services shall promptly reimburse the Oil Overcharge Fund upon receipt of the federal funds.

TRANSPORTATION

Section 251. All State Agencies are directed to remit payment for services rendered by the Department of Transportation within (30) days after receipt of invoice. Services may include fuel billing, sign manufacturing, photocopies, etc. Partial payments or estimated payments will not be permitted.

Section 252. The salary appropriation for the Department of Transportation contains sufficient funds to replace Engineering and Contingency Funded Salary costs. It is intended that the portion of Salaries of Bond-funded positions normally charged to the Engineering and Contingency Bond fund be charged to the General Fund Salary Appropriation.

Section 253. All monies received by the Division of Highways during the fiscal year as reimbursement for motor fuel and oil supplied to other departments and agencies shall be credited to a unique Special Fund and associated GAAP Fund revenue account as so designated by the Budget Office and all monies shall be credited to said account regardless of the year in which the motor fuels were supplied. All billings shall be at State purchase price only.

Section 254. The Delaware Transportation Authority budget, as set forth in memorandum form in Section 1 of this Act for the Fiscal Year ending June 30, 1989, shall be expended in accordance with the following conditions and limitations:

- (a) Debt Service estimates are for current project financing as authorized by Title 2, Chapter 13, Delaware Code.
- (b) Funds provided for "Newark Transportation" and any carry-over funds available are intended to cover the expenses of the public transportation system operated by the City of Newark. The funds may be used to provide up to 100 percent of the total operating cost of the system during the year.
- (c) Funds provided for "Kent/Sussex Transportation" are intended for continuation of specialized transportation service for the elderly and handicapped in Kent and Sussex Counties. It is intended that management and direction of the service will reside with the Delaware Transportation Authority which may contract for services as they see fit, and that Kent and Sussex County Governments will review and approve allocation of the service levels within each County.
- (d) Funds provided for "Dover Capital" are intended to aid to the elderly and handicapped transportation system operated by the City of Dover. The funds may be used to provide up to 100 percent of the cost of capital needs of the system.
- (e) Funds provided for "Dover Transportation" and any carry-over funds available are intended to aid the elderly and handicapped transportation system operated by the City of Dover.

(f) It is intended that funds for "Taxi Service Support", along with any carry-over funds available for the Taxi Services Support Program will be maintained at least at the same service level as Fiscal Year 1988. It is intended that management and direction of these services shall reside with the Delaware Transportation Authority.

(g) Funds of the Delaware Transportation Authority may not be provided as aids to local governments for transportation systems which restrict passengers because of residential requirements. Nothing in this Section is meant to require that governments must operate these transportation systems outside their political boundaries.

Section 255. This Act makes an appropriation to the Department of Transportation, Delaware Transportation Authority (55-06-01) for Maintenance/Equipment. This appropriation shall be transferred to the Bureau of Maintenance (55-04-70) for NSF Capital Outlay of \$2,839.5 and NSF Operations of \$5,700.0.

Section 256. The Department of Transportation is hereby authorized to participate in \$200.0 worth of research with the University of Delaware, College of Engineering through the Delaware Transportation Center. Funding for this program is derived from Transportation Trust Fund Revenues.

Section 257. Section of this Act appropriates money to the Delaware Transportation Authority (55-06-01). Included in those appropriations are designations of NSF positions. Effective July 1, 1988, each of those positions shall be displayed in the List of Authorized Positions with the same information as is displayed for all other positions in that report.

LABOR

Section 258. (a) Section 1 of this Act provides an appropriation of \$145.7 to Employment and Training (60-09-20) for the Delaware State-wide Summer Youth Employment Program to operate a ten-week program commencing July 1, 1988. This sum is to be allocated in the following manner:

\$ 43.4	New Castle County (outside the City of Wilmington)
43.5	City of Wilmington
29.4	Kent County
29.4	Sussex County
\$145.7	- TOTAL

(b) Notwithstanding any other provision of the Delaware Code to the contrary, youth chosen for work under this program shall not be less than 14 years of age nor more than 20 years of age (except that work leaders may be 21 years of age) and shall be required to provide evidence of same before becoming eligible. All youth participating in the State-assisted program shall be required to present a letter from their parents or guardian indicating their consent to work and also releasing the State of Delaware and the sponsoring agency from any liability for assignments in the low risk jobs that will be available.

Preference shall be given to those youth who are members of single parent households whose income does not exceed \$15.0 annually and applicants who qualify based upon parental income guidelines for two-parent households of \$26.0 or less. Notwithstanding income limits provided for participation in the Statewide Summer Youth Employment Program, consideration may be given to other applicants at a ratio of at least eight applicants qualified on income to three persons considered beyond the income limits.

Any non-profit or tax exempt organization certified by the Department of Labor may be authorized to be a sponsoring agent for the State-assisted youth work program.

Sponsoring agents shall be required to submit a plan or project of activity of meaningful and productive work experience providing such details as the Department shall deem necessary before becoming eligible as a sponsoring agent.

The sponsoring agent shall provide one work leader for each 20 youth employed in the program to supervise and monitor the attendance and work performance of the youth selected for the program. Work leaders shall be paid no more than \$4.50 per hour and shall work no longer than eight hours per day and five days per week.

In each of the political subdivisions wherein funds have been appropriated no more than \$2.0 shall be extended for administrative purposes and no more than \$1.0 shall be expended for equipment, supplies and mileage.

A record of all equipment and supplies purchased with funds herein appropriated shall be kept by the sponsoring agent and at the conclusion of the two-week program such supplies and equipment shall be reverted to the Department of Labor.

Section 259. The funds appropriated for the Delaware State-wide Summer Youth Employment Program shall not be commingled with funds appropriated from any other source. The guidelines for youth employment and administrative cost for all persons employed in the State-wide Summer Youth Employment Program shall be based in accordance with prior years' practice of payment for services. The program management shall be directed by the Urban Affairs Specialist as provided for in prior years at no additional expense to the citizens of Delaware.

AGRICULTURE

Section 260. (a) Section 1 of this Act provides an appropriation for Contractual Services to the Department of Agriculture, Resource Management, Harness Racing Commission (65-01-04). Of the amount appropriated for Contractual Services, \$100.0 shall be used for the "First State Trotting and Pacing Series". This will consist of special harness horse races to be contested at Delaware's pari-mutuel harness tracks for six-year-old or younger horses that are owned in whole by a Delaware resident.

(b) The Department of Agriculture in consultation with the Cloverleaf Standardbred Owners Association shall establish the rules and regulations for this program to include, but not be limited to the following:

(1) There must be at least five horses declared to start in each race.

(2) Purses shall be divided as follows:

50% for 1st Place
25% for 2nd Place
12% for 3rd Place
8% for 4th Place
5% for 5th Place

(3) Participating harness tracks will add no less than 25% to the total funding made available by the Department of Agriculture for this program.

Section 261. (a) Amend Chapter 5, Title 28, Delaware Code, by redesignating said Chapter as new Chapter 100 under Title 3, Delaware Code, by retaining the subchapter designations and by numbering Sections 501 through 558 as new sections 10001 through 10059 respectively and adding a new subsection thereto to read as follows:

"Section 10002. Secretary; powers and duties.

The Harness Racing Commission shall be a unit of the Department of Agriculture. The Secretary of Agriculture shall promulgate those rules and regulations relating to the establishment of the Harness Racing Commission as such a unit."

(b) Amend paragraph (h) subparagraph (1), subsection (a), Section 8810, Chapter 88, Title 29, Delaware Code, by striking said paragraph in its entirety and redesignating present paragraphs (1) through (n) as new paragraphs (h) through (m) respectively.

(c) Section 1 of this Act reflects the transfer of the Harness Racing Commission budget resources from the Department of Administrative Services, Regulations and Licensing Professional Regulation (30-03-20) to the Department of Agriculture, Resource Management, Harness Racing Commission (65-01-04). Included in this transfer is Budget Position No. 2194 as of the April 29, 1988 List of Authorized Positions for Regulation and Licensing (30-03-00).

ELECTIONS

Section 262 (a) Section 1 of this Act provides an appropriation in the Departments of Elections for New Castle, Kent and Sussex Counties for Contractual Services. Of those amounts, \$46.4, \$10.9 and \$10.8 respectively shall be used to provide an increase of \$5.00 per day for Inspectors of Election to deliver election records and supplies to the Department of Elections and an increase of \$10.00 per day for training sessions for Election Officers.

(b) Amend Title 15, Section 4704(a), Delaware Code, by deleting the figure "\$5" as it first appears and inserting in lieu thereof the figure "\$10".

(c) Amend Title 15, Section 4704(d), Delaware Code, by deleting the figure "\$5" as it appears in said subsection and inserting in lieu thereof the figure "\$15".

FIRE PREVENTION

Section 263. Section 1 of this Act provides an appropriation of \$50.0 to the State Fire Prevention Commission (75-03-01) in the line item "Statewide Fire Safety Education". These funds are to be matched by members of the Delaware Association of Volunteer Firemen and are to be used for the purpose of operating a State-wide Fire Safety Education Program.

NATIONAL GUARD

Section 264. Section 1 of this Act provides an appropriation for Contractual Services to Delaware National Guard (76-01-01). Of this appropriation, \$52.9 is included for Laura Little School building energy; within that sum, \$26.3 is specifically included to defray energy expenses of the Laura Little School building that are not directly attributable to occupancy by the National Guard.

HIGHER EDUCATION

Section 265. (a) Section 1 of this Act provides an appropriation for "Operations" of the University of Delaware (90-01-01) and an appropriation for "Operations" of the Delaware Geological Survey (90-01-02). This figure includes total State assistance for University operations costs as well as funds required to be appropriated by Title 29, Section 5505 (6), Delaware Code. The appropriation for "Operations" of the University of Delaware, includes \$1,894.3 for energy.

(b) The University of Delaware shall pay, on a regularly scheduled basis, as determined by the Secretary of Finance, to the State Treasurer at a rate determined under Title 29, Section 6340, Delaware Code, or otherwise by the Secretary of Finance, the amount of all fringe benefits applicable to salaries and wages paid to employees of the University of Delaware as the term employee is defined in Title 29, Sections 5501 (a) and 5505 of Delaware Code or any other fringe benefit costs applicable to the University of Delaware.

Section 266. Section 1 of this Act appropriates amounts for "scholarships", "agricultural programs" and "other programs" to the University of Delaware (90-01-01). Those amounts shall be allocated as follows:

Scholarships:			
General Scholarships	\$	1,224.0	
Title IX Scholarships - Women Athletes		885.0	
Title VI Scholarships		800.3	
Total			\$ 2,909.3
Agricultural:			
Agricultural Experimental Station	\$	63.3	
Agricultural Cooperative Extension		76.9	
Poultry Disease Research		233.2	
Crop Extension		31.8	
Agricultural Environmental Quality		36.2	
Soil Testing and Pesticide Control		87.3	
Total			\$ 528.7
Programs:			
Aid to Needy Students	\$	642.0	
Occupational Teacher Education		84.5	
Academic Incentive		100.0	
Diagnostic Poultry Program		49.6	
Sea Grant		355.3	
Summer School for Teachers		178.1	
Urban Agent Program		61.1	
Student Employment Program		156.8	
Public Service Projects		79.1	
Research Partnership Fund		1,014.8	
Minority Recruitment		106.5	
Carvel Scholarships		200.0	
Pike Creek Greenway		50.0	
Urban Journalism		4.0	
Financial Services Center		50.0	
Total			\$ 3,131.8

Section 267. Section 1 of this Act appropriates \$1,014.8 for the "Research Partnership Fund" at the University of Delaware, subject to the following:

(a) This appropriation shall be used to match, on a dollar-for-dollar basis, grants or contracts from private industry to conduct cooperative research with the University. The objective of the cooperative research efforts shall be to attract new high-technology research facilities and industries to locate within the State of Delaware.

(b) This appropriation shall be used to match "new" money and cannot be allocated to any projects in progress.

(c) The University President shall submit to the Governor, members of the General Assembly and the Controller General, within 120 days after the close of each Fiscal Year, a report containing an account of how these funds were expended, what new, industrial research organizations were attracted to the State, and plans for the ensuing Fiscal Year.

Section 268. Section 1 of this Act makes an appropriation of \$1,708.7 to the Delaware Institute of Medical Educational Research (90-02-01). Of this amount, the allocations for Fiscal Year 1989 shall remain the same as Fiscal Year 1988.

Section 269. Section 1 of this Act provides funds to the University of Delaware (90-01-01) and Delaware State College, Student Affairs (90-03-03) developed in accordance with the Title VI Compliance Plan for Higher Education in the State of Delaware. These funds shall be utilized expressly for that purpose.

Section 270. Section 1 of this Act makes appropriations to the several budget units in Delaware Technical and Community College (90-04-00). This Act recognizes that Delaware Technical and Community College participates in the funding of Salary Plan A. For budget purposes, this participation of \$195.1 is reflected by reducing the Contractual Services line. This reduction is not intended to affect funds appropriated for the College Parallel Program.

Section 271. The line item, Subvention, in Section 1 of this Act, Delaware Institute of Dental Education and Research (90-08-01), as provided by Title 14, Chapter 88, of the Delaware Code, provides for three dental internships and sufficient funds to contract with Delaware State Hospital (Inpatient Mental Health) to continue the Dental Internship Program.

PUBLIC EDUCATION

Section 272. (a) Section 1 of this Act provides appropriations of \$172,514.9 for Formula Salaries and \$52,726.2 for Other Employment Costs to Public Education, Educational Contingency (95-01-05). These amounts provide salaries and Other Employment Costs for the following categories as determined by the September 30, 1988 unit count entitlement of each School District: Title 14, Section 1305, Section 1306, Section 1307, Section 1308, Section 1309, Section 1310, Section 1311, Section 1321, Section 1324, Section 1331 and Section 1332, Delaware Code. These appropriations also contain Salaries and Other Employment Costs funds for the Americanization Programs operated by the Caesar Rodney and Red Clay Consolidated School Districts. These sums are \$6.4 and \$96.6 respectively.

(b) In order to insure that authorized position complements are not exceeded, the Auditor of Accounts is directed to incorporate an examination of the number of authorized positions versus the number of actual positions a district has employed as part of the regular, annual audit review for all public school district audits that commence on or after July 1, 1988. This position audit function shall include, in addition to Formula Salary positions, an examination of positions and associated "Option Units" authorized by the State Board of Education under any appropriation in the Pass Through/K-12 Programs Budget (95-01-06).

(c) Any discrepancy found by the Auditor of Accounts which has resulted in a local school district expending more General Funds than it was entitled to during the Fiscal Year being audited, shall be promptly reported to the Budget Director, the Controller General and the State Board of Education. Upon review and determination as to the status of the questioned expenditure, the Budget Director, in consultation with the local school district shall develop a written repayment plan which shall be certified by the local Board of Education.

(d) The local school district may choose to make the required General Fund reimbursement from their local current operating expense account or by agreeing not to utilize a current year General Fund appropriation, for which it is otherwise eligible based

on unit entitlements. Reimbursements required by this Section shall be transacted during the Fiscal Year in which the over-expenditure is discovered.

(e) In order to assist the Auditor of Accounts in the performance of this function, local school districts are instructed to maintain records and make them available in a format that will facilitate this review.

Section 273. The Chairman and Vice-Chairman of the Joint Finance Committee are authorized to continue the committee to review long-range changes in the pay plans for para-professional employees of the public school system.

Section 274. Section 1 of this Act provides appropriations and authorizes General and Special Fund positions for Budget Units (95-01-01) through (95-01-04) for the State Board of Education and the State Board for Vocational Education. A recently completed study of the operation of the Department of Public Instruction by the National Association of State Boards of Education made a number of recommendations that will require staff reorganization within the Department. In order to expedite the recommendations, the State Board of Education is hereby authorized to transfer positions authorized in Section 1 of this Act among the various Budget Units. However, the State Board of Education is directed to submit a list of positions by title and salary, including the corresponding sources of funding, to the Budget Director and the Controller General on or before September 1, 1988. This listing will serve as the authorized number of positions in each Budget Unit for the fiscal year ending June 30, 1989.

Section 275. Beginning with the fiscal year ending on June 30, 1988, any reorganized school district that closes a fiscal year with an unencumbered balance in its local current operating expense account(s) that is less than or equal to 5 percent of the estimated amount of taxes collectible for current operating expense for the same year, shall file a report with the State Board of Education. This report shall assess the district's long-term financial outlook and include a plan for increasing and maintaining the end of the year unobligated balance above the 5 percent level. The estimated amount of taxes collectible for current operating expense revenues shall be determined in accordance with the annual Assessment and Tax Rates study prepared by the State Board of Education. All reports required by this Section shall be submitted within 90 days of the close of the fiscal year that triggers this Section's provisions.

Section 276. Section 1 of this Act provides an appropriation of \$25.0 to Public Education, State Board of Education and Superintendent (95-01-01) for the Teacher Incentive Program. The funds appropriated shall be used by the State Board to continue developing recommendations for, or demonstrating, new teacher incentives and career development proposals.

Section 277. The provisions of the Delaware Code to the contrary notwithstanding, for the fiscal year ending June 30, 1989, the salary of the Assistant State Superintendent for Administrative Services shall be \$1.5 less than the salary paid to the Deputy State Superintendent for Instruction.

Section 278. Section 1 of this Act provides an appropriation of \$460.0 to Public Education, Office of Educational Computing Services (95-01-03). These funds are to be used for grants to local school districts and shall be subject to technical review and purchase requirements of the Office of Planning and Administration of the Office of the Budget.

Section 279. Section 1 of this Act provides an appropriation of \$250.0 to Public Education, Office of Educational Computing Services for Curriculum Software Development. These funds shall be utilized to further the completion of a needs assessment to determine the specification requirements of an integrated computer managed instructional system for Public Education, and to demonstrate the capabilities of such a system to educational professionals and the public, as appropriate. The Office of Planning and Administration of the Office of the Budget shall be consulted for the purpose of insuring a comprehensive study that is consistent with State information planning practices and is coordinated with administrative management information system planning efforts supported by the Development Fund.

Section 280. General Contingency line item funds appropriated to Public Education, Educational Contingency (95-01-05) in Section 1 of this Act are to cover adjustments in the budget units of the State Board of Education, the State Board for Vocational Education, or the local school districts. Examples of such use are: salary line transfers and adjustments; unit adjustments; tuition payment for private placement of handicapped pupils; for Delaware residents of the Delmar School District attending Maryland schools; expenditures for Americanization classes; expenditures for salaries and travel for homebound teachers; pupil transportation costs; non-public and summer driver education programs; and unused sick pay for retirees.

Section 281. Section 1 of this Act provides certain appropriations to Public Education, Educational Contingency (95-01-05), Pass Through Programs/K-12 (95-01-06), Pass Through/Adult Programs (95-01-07) and Teacher Development Services (95-01-09) for School Districts in the State for the Fiscal Year ending June 30, 1989. Title 14, Chapter 17, Section 1704, Delaware Code, provides the method of determining the appropriate number of pupil units for each school district, based on the September 30, 1988, enrollment. Sufficient funds will be placed in the School District accounts to operate for a partial year. Based on the approved State Board Unit Count for September 30, 1988, adjustments will be made to the district accounts. These adjustments will be accomplished through the transfer process and therefore approved by the Budget Director and the Controller General.

Section 282. Section 1 of this Act provides certain appropriations to Public Education, Educational Contingency (95-01-05) for School Districts in the State. These amounts are not based on the unit system. Allocation of these funds shall conform to the following:

(a) Debt Service amounts are predicated upon the amortization schedule as provided by the State Treasurer.

(b) The line item entitled "Support - Local Fund Employment Costs" shall be allocated to the named School Districts or Schools as follows:

1. Caesar Rodney	\$ 75.0
2. John S. Charlton	4.8
3. Capital	161.4
4. Lake Forest	61.7
5. Laurel	30.2
6. Cape Henlopen	127.9
7. Milford	74.8
8. Seaford	56.9
9. Smyrna	53.0
10. Appoquinimink	42.1
11. Brandywine	534.6
12. Charles W. Bush	8.7
13. Brandywine Int. Ln. Center	29.8
14. Red Clay	666.0
15. Meadowood	15.8
16. Red Clay Int Ln. Center	36.9
17. Christina	729.9
18. Margaret S. Sterck	19.4
19. Joseph E. Douglass	8.8
20. Christina Int Ln. Center	51.8
21. Colonial	463.6
22. John G. Leach	17.8
23. Wallace Wallin	21.2
24. Woodbridge	28.8
25. Indian River	90.5
26. Howard T. Ennis	9.7
27. Delmar	11.2
28. New Castle County Vo Tech	191.2
29. Kent County Vo Tech	12.3
30. Sussex County Vo Tech	13.3
Total	\$ 3,649.1

(c) The line item "Other" shall be allocated as follows:

1. Caesar Rodney - Americanization	5.9
2. Red Clay - Americanization	9.0
3. Margaret S. Sterck	
Residence - Other Costs	85.4
Consultant Services	11.0
Preschool Summer Program	6.9
4. Christina Autistic -	
Residence - Other Costs	102.5
Contractual Services	11.4
Total	\$ 232.1

Section 283 Section 1 of this Act makes appropriations to Public Education, Educational Contingency (95-01-05) for Division II - Other Costs and Energy. During Fiscal

Year 1989, a school district, upon approval of the Budget Director and the Controller General, may transfer part of its allocated appropriation from Division II-Energy to Division II - Other Costs. A school district may use Division II - Energy funds to obtain engineering studies required for Exxon or stripper well funds. A Division II Energy Unit shall be valued at \$1,310.00 per unit.

Section 284. Any provisions of the Delaware Code to the contrary notwithstanding, the State Board of Education is authorized and directed to provide an aide for the purpose of providing mainstreaming services to elementary deaf students in the Lake Forest School District, Caesar Rodney School District and Woodbridge School District.

Section 285. Section 1 of this Act provides an appropriation to Public Education, Educational Contingency (95-01-05) of \$15.0 for Principal of the Year. These funds are to be used to recognize the outstanding school principal in the State for the school year 1988 - 1989, and are to be awarded based on selection and use criteria to be established by the State Board of Education. Awards made under this program shall be continuing appropriations not subject to annual reversion.

Section 286. Amend Chapters 1 and 13, Title 14 of the Delaware Code to provide for change in the allocation of Driver Education teachers as specified in this Section.

(a) Amend Subsection 122(b)(15)c., by deleting the words "140 qualified pupils" and "each 28 qualified pupils" as they appear in said subsection and by substituting in lieu thereof the words "125 qualified pupils" and "each 25 qualified pupils," respectively.

(b) Amend Paragraph (2), Section 127, Title 14 of the Delaware Code by deleting the words "each 140 tenth grade" and "each full 28 tenth grade" as they appear in said paragraph and by substituting in lieu thereof the words "each 125 tenth grade" and "each full 25 tenth grade," respectively.

(c) Amend Subsection 1321(e)(8), Title 14 of the Delaware Code by deleting the words "each full 140 tenth grade" and "each full 28 tenth grade" as they appear in said subsection and by substituting in lieu thereof the words "each full 125 tenth grade" and "each full 25 tenth grade," respectively.

Section 287. Section 1 of this Act provides an appropriation of \$111.9 to Public Education, Pass Through/K-12 Programs (95-01-06) for the READ-ALOUD Program. READ-ALOUD Delaware is to continue to develop and foster programs for the purpose of encouraging regular reading to pre-school aged children as the most effective way to prepare them for learning. The monies passed through to READ-ALOUD Delaware shall be used to provide programs in each county, focused on the more disadvantaged part of the population of pre-school aged children. The State Board of Education will report annually on the number of children participating and the effectiveness of the program.

Section 288. Section 1 of this Act provides an appropriation of \$107.8 to Public Education, Pass Through/K-12 Programs (95-01-06) for Parent Early Education Center. Of this amount, \$57.8 shall be allocated for the continuation of the services of the Parent Early Education Center operating in the Christina School District. The remaining \$50.0 shall be used to expand parent early education services to additional school districts.

Section 289. (a) The total amount of \$1,618.2 appropriated for substitute teachers shall be allocated to the several school districts in amounts not to exceed each school district's proportion of Division I units to the total number of Division I units in the State as of September 30, 1988. Any funds not used for the purpose herein referred to by the school district may be transferred to a districts' Division II - All Other Costs appropriation.

(b) General Fund appropriations to Public Education in Budget Units (95-01-06) through (95-01-09) and the Delmar Tuition, General Contingency, Teacher of the Year, Principal of the Year, Desegregation Monitoring, Support for Local Other Employment Costs and Debt Service Appropriations in Budget Unit (95-01-05) shall not be subject to the limitations, as defined for Division I and Division II in Title 14, Chapter 17, Sections 1706 and 1709, Delaware Code.

(c) Section 1 of this Act provides an appropriation of \$667.7 to Public Education, Pass-Through/K-12 Programs (95-01-06) for the Homebound Instruction Program. From these funds, 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.

(d) In order that the children for whom the learning disability and socially or emotionally maladjusted units were devised shall be the sole beneficiaries of all funds

available for such children, the State Board of Education shall require strict adherence to approved guidelines before release of any funds designated for such children. The State Board of Education shall particularly ascertain that no educable mentally handicapped are being classified as learning disabled; and that strict guidelines are developed to determine 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 or socially or socially/emotionally maladjusted must be reevaluated at least every two years, except psychological evaluation shall be made at least every three years.

Section 290. Section 1 of this Act provides an appropriation of \$665.2 to Public Education, Pass Through/K-12 Programs (95-01-06) for Exceptional Student Vocational Units. This appropriation shall be used to continue the program of vocational education for handicapped students in New Castle, Kent and Sussex Counties. The funds appropriated shall provide for Divisions I, II, and III funding for a maximum of six units in a single program. The unit shall be based upon 13,500 pupil minutes per week of instruction or major fraction thereof after the first full unit and shall be in addition to the funding otherwise provided under Title 14, Section 1703, Delaware Code. The deduct contained in Title 14, Section 1703(f), Delaware Code shall not apply to the units authorized by this Section.

Section 291. Section 1 of this Act provides an appropriation of \$2,439.5 to Public Education, Pass Through/K-12 Programs (95-01-06) for Private Placement of the Handicapped. From the funds appropriated, the State Board of Education is authorized and directed to provide an interpreter/tutor for any deaf-blind pupil who is a resident of the State and who is mainstreamed in a private school in the State. The funding to be provided by the State Board of Education to the local school district designated as the administrative agency for the State-wide program for the deaf-blind shall include: the salary specified in Title 14, Section 1305(a) and (b), Delaware Code; the local salary supplement paid by such district; and all other employment costs incurred by the school district in employing such personnel. The funding authorized shall be a percentage of the total cost of salary and other employment costs for a full-time interpreter/tutor equal to the portion of the deaf-blind student's regular school day that is spent in a mainstream program.

Section 292. Section 1 of this Act provides an appropriation of \$100.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for Advanced Studies. The State Board of Education shall transfer this appropriation to the University of Delaware to help fund a summer school program for college credit for gifted and talented students.

Section 293. Section 1 of this Act provides an appropriation of \$82.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for Articulation. This amount shall be allocated to the Articulation and Career Guidance Counselor Program operated by the Delaware Advisory Council for Career and Vocational Education (DACCVE).

Section 294. Section 1 of this Act provides an appropriation of \$622.6 to the State Board of Education, Pass Through/K-12 Programs (95-01-06) for Summer School - Occupational and Vocational Education. Of that amount, at least \$110.2 shall be reserved for programs in school districts in Kent County, and \$135.8 shall be reserved for programs in Sussex County, and \$220.0 shall be reserved for programs in the New Castle County Vocational and Technical School District. Allocation of the remaining funds shall go to State Board approved projects.

Section 295. Section 1 of this Act provides an appropriation of \$233.2 to Public Education, Pass-Through/K-12 Programs (95-01-06) for the Four-Year Old Development Pilot Program. The State Board of Education shall continue to support the three pilot projects begun in Fiscal Year 1987. Each participating district site shall continue to receive funding for one teacher, one aide and transportation expenses. Additional funds are to be provided for casual and seasonal clerical support not to exceed \$4.0 per location, funding for substitute teachers not to exceed \$1.0 for all locations combined, and Divisions II and III allocations. An amount of \$3.5 is to be reserved for the State Board of Education to provide on-going program evaluation. The State Board of Public Education shall perform an evaluation of this program and report the results of its examination to the Governor and General Assembly by December 15, 1988.

Section 296. Section 1 of this Act makes an appropriation of \$84.4 to Public Education, Pass Through/K-12 Programs (95-01-06) for 2 + 2 Pre-Technical Curriculum. It is the intent that this money be utilized to match other available funds to support at least one program for curriculum development in each county.

Section 297. Section 1 of this Act makes an appropriation of \$14.0 to Public Education, Pass Through/K-12 Programs (95-01-06) for Olympics of the Mind. This

appropriation shall be made available to school students to assist in defraying Out-of-State Travel expenses associated with this program.

Section 298. Section 1 of this Act makes an appropriation of \$1,224.9 to Public Education, Pass Through/K-12 Programs (95-01-06) for Career Placement Counselors. This appropriation shall be used to fund one certified Career Placement Counselor in each comprehensive and vocational public high school in the State. Career Placement Counselors employed under this program shall be employed on a 12-month basis. Eligibility for this appropriation shall be contingent upon a district demonstrating that it has not supplanted locally funded positions.

Section 299. Section 1 of this Act provides an appropriation of \$6.3 to Public Education, Pass Through/K-12 Program (95-01-06) for the Delaware Nature Society. It is the intent that this money be used to provide summer programs.

Section 300. Amend Section 1716D, Title 14 of the Delaware Code, relating to education refinement units as specified in this section.

(a) Amend Subsection 1716D(a), Title 14 of the Delaware Code, by striking the figure "1,700" as it appears in said subsection and by substituting in lieu thereof the figure "1,000."

(b) Amend Subsection 1716D(c), Title 14 of the Delaware Code by inserting a comma and the words "career education in grades 7 and 8, paraprofessionals such as service or instructional aides" after the words "library services" and before the words "or reduction" as they appear in said subsection.

(c) Amend Subsection 1716D(d), Title 14 of the Delaware Code by inserting a comma and the words "career education in grades 7 and 8, paraprofessionals such as service or instructional aides" after the words "elementary art" and before the words "or library" as they appear in said subsection.

(d) Amend Subsection 1716D(e), Title 14 of the Delaware Code by adding the following sentence at the end of said subsection: "School districts are also authorized to employ two service aides or two instructional aides for each unit in lieu of one person employed under §1305 provided that such aides are paid in accordance with the salary schedule contained in §1324 of this Title."

Section 301. Section 1 of this Act provides an appropriation of \$3,971.1 to Public Education, Pass Through/K-12 Programs (95-01-06) for the Education Refinement Program. During the fiscal year ending June 30, 1989, a local school district may choose to take up to one-third of the total units it generates under this Program as a cash option. For the purpose of this Section, units taken as options shall have a value of \$35.7. Funds provided to school districts under this option provision shall be transferred to a separate account and shall be subject to the same spending limitations applicable to the Division III Equalization appropriation.

Section 302. Section 1 of this act provides an appropriation on the One-Time list of \$475.0 (95-01-06) and \$150.0 Day Care Support to Public Education in Pass-Through/K-12 Programs (95-01-06). Of this amount, the State Board of Education shall allocate a sum not to exceed \$475.0 to the local school districts for the purpose of renovating or otherwise modifying currently under-utilized school building spaces in up to 19 sites so that these facilities may be used to house the operation of new year-round, full-day, licensed child care programs serving preschool-aged children. No single project shall exceed \$50.0. These programs shall be operated by third party providers in accordance with Title 14, Section 1056, Delaware Code. Any district intending to take advantage of this program shall inform the State Board of Education by September 30, 1988. In order for a site to be selected by the State Board of Education, the local board of education must submit a space-needs projection demonstrating that the identified spaces within the proposed sites will not likely be required for the primary educational functions of the school district through the end of school year 1994-95.

Local school districts hosting programs approved under this subsection shall be eligible to receive an amount of up to \$40.00 per day per program, not to exceed \$7.9 per year per program. These funds are provided to defray the expenses of custodial salaries, insurance, heating, lighting, and other utilities and supplies that are in excess of the school's normal operations.

The State Board of Education is authorized and directed to adopt rules and regulations necessary for the implementation and operation of the programs outlined in this Section. The State Board of Education shall report to the Governor and General Assembly on the progress of this program by December 15, 1988.

Section 303. Amend Title 14, Delaware Code §1056 by striking paragraphs (d) and (e) in their entirety and substituting in lieu thereof the following:

" (d) The primary purpose for the use of school property is the education of children and youth. The use of such property for purposes other than the primary purpose shall not be permitted whenever such use would interfere with the primary purpose. Any scheduled public school activity, whether taking place during the school day or otherwise, shall have precedence over any other activity for the use of such property. However, in order to encourage the citizens of any community to participate in worthwhile community activities, a school board shall consider any written request by 10 citizens of the respective district, or a recognized community organization, for the use of school property in such district for purposes other than the primary purpose. The decision of such school board regarding the granting of such requests shall be based upon a consideration of the following conditions, (1) through (4), listed in order of importance:

- (1) The facility requested for use has not been scheduled for use at the time requested;
- (2) The use of the facility requested will be beneficial to children and youth and consistent with the program of education of the school district;
- (3) The use of the facility requested will serve a purpose that is educational, cultural, civic, political or recreational;
- (4) The use of the facility requested will not afford personal monetary gain to the individuals participating in the activity. This provision shall not apply to third-party providers that operate licensed extended day latchkey or year-round full-day care programs.*

(e) A school board shall permit the use of property under its jurisdiction free of charge, except, however, for the expense of custodial salaries, heating and lighting in excess of the school's normal operations whenever the purpose is educational, cultural, civic, political or recreational provided there is no monetary gain to the individuals or organization using such property as a result of such use, except as provided for in paragraph (d)(4) above. In the case of latchkey and day care programs, payment arrangements between a district and a third party provider shall be subject to individually negotiated agreements.* It shall be deemed that there was no monetary gain if all charges or admission in excess of the costs of such purpose are donated to a charitable purpose (as defined for state personal income tax purposes). The use of school equipment and school property for all other purposes shall be based upon a fee schedule to be determined by a school board, subject to the approval of the State Board of Education. All such fees collected by a school board shall be placed on deposit with the State Treasurer to be distributed as follows:

- (1) That portion of the fee which is equal to the cost of the school district for providing such facilities shall be placed in a clearly designated special fund account to be used exclusively for the purpose of paying custodial salaries, heating and electrical costs;
- (2) That portion of the fee which is in excess of the cost to the school district for providing such facilities shall be deposited in the General Fund of the State.

Notwithstanding any other provision of this subsection, all fees collected for the use of school property, school facilities or school equipment not used by a school district for educational purposes shall be deposited in the operating account of the school district. The school district shall pay to the State from the operating account such proportion of the net fee as the share of the State in the original cost of acquisition or construction together with any additions or alterations thereto. As used in the preceding sentence, the term "net fee" shall mean the fee received by the district in excess of the cost expended by the district in operation maintenance of such property, facility or equipment."

Section 304. Section 1 of this Act provides a One-Time appropriation of \$200.0 for the Extended Day Latchkey Program in Pass Through/K-12 Programs (95-01-06). The State Board of Education is authorized to make one time grants of up to \$5.0 per location to local school districts for the start-up of new latchkey programs serving student participants in grades 1 through 6. The programs shall be operated by third party providers in accordance with the provisions of Title 14, Section 1056, Delaware Code. Up to 50 locations may be funded with a requirement that each school district is eligible for at least one grant, provided

application is made by September 30, 1988. After September 30, 1988 unallocated grants will be available to any other interested school district. Established programs must operate for at least sixty consecutive school days or the local school district will be required to return the initial grant provided to that program to the General Fund. Funding is limited to start-up costs and insurance costs to local school districts. Funds may not be used to support the ongoing costs of the operation of the programs or transportation of student participants. Guidelines for the application process shall be promulgated by the State Board of Education. The State Board of Education is authorized to approve proposed changes to local transportation routes necessary to facilitate transportation of participants to latchkey locations upon determination that no increased cost will be incurred by the State. If a transportation cost increase is unavoidable, yet the project is deemed desirable by the local Board of Education, the State Board of Education may approve route alterations provided that any added cost is paid for locally.

Section 305. Section 1 of this Act provides an appropriation of \$210.0 to Public Education Pass Through/K-12 Programs (95-01-06) for the Innovation In Teaching and Learning Pilot Program. These funds shall be distributed to up to seven pilot schools that are to be selected by the State Board of Education. The goal of this program is to restructure the organization of the individual schools to personalize the instructional delivery systems to the needs of local student populations. These funds may be used to provide stipends for professional employees who participate in the planning process during the summer months or for those who take on additional responsibility during the school year, to provide travel costs or funds for supplies and materials, and/or to permit hiring of additional personnel. Alternate uses may be approved by the State Board of Education. In order to implement this section the State Board shall have the authority to waive or suspend any and all requirements related to uses of funds contained in the Delaware Code or applicable State Board regulations. Participating school districts must agree to at least maintain existing resource allocations to an individual pilot school site. Of the amount appropriated, a sum not to exceed \$25.0 is to be set aside to pay for the services of a project coordinator. The State Board of Education shall twice annually prepare status reports for submission to the Budget Director and the Controller General, regarding the activities of the pilot schools and the implications that their collective experiences have produced in terms of potential refinements to the State formula aid system.

Section 306. Section 1 of this Act makes an appropriation to Public Education, Pass Through/Adult Programs (95-01-07). Of that amount, \$232.8 shall be transferred to New Castle County Vocational-Technical School District, Wilmington Skills Center, for Adult Education.

Section 307. Section 1 of this Act provides an appropriation to Public Education, Pass Through/Adult Programs (95-01-07) for James H. Groves High School. Of that amount and in addition to any entitlement, \$19.6 shall be allocated to the Appoquinimink School District.

Section 308. Section 1 of this Act provides an appropriation of \$147.0 to Public Education, Pass Through/Adult Programs (95-01-07) for New Castle County Learning Center. The State Board of Education shall transfer this appropriation to the Christina School District for the purpose of continuing the services provided by the New Castle County Learning Center.

Section 309. Section 1 of this Act provides an appropriation of \$179.2 to Public Education, Pass Through/Adult Programs (95-01-07). The State Board of Education shall allocate these funds for the continuation of the Skills Training Employment Program at Women's Correctional Institution. The appropriation shall be transferred to the New Castle County Vocational Technical School District which shall continue to administer this program.

Section 310. Section 1 of this Act provides an appropriation of \$156.8 to Public Education, Pass-Through/School Programs (95-01-07) for Adult Basic Education. Of this amount, \$15.0 shall be used to employ three part-time recruiters/counselors.

Section 311. (a) Section 1 of this Act provides an appropriation of \$12,788.7 to Public Education, Educational Contingency for Division II - All Other Costs. This appropriation shall be used for all school costs except salaries and other employment costs, State and local benefits, debt service, energy, and transportation of pupils to and from their regular sessions of school. The purchase of computer equipment with Division II - All Other Costs funds shall be subject to the technical review and purchase requirements of the Office of Planning and Administration of the Office of the Budget.

(b) Section 1 of this Act provides an appropriation of \$2,830.7 to Public Education, Pupil Transportation (95-01-08) for non-public school transportation reimbursements. This appropriation shall be allocated for qualifying non-public, non-profit schools, based on the procedure adopted by the Joint Finance Committee on April 16, 1981.

(c) Transportation funds for public school districts during the Fiscal Year ending June 30, 1989, shall be allocated and shall not exceed \$27,627.3, according to bus contract or district transportation formula, as adopted by the State Board of Education on July 23, 1987, subject to the following amendments and procedural modifications:

(1) The per gallon price used to calculate the gasoline allowance shall be based on the State contract bid price for leaded gasoline plus \$.07 per gallon for districts and plus \$.25 per gallon for contractors. For districts and contractors North of the Canal, the per gallon price shall be based on delivery to a large sized tank (5,000 or more gallons). In the case of contractors located South of the Canal, the per gallon price shall be based on delivery to a small sized tank (275 - 1,900 gallons). Upon determination by the State Board of Education that a contractor located North of the Canal and operating five or fewer buses does not have existing storage capacity in the large tank range, the per gallon price shall be based on the smaller tank size.

(2) The Fiscal Year 1989 operating allowance adjustment for inflation shall be 3 percent.

(3) For the Fiscal Year ending June 30, 1989, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 1988 State bid price for new buses minus 3 percent for salvage value, plus 3 percent for inflation and plus 10 percent to account for dealer charges and profits not reflected in the State bid price due to the higher number of buses being purchased and the lag time between the ordering and delivery. The State Board of Education shall continue to utilize the procedures developed in Fiscal Year 1988 for determining the allowable cost for any size bus that it did not bid in Fiscal Year 1988. In addition to the procedure for establishing the allowable cost of a new bus specified above, the State Board of Education is requested to structure its bids for buses in the Fiscal Year ending June 30, 1989, in such a manner that public school bus contractors will be permitted to purchase buses from the successful lower bidder at the same price as the State of Delaware. If a contractor elects to purchase a bus at the bid price, that bid price minus 3 percent for salvage value will be the allowable cost in subsequent reimbursements to the contractor.

(4) The formula rate for reimbursing public school bus contractors for the cost of liability insurance shall be determined by the State Board of Education in consultation with the Insurance Commissioner based on the data available on April 30 of the previous fiscal year.

(d) The State Board of Education shall amend its transportation formula to permit replacement of a vehicle which has operated 100,000 school-related miles and is seven model-years old or a vehicle which has operated 150,000 school-related miles regardless of the age of the vehicle.

(e) Except as specified in the Section, or for changes in the price of gasoline, or for the adjustments of those items changed by State or federal laws, the State Board of Education shall not change the transportation formula unless the change has been authorized by the General Assembly and an appropriation therefore has been made by the General Assembly.

Section 312. (a) During the fiscal year ending June 30, 1989, the Department of Public Instruction is hereby directed to provide bus transportation of public school students previously declared ineligible by the Unique Hazards Committee, including the following:

- (1) Students attending the Stanton Junior High School, who are now forced to walk along Telegraph Road with a constant threat of injury.
- (2) Students attending Mt. Pleasant High School who are now forced to walk along Marsh Road with a constant threat of injury.
- (3) Students in the town of Seaford living west of Conrall and north of the Nanticoke River who attend the Seaford schools, grades K-6.
- (4) Students attending Seaford Central Elementary who live in the area east of Conrall, north of the Nanticoke River, and west of Williams Pond, within the Seaford city limits.
- (5) Students attending the Wilmington High School on Lancaster Avenue to Delaware Avenue in the north-south grid and on Jackson Street to duPont Street on the east-west grid.
- (6) Students attending Newark High School who live in Windy Hills and are forced to walk along Kirkwood Highway with a constant threat of injury.

- (7) Students attending schools in Laurel living in the areas of Lakeside Manor, Route 24 east of Laurel town limits, Route 13A South of Laurel town limits and Dogwood Acres.
- (8) Students attending Delcastle Technical High School who live in Newport and are forced to walk along Centerville Road (Rt. 141) with a constant threat of injury.
- (9) Students attending Woodbridge Junior-Senior High School who must travel along Route 13A south of Bridgeville and students living west of Bridgeville who must travel along Route 404 or Route 18.
- (10) Students attending Smyrna Middle School who reside in the Sunnyside Acres area between Sunnyside Road and U.S. 13 and who would otherwise be required to walk along U.S. 13 in order to reach school.
- (11) Students attending the Concord High School who live south of Naamans Road in the Talleybrook-Chalfonte, Brandywood, Brandon and Beacon Hill areas who must walk along Grubb and/or Naamans Road with a constant threat of injury.
- (12) Students attending Richardson Park School and Conrad Junior High School who live on Brookside Drive.
- (13) Students attending the Laurel Elementary Schools in Grades K-6 who live in the Town of Laurel and the surrounding areas.
- (14) Students attending Dover High School who live in Old Sherwood, south of Maples Avenue.
- (15) Students attending the Mt. Pleasant Elementary School, who would be forced to walk along Bellevue Road.
- (16) Students attending the Mt. Pleasant Elementary School, who would be forced to cross over and/or walk along River Road between Lore and Bellevue.
- (17) Students attending the Douglas Kindergarten Center who would be forced to walk along Route 2 (Union Street) or through Canby Park via the paths, 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 313. During the Fiscal Year ending June 30, 1989, the State Board of Education is hereby directed that students attending the Woodbridge School District who live in the Canterbury Apartments in Bridgeville will embark and disembark in the parking lot of the apartment complex in lieu of the bus stop area along the heavily traveled U.S. Route 13 Highway.

Section 314. Amend 14 Delaware Code 2908 by deleting Section 2908(a) in its entirety and substituting, in lieu thereof, the following new Section 2908(a) in its place:

2908(a) Effective July 1, 1988, when a transportation contract is due to expire because the bus described in said contract is of such age that it can no longer be used to transport pupils, a renewal of said contract shall be first offered to the school bus contractor who is party to the expiring contract. If the contract expires or is cancelled for any other reason, said contract may not be transferred to any other party but must be opened to all other interested and responsible persons in that area by means of notice published in at least two Delaware newspapers of general circulation.

Local boards of education shall promulgate by September 30, 1988, rules and regulations for selecting among potential contractors who are ready willing and able to assume the responsibilities of expiring contracts. The rules and regulations so promulgated by the local boards of education must be submitted for review and approval by the State Board of Education. Local boards of education must submit all transportation contracts to the State Board of Education for approval. No contract shall be deemed effective until it is approved by the State Board of Education.

Further amend Title 14, Delaware Code §2908 by deleting Section 2908(c) in its entirety.

In order to assure that all necessary routes are covered by contract during the interim period between July 1, 1988, and the promulgation of the required local regulations and

their subsequent review and approval by the State Board of Education, but not later than December 1, 1988, the approval power to transfer contracts shall rest with the Superintendent of Public Instruction.

Section 315. Section 1 of this Act makes an appropriation to Public Education, Teacher Development Services (95-01-09) for the Professional Development. This amount shall be used for the continued implementation and development of the Delaware Teacher and Administrator Evaluation Instruments and the training of district personnel in their use.

Section 316. Section 1 of this Act provides an appropriation of \$400.0 to Public Education, Teacher Development Services (95-01-09) for the purpose of reimbursing public school employees and teachers employed by State agencies for tuition payments for graduate college courses they successfully complete. In the case of Vocational and Technical School Districts, these funds may be used for undergraduate education courses provided that the individual does not already hold a Bachelor Degree. Funds may only be used to reimburse certificated non-administrative employees. No payment shall be made unless the course taken relates to the employee's job assignment and is taken with the prior approval of the employing district board, superintendent or State agency. Reimbursement for tuition may be made for courses taken during summer school or during the academic year for which a passing grade of C or better is obtained. No reimbursement shall be in excess of the tuition charged a Delaware resident taking a course with an equal number of credit hours at the University of Delaware. Of the total appropriation of \$400.0, a minimum of \$3.4 shall be allocated to State agencies and the balance shall be allocated to the several school districts in amounts equal to each school district's proportion of Division I units to the total number of Division I units State-wide on September 30, 1988. Any funds not expended by a school district or a State agency shall be transferred to other districts or agencies. In the event that any district's allocation is not sufficient to provide total reimbursement to all eligible employees, the district shall pro-rate the funds so that each eligible employee receives a share of the total district allocation equal to the individual employee's reimbursable expenditure divided by the total reimbursable expenditure of all employees in the district multiplied by the district allocation. This section shall not supercede a current collective bargaining agreement.

Section 317. Section 1 of this Act provides an appropriation of \$55.0 to Public Education, Teacher Development Services (95-01-09) for the Delaware Institute for the Arts in Education. The State Board of Education shall transfer this appropriation to the University of Delaware which acts as the fiscal agent for this State-wide program.

Section 318. Section 1 of this Act provides an appropriation of \$30.0 to Public Education, Teacher Development Services (95-01-09) for Teacher Competency and Certification. This appropriation shall be allocated by the State Board of Education to provide in-service educational programs for local school district personnel.

Section 319. Section 1 of this Act provides an appropriation of \$272.1 to Public Education, Teacher Development Services (95-01-09) for the Delaware Teacher Center. The State Board of Education shall transfer this appropriation to the Capital School District for the purpose of continuing the services provided at the Kent and Sussex and New Castle County Centers.

Section 320. Section 1 of this Act provides an appropriation to Public Education, Teacher Development Services, 95-01-09 for Sabbatical Leave. It is the intent of the General Assembly that this program be made available to one person in each local school district during Fiscal Year 1989.

Section 321. Amend Title 14, Chapter 13, Delaware Code by striking Subsection 1325(11) in its entirety and substituting in lieu thereof a new Subsection 1325(11) to read as follows:

"(11) The leave-granting district shall provide to the employee granted leave, under the foregoing provisions, compensation equal to one-half (1/2) the salary to which the employee would have been entitled under full-time employment; provided, however, that in no case shall the compensation paid exceed \$10.0 for a full school year leave or \$5.0 for a one-half (1/2) a school year. The State shall continue to pay the State share of Other Employment Costs as specified in Title 29 §6340, of the Delaware Code for the employee on sabbatical leave."

Section 322. The State Board of Public Education shall examine the problem of providing services to exceptional students in those cases where the students do not receive all services in the school where they are identified for unit count purposes. The State Board of Education shall complete its examination and provide its report to the Governor and the General Assembly by December 15, 1988.

Section 323. It is the intent of the General Assembly to further modify the allocation formula for clerical employees in the local school districts for the fiscal year ending June 30, 1990. In order to obtain the required data in the budget preparation cycle, the Office of the Budget is requested to modify the Fiscal Year 1990 budget request forms for school districts to accommodate the following distribution of clerical employees in each district:

(1) The total number of clerical employees shall remain as specified in Title 14, Subsection 1308(f) but the number of positions assigned to each classification would be filled in the order specified below.

(a) Up to 8 per cent of the total clerical allocation in each district or a minimum of 2 clerical positions per district, whichever is larger, may be classified as "Administrative Secretary."

(b) Up to 40 per cent of the total clerical allocation in each district or a minimum of 3 per district and 1 for each school enrolling 15 or more units of pupils, whichever is greater, may be classified as "Senior Secretary" or "Financial Secretary."

(c) Twelve per cent of the total clerical allocation in each district shall be classified as "Clerk."

(d) The balance of the total clerical allocation in each district shall be classified as "Secretary."

Approved July 1, 1988.

CHAPTER 304

FORMERLY

HOUSE BILL NO. 561

AN ACT TO AMEND CHAPTER 19, TITLE 11 OF THE DELAWARE CODE RELATING TO FRESH PURSUIT BY PEACE OFFICERS.

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

Section 1. Amend Section 1935, Subchapter II, Chapter 19, Title 11, Delaware Code by inserting the word ",university," after the word "bridge" and before the word "or" as such words appear therein.

Approved June 30, 1988.

CHAPTER 305

FORMERLY

HOUSE BILL NO. 556

AN ACT TO AMEND CHAPTER 19, TITLE 11 OF THE DELAWARE CODE RELATING TO THE STATEWIDE AUTHORITY OF POLICE OFFICERS.

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

Section 1. Amend Section 1911(a), Subchapter I, Chapter 19, Title 11, Delaware Code by adding a new paragraph thereto which shall read as follows:

"(5) A member of the University of Delaware Police."

Approved June 30, 1988.

CHAPTER 306

FORMERLY

HOUSE BILL NO. 532

AN ACT TO AMEND CHAPTER 19, TITLE 11 OF THE DELAWARE CODE RELATING TO POLICE MUTUAL AID AGREEMENTS.

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

Section 1. Amend Section 1942(1), Subchapter III, Chapter 19, Title 11, Delaware Code by inserting the words "and/or the University of Delaware" between the words "Service" and "enabling" as such words appear therein.

Section 2. Amend Section 1942(3), Subchapter III, Chapter 19, Title 11, Delaware Code by inserting the words "and/or the University of Delaware" between the words "Services" and "in" as such words appear therein.

Approved June 30, 1988.

CHAPTER 307

FORMERLY

HOUSE BILL NO. 560

AN ACT TO AMEND CHAPTER 51, PART II, TITLE 14 OF THE DELAWARE CODE RELATING TO THE UNIVERSITY OF DELAWARE; AND PROVIDING FOR THE CREATION OF A UNIVERSITY OF DELAWARE POLICE DEPARTMENT.

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 51, Part II, Title 14, Delaware Code by designating the existing provision of Section 5104 as subsection (a) thereof and adding thereto a new subsection (b), which shall read as follows:

"(b) (1) The University may appoint such number of police officers as are necessary to preserve the peace and good order of the University, and such officers shall be known as the "University Police" and shall be supervised by a Director. They shall have jurisdiction on the University campuses.

(2) The University Police shall be law enforcement officers of the State and conservators of the peace with the right to investigate and arrest, in accordance with the laws of the State, any person for violation of Federal or State laws or applicable county or city ordinances when such violations occur on any property or facilities which are under the supervision, regulation, or control of the University of Delaware or on contiguous streets and highways.

(3) The provisions of this section shall neither reduce nor restrict the jurisdiction of other duly appointed peace officers who are empowered to enforce Federal or State laws or applicable county or city ordinances on the property the University of Delaware."

Approved June 30, 1988.

CHAPTER 308

FORMERLY

HOUSE BILL NO. 403

AN ACT TO AMEND CHAPTER 23, TITLE 19 OF THE DELAWARE CODE RELATING TO NOTICE OF NONRENEWAL OF WORKERS' COMPENSATION INSURANCE POLICIES.

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

Section 1. Amend §2378, Title 19 of the Delaware Code by adding thereto a new subsection "(c)" to read as follows:

"(c) All policies insuring the payment of compensation under this chapter shall contain a clause to the effect that when an insurer intends not to renew a policy, notice of such nonrenewal shall be given to the named insured, in writing, not less than 60 days prior to the end of the policy period. For the purposes of this subsection, 'renew' means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. Mailing of notice of intention not to renew to the named insured at his address last of record with the insurer shall be by certified mail."

Approved July 5, 1988.

CHAPTER 309

FORMERLY

HOUSE BILL NO. 404

AN ACT TO AMEND CHAPTER 39, TITLE 18 OF THE DELAWARE CODE RELATING TO NOTICE OF NONRENEWAL OF CERTAIN CASUALTY INSURANCE CONTRACTS.

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

Section 1. Amend §3911, Title 18 of the Delaware Code by designating existing §3911 as subsection "(a)" and adding thereto a new subsection "(b)" to read as follows:

"(b) When an insurer intends not to renew a commercial liability insurance policy, other than an automobile insurance policy, notice of such nonrenewal shall be given to the named insured, in writing, not less than 60 days prior to the end of the policy period. For the purposes of this subsection, 'renew' means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. Mailing of notice of intention not to renew to the named insured at his address last of record with the insurer shall be by certified mail."

Approved July 5, 1988.

CHAPTER 310

FORMERLY

HOUSE BILL NO. 443

AN ACT TO AMEND CHAPTER 74, TITLE 7, DELAWARE CODE, RELATING TO THE EXEMPTION OF VOLUNTEER FIRE COMPANIES AND AMBULANCE COMPANIES FROM THE ANNUAL REGISTRATION FEE ASSESSED FOR UNDERGROUND STORAGE TANKS.

WHEREAS, volunteer fire companies and ambulance companies within this State contribute greatly to community and municipal activities and function and perform a tremendous service with respect to the health and welfare of all citizens; and

WHEREAS, to a large extent, volunteer fire companies and ambulance companies in this State are quasi-governmental to the degree that all volunteer fire companies are to a large extent under the control and authority of the State Fire Prevention Commission, a governmental agency, and

WHEREAS, the State has to a large extent enacted into law numerous legislative measures that not only regulate volunteer fire companies and ambulance companies, but also have been morally helpful in retaining and recruiting volunteer personnel.

NOW, THEREFORE:

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

Section 1. Amend §7418, Chapter 74, Title 7, Delaware Code, by redesignating paragraphs (c) and (d) to read as paragraphs (d) and (e) and substituting in lieu thereof a new paragraph (c) to read as follows:

"(c) Underground storage tanks owned or operated by the volunteer fire companies and ambulance companies within this State shall be exempt from payment of the registration fee defined in subsection (a) of this Section."

Approved July 5, 1988

CHAPTER 311

FORMERLY

HOUSE BILL NO. 325
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 66, TITLE 18 OF THE DELAWARE CODE RELATING TO LINE-OF-DUTY BENEFITS.

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

Section 1. Amend §6601(1), Title 18 of the Delaware Code by adding a new sub-paragraph "r." to read as follows:

"r. Employees of the Department of Natural Resources and Environmental Control while serving aboard watercraft and non-scheduled aircraft."

Approved July 7, 1988.

CHAPTER 312

FORMERLY

HOUSE BILL NO. 453
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 7, TITLE 13 DELAWARE CODE RELATING TO CHILD CUSTODY PROCEEDINGS.

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

Section 1. Amend §721, Chapter 7, Title 13, Delaware Code by adding thereto a new subsection (d) as follows:

"(d) Upon the filing of a petition for custody or visitation, a preliminary injunction shall be issued against both parties to the action, enjoining them from removing any natural or adopted child of the parties then residing in Delaware from the jurisdiction of this Court without the prior written consent of the parties or the permission of the Court. The preliminary injunction shall be effective against the petitioner upon the filing of the petition for custody or visitation and upon the respondent upon service of a copy of the petition."

Approved July 7, 1988.

CHAPTER 313

FORMERLY

HOUSE BILL NO. 460

AN ACT TO AMEND CHAPTER 69, TITLE 21, DELAWARE CODE RELATING TO THE REMOVAL OF MOTOR VEHICLES FROM PUBLIC HIGHWAYS BY THE POLICE.

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

Section 1. Amend §6901, Title 21, Delaware Code by striking the first paragraph of §6901(a) and substituting in lieu thereof the following:

"(a) Any police officer of this State, or a county or municipality therein, while in the performance of his duty may remove, store or cause to be removed or stored from any public highway, highway right-of-way, street or alley, at the owner's or operator's expense any motor vehicle, trailer, or part thereof which: (1) is unregistered or has an expired registration; or (2) is parked or left standing in such manner as to create a hazard by interfering with the normal movement of traffic; (a) by preventing the exit from or entrance to any public highway, private road or driveway; (b) by interfering with emergency firefighting equipment; (c) by being involved in an accident and rendered incapable of being moved under its own power, when the owner or operator has been arrested and detained; or (d) when the owner or operator is unable, unwilling or not available to do so immediately."

Approved July 7, 1988.

CHAPTER 314

FORMERLY

HOUSE BILL NO. 500

AN ACT TO AMEND CHAPTER 33, TITLE 16, DELAWARE CODE RELATING TO THE REGULATION OF THE QUALITY OF ICE.

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 §3301 (2), Chapter 33, Title 16, Delaware Code by adding the word "ice," after the word "drink," and before the word "confectionary" as they appear therein.

Approved July 7, 1988.

CHAPTER 315

FORMERLY

HOUSE BILL NO. 542
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 79, TITLE 29 OF THE DELAWARE CODE RELATING TO COUNCIL ON THE DELAWARE HOME AND HOSPITAL.

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

Section 1. Amend §7907, Chapter 79, Title 29, Delaware Code, by deleting said section in its entirety, and substituting in lieu thereof a new §7907, to read as follows:

"§7907. Council on Long Term Care Facilities.

(a) There is established the Council on Long Term Care Facilities.

(b) The Council on Long Term Care Facilities shall serve in an advisory capacity to the Director of the Division of Public Health, and shall consider all matters relating to facility-based long term care services provided to persons who are patients in Emily P. Bissell Hospital, Delaware Hospital for the Chronically Ill, and the Tilton Building, Governor Bacon Health Center, or clients of programs administered by said facilities. The Council may also consider such other matters as may be referred to it by the Governor, Secretary of the Department of Health and Social Services, and/or the Director of the Division of Public Health. The Council may study, research, plan and advise the Director, the Secretary, and the Governor on matters it deems appropriate to enable the Long Term Care Section to function in the best possible manner.

(c) The Council on Long Term Care Facilities shall be composed of eleven (11) members who shall be appointed for three (3) year terms by the Governor.

(d) At least five (5), but no more than six (6), members of the Council shall be affiliated with one of the major political parties and at least four (4), but no more than five (5), of the newly appointed 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.

(e) Membership on the Council shall be geographically distributed with three (3) members from New Castle County, including the City of Wilmington, three (3) members from Kent County, and three (3) members from Sussex County. The remaining two members shall be selected and serve in an at-large capacity.

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

(g) 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 (1) year and shall be eligible for reelection.

(h) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for the remainder of the term."

Approved July 7, 1988.

CHAPTER 316

FORMERLY

HOUSE BILL NO. 600

AN ACT TO AMEND CHAPTER 17, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED PARTNERSHIPS.

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

Section 1. Amend §17-101 by renumbering current subsections (8), (9), (10), (11) and (12) thereof as subsections (9), (10), (11), (12) and (13), respectively, and by adding a new subsection (8) reading as follows:

"(8) 'Liquidating trustee' means a person, other than a general partner, but including a limited partner, carrying out the winding up of a limited partnership."

Section 2. Amend current subsection (9) of §17-101 by deleting the subsection in its entirety and substituting in lieu thereof the following:

"(10) 'Partnership agreement' means any agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business. A written partnership agreement (a) may provide that a person shall be admitted as a limited partner of a limited partnership, or shall become an assignee of a partnership interest or other rights or powers of a limited partner to the extent assigned, and shall become bound by the partnership agreement (i) if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) executes the partnership agreement or any other writing evidencing the intent of such person to become a limited partner or assignee, or (ii) without such execution, if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) complies with the conditions for becoming a limited partner or assignee as set forth in the partnership agreement or any other writing and requests (orally, in writing or by other action such as payment for a partnership interest) that the records of the limited partnership reflect such admission or assignment, and (b) shall not be unenforceable by reason of its not having been signed by a person being admitted as a limited partner or becoming an assignee as provided in §17-101(10)(a), or by reason of its having been signed by a representative as provided in this Title."

Section 3. Amend current subsection (11) of §17-101, by deleting ", limited partnership (domestic or foreign)", and substituting in lieu thereof "(whether general or limited and whether domestic or foreign)".

Section 4. Amend §17-102 by deleting subsections (2) and (3) thereof in their entirety, by renumbering current subsections (4) and (5) thereof as subsections (3) and (4), respectively, and by adding a new subsection (2) reading as follows:

"(2) May contain the name of a partner;".

Section 5. Amend §17-107 by adding after "may lend money to" the following:

", borrow money from, act as a surety, guarantor or endorser for, guarantee or assume one or more specific obligations of, provide collateral for,".

Section 6. Amend Subchapter I of Chapter 17, Title 6 by adding thereto, immediately following §17-108, a new §17-109 reading as follows:

"§17-109 Service of Process on General Partners and Liquidating Trustees.

(a) A general partner or a liquidating trustee of a limited partnership may be served with process in the manner prescribed in this section in all civil actions or proceedings brought in the State of Delaware involving or relating to the business of the limited partnership or a violation by the general partner or the liquidating trustee of a duty to the limited partnership, or any partner of the limited partnership, whether or not the general partner or the liquidating trustee is a general partner or a liquidating trustee at the time suit is commenced. The filing in the Office of the Secretary of State of a certificate of limited partnership executed, and the execution thereof, by a resident or nonresident of the State of Delaware which names such person as a general partner or a liquidating trustee of a limited partnership constitute such

person's consent to the appointment of the registered agent of the limited partnership (or, if there is none, the Secretary of State) as such person's agent upon whom service of process may be made as provided in this section. Such execution and filing shall signify the consent of such general partner or liquidating trustee that any process when so served shall be of the same legal force and validity as if served upon such general partner or liquidating trustee within the State of Delaware and such appointment of the registered agent (or, if there is none, the Secretary of State) shall be irrevocable.

(b) Service of process shall be effected by serving the registered agent (or, if there is none, the Secretary of State) with 1 copy of such process in the manner provided by law for service of writs of summons. In the event service is made under this §17-109(b) upon the Secretary of State, the plaintiff shall pay to the Secretary of State the sum of \$50 for the use of the State of Delaware, which sum shall be taxed as part of the costs of the proceeding if the plaintiff shall prevail therein. In addition, the Prothonotary or the Register in Chancery of the court in which the civil action or proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to such general partner or liquidating trustee at his address as the same appears in the certificate of limited partnership of the limited partnership, or, if no such address appears, at his address last known to the party desiring to make such service.

(c) In any action in which any such general partner or liquidating trustee has been served with process as hereinabove provided, the time in which a defendant shall be required to appear and file a responsive pleading shall be computed from the date of mailing by the Prothonotary or the Register in Chancery as provided in subsection (b) of this section; however, the court in which such action has been commenced may order such continuance or continuances as may be necessary to afford such general partner or liquidating trustee reasonable opportunity to defend the action.

(d) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

(e) The Court of Chancery and the Superior Court may make all necessary rules respecting the form of process, the manner of issuance and return thereof and such other rules which may be necessary to implement this section and are not inconsistent with this section."

Section 7. Amend §17-202 by adding at the end of the section the following new subsection (f):

"(f) If after the dissolution of a limited partnership but prior to the filing of a certificate of cancellation as provided in §17-203 of this title,

(i) a certificate of limited partnership has been amended to reflect the withdrawal of all general partners of a limited partnership, the certificate of limited partnership shall be amended to set forth the name and the business, residence or mailing address of each person winding up the limited partnership's affairs, each of whom shall execute and file such certificate of amendment, and each of whom shall not be subject to liability as a general partner by reason of such amendment, or

(ii) a person shown on a certificate of limited partnership as a general partner is not winding up the limited partnership's affairs, the certificate of limited partnership shall be amended to add the name and the business, residence or mailing address of each person winding up the limited partnership's affairs, each of whom shall execute and file such certificate of amendment, and each of whom shall not be subject to liability as a general partner by reason of such amendment."

Section 8. Amend §17-203 by deleting therefrom ", or upon a merger or consolidation as provided in §17-211(b) of this title".

Section 9. Amend subsection (2) of §17-204(a) by adding before the ";", the following:

", but if the certificate of amendment reflects the withdrawal of a general partner as a general partner, it need not be signed by that former general partner", and by deleting the word "and" found at the end of the subsection.

Section 10. Amend subsection (3) of §17-204(a) by deleting subsection (3) in its

entirety and substituting in lieu thereof the following:

"(3) A certificate of cancellation must be signed by all general partners or, if the general partners are not winding up the limited partnership's affairs, then by all liquidating trustees, provided, however, that if the limited partners are winding up the limited partnership's affairs, a certificate of cancellation need be signed only by a majority of the limited partners; and"

Section 11. Amend subsection (a) of §17-204 by adding thereto a new subsection (4) reading as follows:

"(4) If a domestic limited partnership is filing a certificate of merger or consolidation, the certificate of merger or consolidation must be signed by at least 1 general partner of the domestic limited partnership, or if the certificate of merger or consolidation is being filed by an other business entity (as defined in §17-211(a) of this title), the certificate of merger or consolidation must be signed by a person authorized by such other business entity."

Section 12. Amend subsection (b) of §17-204 by deleting the subsection in its entirety and substituting in lieu thereof the following:

"(b) Unless otherwise provided in the partnership agreement, any person may sign any certificate or amendment thereof or enter into a partnership agreement or amendment thereof by an agent, including an attorney-in-fact. An authorization, including a power of attorney, to sign any certificate or amendment thereof or to enter into a partnership agreement or amendment thereof need not be in writing, need not be sworn to, verified or acknowledged, and need not be filed in the Office of the Secretary of State, but if in writing, must be retained by a general partner."

Section 13. Amend subsection (a) of §17-206 by adding after "(or of any judicial decree of amendment or cancellation)", the following: "and of any certificate of merger or consolidation"; and by adding after "prerequisite to filing.", the following: "Any signature on any certificate authorized to be filed with the Secretary of State under any provision of this Chapter may be a facsimile."

Section 14. Amend subsection (1) of §17-206(a) by adding after "(or of any judicial decree of amendment or cancellation)", the following:

", the certificate of merger or consolidation".

Section 15. Amend subsection (b) of §17-206 by deleting therefrom the last sentence of the subsection and substituting in lieu thereof the following:

"Upon the filing of a certificate of cancellation (or a judicial decree thereof), or a certificate of merger or consolidation which acts as a certificate of cancellation, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof), or of a certificate of merger or consolidation which acts as a certificate of cancellation, as provided for therein, or as specified in §17-104(d) of this title, the certificate of limited partnership is cancelled."

Section 16. Amend subsection (c) of §17-206 by adding after "a certificate of cancellation", the following:

", a certificate of merger or consolidation".

Section 17. Amend §17-208 by adding after "through (3)", the following:

"and by §17-202(f)".

Section 18. Amend subsection (b) of §17-210 by adding after "a new general partner" and before "and filed", the following:

", but if the restated certificate reflects the withdrawal of a general partner as a general partner, such restated certificate of limited partnership need not be signed by that former general partner."

Section 19. Amend §17-211 by deleting the section in its entirety and substituting in lieu thereof the following:

"§17-211. Merger and Consolidation.

(a) As used in this section, "other business entity" means a corporation, a

business trust or association, a real estate investment trust, a common law trust, or an unincorporated business, including a partnership (whether general or limited, but excluding a domestic limited partnership).

(b) Pursuant to an agreement of merger or consolidation, a domestic limited partnership may merge or consolidate with or into 1 or more domestic limited partnerships or other business entities formed or organized under the laws of the State of Delaware or any other state or the United States or any foreign country or other foreign jurisdiction, with such domestic limited partnership or other business entity as the agreement shall provide being the surviving or resulting domestic limited partnership or other business entity. Unless otherwise provided in the partnership agreement, a merger or consolidation shall be approved by each domestic limited partnership which is to merge or consolidate (1) by all general partners, and (2) by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate. Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(c) If a domestic limited partnership is merging or consolidating under this section, the domestic limited partnership or other business entity surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation in the Office of the Secretary of State. The certificate of merger or consolidation shall state:

(1) the name and jurisdiction of formation or organization of each of the domestic limited partnerships or other business entities which is to merge or consolidate;

(2) that an agreement of merger or consolidation has been approved and executed by each of the domestic limited partnerships or other business entities which is to merge or consolidate;

(3) the name of the surviving or resulting domestic limited partnership or other business entity;

(4) the future effective date or time (which shall be a date or time certain) of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation;

(5) that the agreement of merger or consolidation is on file at a place of business of the surviving or resulting domestic limited partnership or other business entity, and shall state the address thereof;

(6) that a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited partnership or other business entity, on request and without cost, to any partner of any domestic limited partnership or any person holding an interest in any other business entity which is to merge or consolidate; and

(7) If the surviving or resulting entity is not a domestic limited partnership or corporation organized under the laws of the State of Delaware, a statement that such surviving or resulting other business entity agrees that it may be served with process in the State of Delaware in any action, suit or proceeding for the enforcement of any obligation of any domestic limited partnership which is to merge or consolidate, irrevocably appointing the Secretary of State as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the Secretary of State. In the event of service hereunder upon the Secretary of State, the procedures set forth in §17-911(c) of this title shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in the certificate of merger or consolidation provided for in this section and any other address which the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify such surviving or resulting other business entity at all such addresses furnished by the plaintiff in accordance with the procedures set forth in §17-911(c) of this title.

(d) Any failure to file a certificate of merger or consolidation in connection

with a merger or consolidation pursuant to this section which was effective prior to September 1, 1988, shall not affect the validity or effectiveness of any such merger or consolidation.

(e) Unless a future effective date or time is provided in a certificate of merger or consolidation, in which event a merger or consolidation shall be effective at any such future effective date or time, a merger or consolidation shall be effective upon the filing in the Office of the Secretary of State of a certificate of merger or consolidation.

(f) A certificate of merger or consolidation shall act as a certificate of cancellation for a domestic limited partnership which is not the surviving or resulting entity in the merger or consolidation.

(g) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of each of the domestic limited partnerships and other business entities that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of said domestic limited partnerships and other business entities, as well as all other things and causes of action belonging to each of such domestic limited partnerships and other business entities, shall be vested in the surviving or resulting domestic limited partnership or other business entity, and shall hereafter be the property of the surviving or resulting domestic limited partnership or other business entity as they were of each of the domestic limited partnerships and other business entities that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the State of Delaware, in any of such domestic limited partnerships and other business entities, shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of any of said domestic limited partnerships and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the said domestic limited partnerships and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic limited partnership or other business entity, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a domestic limited partnership, including a domestic limited partnership which is not surviving or resulting entity in the merger or consolidation, shall not require such domestic limited partnership to wind up its affairs under §17-803 of this title or pay its liabilities and distribute its assets under §17-804 of this title."

Section 20. Amend §17-301 by deleting the section in its entirety and substituting in lieu thereof the following:

"§17-301. Admission of Limited Partners.

(a) In connection with the formation of a limited partnership, a person acquiring a partnership interest as a limited partner is admitted as a limited partner of the limited partnership upon the later to occur of:

(1) The formation of the limited partnership; or

(2) The time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when the person's admission is reflected in the records of the limited partnership.

(b) After the formation of a limited partnership, a person acquiring a partnership interest as a limited partner is admitted as a limited partner of the limited partnership:

(1) In the case of a person acquiring a partnership interest directly from the limited partnership, at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the consent of all partners and when the person's admission is reflected in the records of the limited partnership; or

(2) In the case of an assignee of a partnership interest, as provided in §17-704(a) of this title and at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when any such person's permitted admission is reflected in the records of the limited partnership."

Section 21. Amend subsection (a) of §17-302 by adding at the end of the subsection the

following:

"A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any limited partner or class or group of limited partners, including an action to create under the provisions of the partnership agreement a class or group of partnership interest that was not previously outstanding."

Section 22. Amend subsection (b) of §17-302 to delete from the first sentence of the section "(on a per capita or any other basis)", and to add to the end of the subsection the following:

"Voting by limited partners may be on a per capita, number, financial interest, class, group or any other basis."

Section 23. Amend §17-302 by adding thereto a new subsection (d) reading as follows:

"(d) Any right or power, including voting rights, granted to limited partners as permitted under §17-303 of this title shall be deemed to be permitted by §17-302 of this title."

Section 24. Amend subsection (b) of §17-303 by adding after "powers" and before the ":", the following:

"or having or acting in one or more of the following capacities".

Section 25. Amend subsection (1) of §17-303(b) by deleting the entire subsection and substituting in lieu thereof the following:

"(1) To be an independent contractor for or to transact business with, including being a contractor for, or to be an agent or employee of, the limited partnership or a general partner, or to be an officer, director or stockholder of a corporate general partner, or to be a partner of a partnership that is a general partner of the limited partnership, or to be a fiduciary or beneficiary of an estate or trust which is a general partner;"

Section 26. Amend subsection (3) of §17-303(b) by deleting the entire subsection and substituting in lieu thereof the following:

"(3) To act as surety, guarantor or endorser for the limited partnership or a general partner, to guaranty or assume one or more obligations of the limited partnership or a general partner, to borrow money from the limited partnership or a general partner, to lend money to the limited partnership or a general partner, or to provide collateral for the limited partnership or a general partner;"

Section 27. Amend subsection (6) of §17-303(b) by deleting the word "or" appearing after the word "bring", by adding after the word "bring" a comma and by adding after the word "pursue" the words "or settle or otherwise terminate".

Section 28. Amend subsection (8) of §17-303(b) to delete the words appearing before the colon and to substitute in lieu thereof the following:

"(8) To act or cause the taking or refraining from the taking of any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to 1 or more of the following matters:"

Section 29. Amend subsection a of §17-303(b)(8) by adding after "limited partnership" the following:

"or an election to continue the limited partnership or an election to continue the business of the limited partnership".

Section 30. Amend subsection h of §17-303(b)(8) by deleting "or," appearing at the end of the subsection, by amending subsection 1 of §17-303(b)(8) by deleting the letter "i", and substituting therefor the letter "l", and by adding the following new subsections after subsection h:

"l. The merger or consolidation of a limited partnership;

j. In respect of a limited partnership which is registered as an investment company under the Investment Company Act of 1940, as amended, any matter required by the Investment Company Act of 1940, as amended, or the rules and regulations of the

Securities and Exchange Commission thereunder, to be approved by the holders of beneficial interests in an investment company, including the electing of directors or trustees of the investment company, the approving or terminating of investment advisory or underwriting contracts, and the approving of auditors;

k. The indemnification of any partner or other person; or".

Section 31. Amend current subsection l of §17-303(b)(8) by adding after "agreement" and before the ";", the words "or in any other agreement or in writing".

Section 32. Amend subsection (c) of §17-303 by adding after "powers", and before "by", the following:

"or having or acting in other capacities".

Section 33. Amend subsection (d) of §17-303 by deleting the entire subsection and substituting in lieu thereof the following:

"(d) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section by virtue of the fact that all or any part of the name of such limited partner is included in the name of the limited partnership."

Section 34. Amend §17-303 by adding at the end of the section the following new subsection (e):

"(e) This section does not create rights or powers of limited partners. Such rights and powers may be created only by a certificate of limited partnership, a partnership agreement or any other agreement or in writing, or other sections of this chapter."

Section 35. Amend §17-305 by designating the existing section as subsection "(a)", by amending subsection (a) of newly designated §17-305(a) by adding after "reasonable standards", the following: "(including standards governing what information and documents are to be furnished, at what time and location and at whose expense)", by amending subsection (4) of newly designated §17-305(a) by deleting the word "the" which is the fourth word of the subsection and substituting in lieu thereof the words "any written", and by adding the word "written" before the word "powers", and by adding at the end of the section the following new subsections (b), (c), (d) and (e):

"(b) A general partner shall have the right to keep confidential from limited partners for such period of time as the general partner deems reasonable, any information which the general partner reasonably believes to be in the nature of trade secrets or other information the disclosure of which the general partner in good faith believes is not in the best interest of the limited partnership or could damage the limited partnership or its business or which the limited partnership is required by law or by agreement with a third party to keep confidential.

(c) A limited partnership may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(d) Any demand under this section shall be in writing and shall state the purpose of such demand.

(e) Any action to enforce any right arising under this section shall be brought in the Court of Chancery."

Section 36. Amend §17-306 by deleting the section in its entirety.

Section 37. Amend §17-401 by deleting therefrom the word "specific".

Section 38. Amend §17-402 by designating the existing section as subsection "(a)", and by adding at the end of the section the following new subsection (b):

"(b) A general partner who suffers an event that with the passage of the specified period becomes an event of withdrawal under §17-402(a)(4) or (5) of this title shall notify each other general partner, or in the event that there is no other general partner, each limited partner, of the occurrence of the event within 30 days after the date of occurrence of the event of withdrawal."

Section 39. Amend subsection (2) of newly designated §17-402(a) by deleting the word "member", and substituting in lieu thereof the words "general partner".

Section 40. Amend subsection (4) of newly designated §17-402(a) by deleting therefrom the word "specific".

Section 41. Amend subsection (5) of newly designated §17-402(a) by deleting therefrom the word "specific".

Section 42. Amend subsection (9) of newly designated §17-402(a) by adding after "charter", and before the ";", the words "and the expiration of 90 days after the date of notice to the corporation of revocation without a reinstatement of its charter".

Section 43. Amend subsection (10) of newly designated §17-402(a) by adding at the beginning of the subsection the words "Unless otherwise provided in the partnership agreement, or with the written consent of all partners," and by changing the word "In", which follows the foregoing, to read "In".

Section 44. Amend subsection (a) of §17-405 by adding at the end of the subsection the following:

"A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any general partner or class or group of general partners, including an action to create under the provisions of the partnership agreement a class or group of partnership interests that was not previously outstanding."

Section 45. Amend subsection (b) of §17-405 to delete from the first sentence of the section "(On a per capita or any other basis)", and to add to the end of the section the following:

"Voting by general partners may be on a per capita, number, financial interest, class, group or any other basis."

Section 46. Amend subsection (a) of §17-502 by adding at the end of the subsection the following:

"The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited partnership may have against such partner under the partnership agreement or applicable law."

Section 47. Amend the second sentence of subsection (b) of §17-502 by deleting therefrom ", or whose claim arises," and by adding thereto after "contribution", the words "or return".

Section 48. Amend subsection (b) of §17-502 by adding at the end of the subsection the following:

"A conditional obligation of a partner to make a contribution or return money or other property to a limited partnership may not be enforced unless the conditions to be obligation have been satisfied or waived as to or by such partner. Conditional obligations include contributions payable upon a discretionary call of a limited partnership or a general partner prior to the time the call occurs."

Section 49. Amend subsection (c) of §17-502 by adding after "reducing", the words "or eliminating".

Section 50. Amend §17-601 by deleting the section in its entirety and substituting in lieu thereof the following:

"§17-601. Interim Distributions.

Except as provided in this subchapter, to the extent and at the times or upon the happening of the events specified in the partnership agreement, a partner is entitled to receive from a limited partnership distributions before his withdrawal from the limited partnership and before the dissolution and winding up thereof."

Section 51. Amend §17-602 by deleting the section in its entirety and substituting in lieu thereof the following:

"§17-602. Withdrawal of General Partner.

A partnership agreement may provide that a general partner shall not have the right to withdraw as a general partner of a limited partnership. Notwithstanding that a partnership agreement provides that a general partner does not have the right to

withdraw as a general partner of a limited partnership, a general partner may withdraw from a limited partnership at any time by giving written notice to the other partners. If the withdrawal of a general partner violates a partnership agreement, in addition to any remedies otherwise available under applicable law, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to the withdrawing general partner."

Section 52. Amend §17-603 by adding at the end of the section the following:

"Notwithstanding anything to the contrary set forth in this chapter, a partnership agreement may provide that a limited partner may not withdraw from a limited partnership or assign a partnership interest in a limited partnership prior to the dissolution and winding up of the limited partnership."

Section 53. Amend §17-606 by adding after "title.", the words "and unless otherwise provided in the partnership agreement,".

Section 54. Amend §17-606 by adding at the end of the section the following:

"A partnership agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited partnership."

Section 55. Amend §17-607 by deleting the section in its entirety and substituting in lieu thereof the following:

"§17-607. Limitations on Distribution.

(a) A limited partnership shall not make a distribution to a partner to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests and liabilities for which the recourse of creditors is limited to specified property of the limited partnership, exceed the fair value of the assets of the limited partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds that liability.

(b) A limited partner who receives a distribution in violation of §17-607(a) of this title, and who knew at the time of the distribution that the distribution violated §17-607(a) of this title, shall be liable to the limited partnership for the amount of the distribution. A limited partner who receives a distribution in violation of §17-607(a) of this title, and who did not know at the time of the distribution that the distribution violated §17-607(a) of this title, shall not be liable for the amount of the distribution. Subject to §17-607(c) of this title, this §17-607(b) shall not affect any obligation or liability of a limited partner under a partnership agreement or other applicable law for the amount of distribution.

(c) Unless otherwise agreed, a limited partner who receives a distribution from a limited partnership shall have no liability under this chapter or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution."

Section 56. Amend §17-608 by deleting the section in its entirety.

Section 57. Amend §17-702 by adding thereto a new subsection (c) reading as follows:

"(c) Unless otherwise provided in a partnership agreement and except to the extent assumed by agreement, until an assignee of a partnership interest becomes a partner, the assignee shall have no liability as a partner solely as a result of the assignment."

Section 58. Amend subsection (b) of §17-704 by deleting the subsection in its entirety and substituting in lieu thereof the following:

"(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. Notwithstanding the foregoing, unless otherwise provided in the partnership agreement, an assignee who becomes a limited partner is liable for the obligations of his assignor to make contributions as provided in §17-502 of this title, but shall not be liable for the obligations of his assignor under subchapter VI of this chapter. However, the assignee is not obligated for liabilities, including the obligations of his assignor to make

contributions as provided in §17-502 of this title, unknown to the assignee at the time he became a limited partner and which could not be ascertained from the partnership agreement."

Section 59. Amend subsection (c) of §17-704 by deleting "if an assignee of a partnership interest becomes a limited partner", and substituting in lieu thereof the following:

"Whether or not an assignee of a partnership interest becomes a limited partner".

Section 60. Amend subsection (a) of §17-803 by adding after "If none, the limited partners", the words "or a person approved by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate".

Section 61. Amend subsection (b) of §17-803 by adding after "discharge", the words "or make reasonable provision for", and by adding after "all without affecting the liability of limited partners", the words "and without imposing the liability of a general partner on a liquidating trustee".

Section 62. Amend §17-804 by designating the existing section as subsection "(a)", and by adding at the end of the section the following new subsection (b):

"(b) A limited partnership which has dissolved shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional or unmatured claims and obligations, known to the limited partnership and all claims and obligations which are known to the limited partnership but for which the identity of the claimant is unknown. If there are sufficient assets, such claims and obligations shall be paid in full and any such provision for payment made shall be made in full. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims and obligations of equal priority, ratably to the extent of assets available therefor. Unless otherwise provided in a partnership agreement, any remaining assets shall be distributed as provided in this chapter. Any liquidating trustee winding up a limited partnership's affairs who has complied with this section shall not be personally liable to the claimants of the dissolved limited partnership by reason of such person's actions in winding up the limited partnership."

Section 63. Amend subsection (1) of newly designated §17-804(a) by deleting "by establishment of reserves", and substituting in lieu thereof the following:

"the making of reasonable provision for payment thereof".

Section 64. Amend subsection (1) of newly designated §17-804(a) by adding after "other than liabilities", the words "for which reasonable provision for payment has been made and liabilities".

Section 65. Amend §17-902 by designating the existing section as subsection "(a)", and by adding at the end of the section the following new subsection (b):

"(b) A foreign limited partnership or a partnership or corporation formed or organized under the laws of any foreign country or other foreign jurisdiction or the laws of any state other than the State of Delaware shall not be deemed to be doing business in the State of Delaware solely by reason of its being a partner in a domestic limited partnership."

Section 66. Amend subsection (2) of §17-1104(f) by deleting the ", " after "17-501", and substituting in lieu thereof the word "and", and by deleting therefrom "and 17-608".

Section 67. Amend subsection (3) of §17-1107(a) by adding after "a certificate of cancellation under §17-203 of this title", the words ", a certificate of merger or consolidation under §17-211 of this title".

Section 68. Amend §17-1107 by relettering current subsections (b), (c) and (d) thereof as subsections (c), (d) and (e), respectively, and by adding a new subsection (b) reading as follows:

"(b) In addition to those fees charged under subsection (a) of this section, there shall be collected by and paid to the Secretary of State for the use of the State of Delaware the following:

(1) for all services described in subsection (a) of this section that are requested to be completed within the same day as the day of the request, the additional sum of up to \$100; and

(2) for all services described in subsection (a) of this section that are requested to be completed within a 24-hour period from the time of the request, the additional sum of up to \$50.

The Secretary of State shall establish (and may from time to time amend) a schedule of specific fees payable pursuant to this subsection (b)."

Section 69. Amend Subchapter XI of Chapter 17, Title 6 by adding thereto, immediately following §17-1108, a new §17-1109 reading as follows:

"§17-1109. Annual Tax of Domestic Limited Partnership and Foreign Limited Partnership.

(a) Every domestic limited partnership and every foreign limited partnership registered to do business in the State of Delaware shall pay an annual tax, for the use of the State of Delaware, in the amount of \$100.

(b) The annual tax shall be due and payable on the first day of June following the close of the calendar year or upon the cancellation of a certificate of limited partnership. The Secretary of State shall receive the annual tax and pay over all taxes collected to the Department of Finance of the State of Delaware. If the annual tax remains unpaid after the due date established by this §17-1109(c), the tax shall bear interest at the rate of 1% for each month or portion thereof until fully paid.

(c) The Secretary of State shall, at least 60 days prior to the first day of June of each year, cause to be mailed to each domestic limited partnership and foreign limited partnership required to comply with the provisions of this §17-1109 in care of its registered agent in the State of Delaware an annual statement for the tax to be paid hereunder.

(d) In the event of neglect, refusal or failure on the part of any domestic limited partnership or foreign limited partnership to pay the annual tax to be paid hereunder on or before the first day of June in any year, such domestic limited partnership or foreign limited partnership shall pay the sum of \$100 to be recovered by adding that amount to the annual tax, and such additional sum shall become a part of the tax and shall be collected in the same manner and subject to the same penalties.

(e) In case any domestic limited partnership or foreign limited partnership shall fail to pay the annual tax due within the time required by this §17-1109, and in case the agent in charge of the registered office of any domestic limited partnership or foreign limited partnership upon whom process against such domestic limited partnership or foreign limited partnership may be served shall die, resign, refuse to act as such, remove from the State of Delaware or cannot with due diligence be found, it shall be lawful while default continues to serve process against such domestic limited partnership or foreign limited partnership upon the Secretary of State. Such service upon the Secretary of State shall be made in the manner and shall have the effect stated in §17-105 of this title in the case of a domestic limited partnership and §17-910 of this title in the case of a foreign limited partnership and shall be governed in all respects by said sections.

(f) The annual tax shall be a debt due from a domestic limited partnership or foreign limited partnership to the State of Delaware, for which an action at law may be maintained after the same shall have been in arrears for a period of one month. The tax shall also be a preferred debt in the case of insolvency.

(g) A domestic limited partnership or foreign limited partnership that neglects, refuses or fails to pay the annual tax when due shall, after written demand therefor, mailed on or before the first day of September of the year in which such tax is due, by the Secretary of State to such domestic limited partnership or foreign limited partnership in care of its registered agent, cease to be in good standing as a domestic limited partnership or registered as a foreign limited partnership in the State of Delaware on the first day of November of the year in which such tax is due unless such tax and all penalties and interest thereon are paid in full before the first day of November of the year in which such tax is due.

(h) A domestic limited partnership that has ceased to be in good standing or a foreign limited partnership that has ceased to be registered by reason of the failure to pay an annual tax shall be restored to and have the status of a domestic limited partnership in good standing or a foreign limited partnership that is registered in the

State of Delaware upon the payment of the annual tax and all penalties and interest thereon for each year for which such domestic limited partnership or foreign limited partnership neglected, refused or failed to pay an annual tax.

(i) The Attorney General, either on his own motion or upon request of the Secretary of State, whenever any annual tax due under this chapter from any domestic limited partnership or foreign limited partnership shall have remained in arrears for a period of three months after the tax shall have become payable, may apply to the Court of Chancery, by petition in the name of the State of Delaware, on five days' notice to such domestic limited partnership or foreign limited partnership, which notice may be served in such manner as the Court may direct, for an injunction to restrain such domestic limited partnership or foreign limited partnership from the transaction of any business within the State of Delaware or elsewhere, until the payment of the annual tax, and all penalties and interest due thereon and the cost of the application, which shall be fixed by the Court. The Court of Chancery may grant the injunction, if a proper case appears, and upon granting and service of the injunction, such domestic limited partnership or foreign limited partnership thereafter shall not transact any business until the injunction shall be dissolved.

(j) A domestic limited partnership that has ceased to be in good standing by reason of its neglect, refusal or failure to pay an annual tax shall remain a domestic limited partnership formed under this chapter. The Secretary of State shall not accept for filing any certificate required or permitted by this chapter to be filed in respect of any domestic limited partnership or foreign limited partnership which has neglected, refused or failed to pay an annual tax, and shall not issue any certificate of good standing with respect to such domestic limited partnership or foreign limited partnership, unless and until such domestic limited partnership or foreign limited partnership shall have been restored to and have the status of a domestic limited partnership in good standing or a foreign limited partnership duly registered in the State of Delaware.

(k) A domestic limited partnership that has ceased to be in good standing or a foreign limited partnership that has ceased to be registered in the State of Delaware by reason of its neglect, refusal or failure to pay an annual tax may not maintain any action, suit or proceeding in any court of the State of Delaware until such domestic limited partnership or foreign limited partnership has been restored to and has the status of a domestic limited partnership or foreign limited partnership in good standing or duly registered in the State of Delaware. An action, suit or proceeding may not be maintained in any court of the State of Delaware by any successor or assignee of such domestic limited partnership or foreign limited partnership on any right, claim or demand arising out of the transaction of business by such domestic limited partnership after it has ceased to be in good standing or a foreign limited partnership that has ceased to be registered in the State of Delaware until such domestic limited partnership or foreign limited partnership, or any person that has acquired all or substantially all of its assets, has paid any annual tax then due and payable, together with penalties and interest thereon.

(l) The neglect, refusal or failure of a domestic limited partnership or foreign limited partnership to pay an annual tax shall not impair the validity of any contract, deed, mortgage, security interest, lien or act of such domestic limited partnership or foreign limited partnership or prevent such domestic limited partnership or foreign limited partnership from defending any action, suit, or proceeding in any court of the State of Delaware.

(m) A limited partner of a domestic limited partnership or foreign limited partnership is not liable as a general partner of such domestic limited partnership or foreign limited partnership solely by reason of the neglect, refusal or failure of such domestic limited partnership or foreign limited partnership to pay an annual tax or by reason of such domestic limited partnership or foreign limited partnership ceasing to be in good standing or duly registered."

Section 70. If any provision of this bill or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the bill which can be given effect without the invalid provision or application, and to this end the provisions of this bill are severable.

Section 71. This bill shall become effective on September 1, 1988.

CHAPTER 317

FORMERLY

HOUSE BILL NO. 631

AN ACT TO AMEND VOLUME 27, CHAPTER 216, LAWS OF DELAWARE, AS AMENDED, RELATING TO THE CHARTER OF THE CITY OF NEW CASTLE AND THE POWER OF THE COUNCIL OF THE CITY OF NEW CASTLE TO REMIT ALL OR ANY PART OF CITY TAXES WHICH MAY BE LEVIED OR IMPOSED UPON ANY REAL ESTATE IN THE CITY OF NEW CASTLE.

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

Section 1. Amend Section 28, Volume 37, Chapter 163, Laws of Delaware, by striking such Section in its entirety and substituting in lieu thereof the following:

"Section 28. The Council of the City of New Castle shall have power to remit all or any part of the city taxes which may be levied or imposed upon any real estate in the City of New Castle, for a period not exceeding ten years, upon which real estate any new manufacturing or other industrial improvements for the employment of labor shall be erected and operated after the passage of this Act, or upon which any buildings already erected are so used after the passage of this Act for a new industry so employing labor, but such remission of taxes as aforesaid shall only be made in the sound discretion of the Council and only for the purpose of assisting new industries which will furnish continuous employment for a sufficient number of persons to materially benefit the City of New Castle generally, and such remission of taxes shall continue only as long as said industries are so in operation."

Approved July 7, 1988.

CHAPTER 318

FORMERLY

SENATE BILL NO. 361

AN ACT TO AMEND SECTION 36, CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF BRIDGEVILLE", RELATING TO SEWER AND WATER FACILITIES.

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 36, Chapter 237, Volume 51, Laws of Delaware, by adding thereto a new paragraph to read as follows:

"The Commissioners of Bridgeville shall have the authority to enter into and perform a contract or contracts with any city, town, municipality, or agency of the state or federal government for the disposal of sewage collected by any sewerage system either for a specified or unlimited time and for a charge to be made for such service by or to any such city, town, municipality, or agency of the state or federal government, and for the sale, purchase, treatment, purification, transmission, or distribution of water for a specified or any unlimited time and for the charge to be made for such service by or to any such city, town, municipality, or agency of the state or federal government "

Approved July 7, 1988

CHAPTER 319

FORMERLY

SENATE BILL NO. 399
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 264, VOLUME 52, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MAGNOLIA RELATING TO TAX ASSESSMENT.

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

Section 1. Amend Chapter 264, Volume 52, Laws of Delaware by striking Section 6 in its entirety and inserting in lieu thereof the following:

"Section 6. The council shall at the annual meeting in every year, determine the amount of tax to be raised in said town for that year, not exceeding twenty thousand dollars \$20,000 and shall use the county assessment to make an assessment of persons and property therein, and shall appoint a collector and/or treasurer. The council will determine the percentage rate of the county assessment necessary, not exceeding \$20,000 annually. When the percentage is completed the council shall give five days public notice of that fact, that it will sit, at a place and on a day to be by it designated, from seven o'clock pm, to nine o'clock pm, to hear appeals from said assessment. When the appeal day has passed, the council shall without delay cause the assessment list to be transcribed and the copy to be delivered to the treasurer, who shall have the same powers for the collection of said taxes as are conferred by law on the collectors of county taxes. The treasurer shall give bond to the council for the proper discharge of his or her respective duties."

Approved July 7, 1988.

CHAPTER 320

FORMERLY

SENATE BILL NO. 401
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 65, 67 AND 70, TITLE 9, DELAWARE CODE RELATING TO BONDS AND NOTES ISSUED BY SUSSEX COUNTY GOVERNMENT AND DEBT CREATION POWERS OF SUSSEX COUNTY.

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

Section 1. Amend §6511, Title 9, Delaware Code by striking the last sentence of §6511(b) and substituting in lieu thereof the following:

"The full faith and credit of Sussex County may be pledged to the payment of such bonds and the interest thereon."

Section 2. Amend §6512, Title 9, Delaware code by striking the section in its entirety and substituting in lieu thereof the following:

"§6512. Sale of Bonds

(a) Any Bonds issued pursuant to this chapter shall be sold at either public or private sale, upon such terms, conditions, and regulations as the county government may prescribe; provided, that the county government may authorize the County Administrator to sell such bonds at public or private sale upon such terms, conditions and regulations as it may provide.

(b) If the county government determines to sell such bonds at public sale, then the county government shall advertise the bonds for sale at least once, 10 or more days before the date of sale, in at least 1 newspaper of general circulation published in the County, and in a newspaper of general circulation published in the City of New York, inviting bids for the bonds. The advertisements shall state the total amount of the proposed issue, the denominations of the bonds, the place of payment of the bonds and interest, the place and date of opening bids, the conditions under which the bonds are to be sold, and such other matters as the county government may determine. The county government may give notice of the sale of the bonds in such other manner as it may decide.

(c) The county government may require each bid for the bonds to be accompanied by a certified check in the amount of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(d) The county government may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the purchaser or purchasers which, in the judgment of the county government, offers the most advantageous terms.

(e) The county government shall direct and effect the preparation and printing of the bonds authorized by this chapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds, and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued, the face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as may be designated by the county government. The bonds shall be executed, sealed, and delivered as prescribed by the county government."

Section 3. Amend §6702, Title 9, Delaware code by striking §6702(4) in its entirety and substituting in lieu thereof the following

"(4) Issue its negotiable or nonnegotiable bonds to finance, either in whole or in part, the cost of the planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage or water system, and, if the county government so determines, pledging the full faith and credit of the County to the punctual payment of the bonds and the interest thereon."

Section 4. Amend §6704, Title 9, Delaware Code by striking §6704(a) thereof and substituting in lieu thereof the following:

"(a) The planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage or water system may be authorized under this chapter, and bonds may be authorized to be issued under this chapter to provide funds for such purpose by ordinance or resolution of the county government."

Section 5. Amend §6704, Title 9, Delaware Code by striking §6704(c) thereof in its entirety and substituting in lieu thereof the following:

"(c) The bonds shall bear interest at such rates, may be in 1 or more series, may bear such dates, may mature at such times not exceeding 40 years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered as the ordinance or resolution provides. The reasonable expense of issuing such bonds shall be deemed part of the cost of constructing the sewer or water facilities."

Section 6. Amend Section 6704, Title 9, Delaware Code by striking subsections (d), (e), (f), (g), (h) and (i) thereof and substituting in lieu thereof the following:

"(d) Bonds issued pursuant to this chapter may be sold at either public or private sale, upon such terms, conditions, and regulations as the county government may prescribe; provided, that the county government may authorize the County Administrator to sell such bonds at public or private sale upon such terms, conditions and regulations as it may provide.

(e) If the county government determines to sell such bonds at public sale, then the county government shall advertise the bonds for sale at least once, 10 or more days before the date of sale, in at least 1 newspaper of general circulation published in the County, and in a newspaper of general circulation published in the City of New York, inviting bids for the bonds. The advertisements shall state the total amount of the proposed issue, the denominations of the bonds, the place of payment of the bonds and interest, the place and date of opening bids, the conditions under which the bonds are to be sold, and such other matters as the county government may determine. The county government may give notice of the sale of the bonds in such other manner as it may decide.

(f) The county government may require each bid for the bonds to be accompanied by a certified check in the amount of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(g) The county government may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the purchaser or purchasers, which, in the judgment of the county government, offers the most advantageous terms.

(h) The county government shall direct and effect the preparation and printing of the bonds authorized by this chapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds, and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued, the face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as may be designated by the county government. The bonds shall be executed, sealed, and delivered as prescribed by the county government.

(i) Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the county government determines may be issued to the purchasers of bonds sold pursuant to this chapter."

Section 7. Amend §6705, Title 9, Delaware Code by striking the last sentence of §6705 (b) and substituting in lieu thereof the following:

"The ordinance or resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance."

Section 8. Amend §6706, Title 9, Delaware Code by striking the first sentence and second sentences thereof and substituting in lieu thereof the following:

"The full faith and credit of the County may be pledged to the payment of any bonds issued by the County under this chapter. The county government may annually appropriate to the payment of bonds issued under this chapter and the interest thereon the amounts required to pay such bonds and interest as the same becomes due and payable."

Section 9. Amend §6707, Title 9, Delaware Code by striking the words "In the event that the County issues bonds, the resolutions authorizing" as they appear in subsection (a) and substituting in lieu thereof the following:

"In the event that the County issues revenue bonds, the ordinance or resolution authorizing"

Section 10. Amend §6707, Title 9, Delaware Code by striking subsection (b) thereof and substituting in lieu thereof the following:

"(b) The provisions of this chapter and any such ordinances or resolutions shall be a contract with the holder of the bonds, and the duties of the County and of the county government and officers under this chapter, and any such ordinances or resolutions shall be enforceable by any bondholder by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction."

Section 11. Amend Section 6708, Title 9, Delaware Code by striking subsection (c) thereof in its entirety and substituting in lieu thereof the following:

"(c) The service charges when collected shall be applied to the payment of the bonds and interest and to the expenses of such operation and maintenance in accordance with the ordinance or resolution authorizing the bonds."

Section 12. Amend Section 6709, Title 9, Delaware Code by striking subsection (a) thereof and substituting in lieu thereof the following:

"(a) The county government may charge and collect rents, rates, fees, or other charges (in this chapter sometimes referred to as service charges) for direct or indirect connection with, or the use or services of, any sewerage or water system. Such service charges may be charged to and collected from any person contracting for such connection or use or service, or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with a sewerage or water system, or from or on which originates or has originated sewerage which directly or indirectly has entered or may enter into a sewerage system, or into which water from a water system may enter directly or indirectly, and the owner or occupant, or both of them, of any such real property shall be liable for and shall pay such service charges to the County at the time when, and place where, the county government by ordinance, resolution, rule or regulation determines that such charges are due and payable."

Section 13. Amend §7002, Title 9, Delaware Code by striking subsection §7002(t) thereof in its entirety and substituting in lieu thereof the following:

"§7002(t) Creation of debt; authorization, procedures, debt limitation and anticipation borrowing

(1) The county government shall exercise all powers heretofore vested in the county government of Sussex County in connection with the creation of debt, and shall have the power to authorize the issuance of bonds and notes of Sussex County to finance the cost of any object, program or purpose for which Sussex County, or any officer, department, board or agency thereof, is, by this title or by any other law, authorized to raise, appropriate or expend money, or for the implementation and performance of functions, programs and purposes specified in this title or in any other law applicable to Sussex County; provided, however, that the county government shall not have authority to create or to authorize the creation of any bonded indebtedness for any of the following purposes. The payment of any operating expenses; the payment of any judgment resulting from the failure of the County to pay any item of operating expense; or the payment for any equipment or any public improvements of a normal life of less than 3 years. The foregoing limitations shall not apply should the county government unanimously declare the existence of any emergency due to public calamity.

(2) The powers conferred by this chapter shall be in addition to and not in substitution for or in limitation of the powers conferred by any other law. Bonds and notes may be issued under this chapter for any object or purpose for which Sussex County is by this chapter or any other law authorized to raise or appropriate or expend money notwithstanding that any other law may provide for the issuance of bonds or notes for the same or like purposes and without regard to the requirements, restrictions or other provisions contained in any other law. Bonds and notes may be issued under this chapter

notwithstanding any debt or other limitation prescribed by any other law, and the mode and manner of procedure for the issuance of bonds and notes and the adoption of the ordinance authorizing issuance of the bonds or notes under this chapter need not conform to the provisions of any other law or any other provision of this chapter.

(3) Bonds and notes issued pursuant to this chapter shall be authorized by ordinance of the county government approved by not less than four-fifths of all of the members thereof. Each such ordinance shall state in brief and general terms the objects or purposes for which the bonds are to be issued and the maximum aggregate principal amount of bonds to be issued for each such object or purpose. Such ordinance, or a subsequent resolution of the county government, shall specify, or may delegate authority to the County Administrator to determine, with respect to any bonds and notes the following: their date or dates; their maturity; the security therefor, if any, including a pledge of the County's full faith and credit, if there is to be such a pledge, federal or state grants, or other revenues or property; provisions for either serial or term bonds; sinking fund or other reserve fund requirements, if any; provisions for redemption prior to maturity, if any, with or without premium; the interest rate or rates, including variable rates, and any limitations with respect thereto or the manner of their determination; the times and place or places within or without this State for the payment of principal and interest; the method of execution; the form; provisions, if any, for the consolidation of debt authorized for several objects and purposes pursuant to one (1) or more ordinances into one (1) consolidated issue; provisions, if any, for the receipt and deposit or investment of any good faith deposit; provisions for the public or private sale of the bonds; and such other terms and conditions as the county government may determine to be in the best interest of the County. Debt incurred by the County pursuant to this chapter may be represented by uncertificated obligations of the County which may be applicable to bonds and notes which are permitted to be issued under this chapter, and the county government by resolution may determine, or it may delegate authority to the County Administrator to determine, all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(4) Bonds issued pursuant to this chapter may be sold at either public or private sale, upon such terms, conditions, and regulations as the county government may prescribe; provided, that the county government may authorize the County Administrator to sell such bonds at public or private sale upon such terms, conditions, and regulations as it may provide.

(5) The county government may pledge the full faith and credit of the County to secure the payment of the principal, interest and premium, if any, on any debt incurred pursuant to this chapter and/or may pledge any other security therefor. With respect to any debt to which the County's full faith and credit is pledged, the authorizing ordinance and the debt instruments issued shall contain the declaration that the principal, interest and premium, if any, are to be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount and that the full faith and credit of the County are pledged for payment. The county government shall annually levy and collect a tax ad valorem upon all property taxable by the County sufficient to pay the principal of and interest on each bond or note secured by the County's pledge of its full faith and credit as such principal and interest become due; provided, however, such tax may be reduced by the amount of other moneys appropriated and actually available for such purpose or provided for by local or special assessments or local service taxes.

(6) The outstanding general obligation bonded indebtedness of Sussex County secured by the full faith and credit of the County may not exceed twelve percent (12%) of the assessed valuation of all real property subject to taxation within the County. The outstanding bonded indebtedness of the County not secured by the County's full faith and credit is without limitation as to amount.

(7) The proceeds from the sale of bonds and notes issued under this chapter shall be used only for the object or purpose or objects or purposes specified in the ordinance authorizing such bonds or notes for the payment of the principal of and interest on temporary loans made in anticipation of the sale of such bonds or notes. If for any reason any part of such proceeds are not applied to or are not necessary for such purposes, such unexpended part of such proceeds shall be applied to the payment of the principal of or interest on such bonds or notes no later than the earliest date on which such bonds or notes may be called for redemption without premium.

(8) All bonds, notes or other evidences of indebtedness issued pursuant to this chapter shall recite that they are issued for a purpose or purposes as specified in the authorizing ordinance or resolution and that they are issued pursuant to the terms of the Constitution and laws of this State and the County. Upon the sale and delivery of any such bonds, notes or other evidences of indebtedness against payment, such recitals shall be conclusive as to the right, power and authority of the County to issue the same and of the legality, validity and enforceability of the obligation of the County to pay principal and interest

on the same. In case any County official whose signature or a facsimile thereof shall appear on any such bonds, notes or other evidences of indebtedness shall cease to be such officer before the delivery of such obligation, or in case the seal of the County which appears on any such obligation shall change before the delivery of such obligation, such signature, seal or facsimile thereof shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office and as if such seal had not changed. The legality, validity and enforceability of such bonds, notes or other evidences of indebtedness shall never be questioned in any court of law or equity by the County or any person after the issuance, execution and delivery against payment for the same. All such bonds, notes and other evidences of indebtedness are hereby declared to have all the qualities and incidents of negotiable instruments under the Commercial Code of this State.

(9) Notwithstanding any limitations herein to the contrary, the county government may borrow in the anticipation of the collection of taxes or any other revenues budgeted for any purposes for which taxes are levied."

Approved July 7, 1988.

CHAPTER 321

FORMERLY

SENATE BILL NO. 422 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE KENT COUNTY BOARD OF ADJUSTMENT.

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

Section 1. Amend Section 4913, Title 9 of the Delaware Code by striking said section in its entirety and by substituting in lieu thereof the following:

"§4913. Board of Adjustment.

(a) The county government shall, by ordinance, establish a Board of Adjustment and determine the membership, terms, qualifications and compensation of said board."

Section 2. This Act shall become effective at such time as the county government has adopted said ordinance.

Approved July 7, 1988.

CHAPTER 322

FORMERLY

SENATE BILL NO. 424 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE KENT COUNTY PARKS AND RECREATION COMMISSION.

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

Section 1. Amend Section 4152, Title 9 of the Delaware Code by striking said section in its entirety and by substituting in lieu thereof the following:

"§4152. Establishment By County Government.

(a) The county government may, by ordinance, establish a Parks and Recreation Commission and determine the membership, terms, qualifications and compensation of said Commission."

Section 2. This Act shall become effective at such time as the county government has adopted said ordinance.

Approved July 7, 1988.

CHAPTER 323

FORMERLY

SENATE BILL NO. 425

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE KENT COUNTY REGIONAL PLANNING COMMISSION

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

Section 1. Amend Section 4803, Title 9 of the Delaware Code by striking said section in its entirety and by substituting in lieu thereof the following:

"Section 4803. Regional Planning Commission

(a) The county government shall, by ordinance, establish a Regional Planning Commission and determine the membership, terms, qualifications and compensation of said Commission.

Section 2. Amend Section 4804, Title 9 of the Delaware Code by striking subsection (a) of said section in its entirety.

Section 3. Section 1 of this Act shall become effective at such time as the County government has adopted said ordinance referred to in Section 1.

Approved July 7, 1988.

CHAPTER 324

FORMERLY

SENATE BILL NO. 426
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO KENT COUNTY STREET LIGHT TAXES.

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

Section 1. Amend Section 5102 (a), Chapter 51, Title 9, Delaware Code by striking the phrase "with a dwelling situated thereon" after the word "property".

Approved July 7, 1988.

CHAPTER 325

FORMERLY

SENATE BILL NO. 449

AN ACT TO AMEND AN ACT, BEING CHAPTER 276, VOLUME 65, LAWS OF DELAWARE ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF GEORGETOWN" TO INCREASE THE HOURS FOR VOTING AT THE ANNUAL MUNICIPAL ELECTION, TO CHANGE THE DATE OF THE ANNUAL MUNICIPAL ELECTION, TO PROVIDE FOR ABSENTEE VOTING AT THE ANNUAL MUNICIPAL ELECTION, AND TO PROVIDE FOR THE TAKING OF THE OATH OF OFFICE AT THE FIRST REGULAR MEETING FOLLOWING THE ANNUAL MUNICIPAL ELECTION.

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

Section 1. Amend Subsection (b), Section 7, Chapter 276, Volume 65, Laws of Delaware by striking the word "May" as it appears in said subsection and substituting in lieu thereof the word "April".

Section 2. Amend Subsection (a), Section 8, Chapter 276, Volume 65, Laws of Delaware by striking said Subsection (a) and substituting in lieu thereof a new Subsection (a) to read 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 Georgetown on the second Saturday in May of each and every year from one o'clock in the afternoon, prevailing time, until seven o'clock in the evening, prevailing time."

Section 3. Amend Subsection (c), Section 8, Chapter 276, Volume 65, Laws of Delaware by striking the word "June" as it appears in said Subsection and substituting in lieu thereof the word "May".

Section 4. Amend Subsection (h), Section 8, Chapter 276, Volume 65, Laws of Delaware by striking the word "May" as it appears in said Subsection and substituting in lieu thereof the word "April".

Section 5. Amend Subsection (i), Section 8, Chapter 276, Volume 65, Laws of Delaware by striking said Subsection (i) and substituting in lieu thereof a new Subsection (i) to read as follows:

"(i) Votes may be offered in person at the Annual Municipal Election and the Town Council may, by Ordinance, provide for voting at the Annual Municipal Election by absentee ballot by any qualified voter who, on the day of the Annual Municipal Election, shall be absent from the Town for any of the following reasons:

(1) Because such person is in the public service of the United States or of this State temporarily residing outside the corporate limits of the Town;

(2) Because such person is the spouse of a person in the public service of the United States or of this State temporarily residing outside the corporate limits of the Town;

(3) Because such person is unavoidably absent from the Town on the day of the Annual Municipal Election."

Section 6. Amend Subsection (a), Section 9, Chapter 276, Volume 65, Laws of Delaware by striking said Subsection (a) and substituting in lieu thereof a new Subsection (a) to read as follows:

"(a) At the first regular meeting of the Town Council following the Annual Municipal Election, the duly elected officers shall assume the duties of office, first being sworn or affirmed by a notary public to perform faithfully and impartially the duties of their respective offices with fidelity."

Approved July 7, 1988.

CHAPTER 326

FORMERLY

SENATE BILL NO. 470

AN ACT TO AMEND CHAPTER 64, VOLUME 63, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF OCEAN VIEW IN SUSSEX COUNTY, DELAWARE"; AND PROVIDING FOR THE LEVY OF A REAL ESTATE TRANSFER TAX NOT TO EXCEED ONE PERCENT OF THE PURCHASE PRICE.

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

Section 1. Amend Section 2.102, Article 2, Chapter 64, Volume 63, Laws of Delaware, by adding thereto a new Subsection, designated as Subsection (k), which new Subsection shall read as follows:

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

(2) No ordinance providing for a tax on the transfer of real property or any interest in real property authorized under this Section shall become effective unless it receives an affirmative vote of two-thirds of all the elected members of the Town Council.

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

(4) The Council may adopt an ordinance to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Section."

Approved July 7, 1988.

CHAPTER 327

FORMERLY

SENATE BILL NO. 460

AN ACT TO AMEND CHAPTER 42, VOLUME 53, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT AMENDING, REVISING AND CONSOLIDATING THE CHARTER OF THE CITY OF SEAFORD" RELATING TO MISCELLANEOUS MATTERS.

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

Section 1. Amend Section 1, Chapter 42, Volume 53, Laws of Delaware by adding a new subsection (c) as follows:

"(c) In addition to the above described, the territorial limits of the City of Seaford also includes all additional lands annexed by the City of Seaford pursuant to Section 2."

Section 2. Amend Section 2 (E), Chapter 42, Volume 53, Laws of Delaware, as amended by Chapter 259, Volume 61, Laws of Delaware by deleting the fourth (4th) and fifth (5th) sentences in their entirety and substituting in lieu thereof the following:

"In the event that a person owns property both in the City of Seaford and in the territory proposed to be annexed, said person shall vote only in the territory proposed to be annexed."

Section 3. Amend Section 2(H), Chapter 42, Volume 53, Laws of Delaware by deleting the first (1st) sentence in its entirety and substituting in lieu thereof the following:

"(H) The Mayor shall appoint three (3) persons to act as a Board of Special Election, at least one of whom must reside and own property in the City, and at least one of whom must own property in the territory proposed to be annexed."

Section 4. Amend Section 2(J), Chapter 42, Volume 53, Laws of Delaware by deleting the last sentence in its entirety and substituting in lieu thereof the following:

"In the event that the referendum results in an unfavorable vote for the annexation, all or any part of the territory considered at the special election for annexation shall not again be considered for annexation for a period of one year from the date of the referendum."

Section 5. Amend Section 44(A), Chapter 42, Volume 53, Laws of Delaware, as amended by Chapter 290, Volume 62, Laws of Delaware as amended by Chapter 248, Volume 65 of the Laws of Delaware by deleting the last six (6) words of the first paragraph "not withstanding such person is not registered" and placing a period "." after the word "vote".

Section 6. Amend Section 6(c), Chapter 42, Volume 53, Laws of Delaware by deleting the words "Vice-President of the City Council" and substituting in lieu thereof the following:

"Assistant City Manager".

Section 7. Amend Section 7(a), Chapter 42, Volume 53, Laws of Delaware as amended by Chapter 289, Volume 61, Laws of Delaware, by deleting the third (3rd) sentence in its entirety and substituting in lieu thereof the following:

"If there is only one official candidate for any office and no formal opponent on the day of election, the official candidate may assume office without the holding of a formal election."

Section 8. Amend Section 7(A), Chapter 42, Volume 53, Laws of Delaware as amended by Chapter 289, Volume 61, Laws of Delaware by deleting the second (2nd) paragraph in its entirety and substituting in lieu thereof the following:

"The City Council may, by ordinance, provide for a qualified voter, duly registered, who shall be unable to appear to cast a ballot at any election, 1) because such person is in the public service of the United States or the State of Delaware, 2) because such person is in the Armed Forces of the United States or the Merchant Marine of the United States, or attached to and serving with the Armed Forces of the United States in the American Red Cross, Society of Friends or United Service Organization, 3) because such person is unavoidably absent from the City on the day of the election, 4) because such

person is sick or physically disabled, 5) because such person is absent from the city while on vacation or, 6) because such person is unable to vote at a certain time or on a certain day due to the tenets or teachings of his or her religion."

Section 9. Amend Section 7(b), Chapter 42, Volume 53, Laws of Delaware by deleting the first sentence in its entirety and substituting in lieu thereof the following:

"(b) It shall be the duty of the Mayor to submit to the City Council, for its approval, at the last regular meeting of the City Council prior to the date of the annual election, the names of a presiding officer and sufficient Judges to act as a Board of Election for the purpose of holding the said annual election. Said individuals shall be chosen either from the holding-over members of the City Council or from other qualified voters of the City."

Section 10. Amend Section 7(c), Chapter 42, Volume 53, Laws of Delaware as amended by Chapter 316, Volume 57, Laws of Delaware as amended by Chapter 387, Volume 58 of the Laws of Delaware by deleting the period "." at the end of the fifth (5th) sentence and adding the following:

"except that no notice be sent when removal is caused by the death of the registered voter."

Section 11. Amend Section 8(b), Chapter 42, Volume 53, Laws of Delaware by deleting "7:30" and substituting in lieu thereof the following:

"7:00".

Section 12. Amend Section 8(b), Chapter 42, Volume 53, Laws of Delaware by deleting "Vice-President" and substituting in lieu thereof the following:

"Vice-Mayor".

Section 13. Amend Section 8(c), Chapter 42, Volume 53, Laws of Delaware by deleting the second (2nd) sentence in its entirety.

Section 14. Amend Section 15(b), Chapter 42, Volume 53, Laws of Delaware by deleting the third (3rd) sentence in its entirety and substituting in lieu thereof the following:

"The duties of the City Manager shall be those of Treasurer, Secretary, and the Council may by Ordinance or resolution impose upon the City Manager any further duty or duties as they shall see fit to properly carry out the provisions of the Act."

Section 15. Amend Section 15(B), Chapter 42, Volume 53, Laws of Delaware by deleting "One Thousand Dollars (\$1,000.00)" from the end of Paragraph Three (3) and substituting in lieu thereof:

"Twenty Thousand Dollars (\$20,000.00)".

Section 16. Amend Section 15(B), Chapter 42, Volume 53, Laws of Delaware as amended by Chapter 99, Volume 55 Laws of Delaware by deleting "Ten Thousand Dollars (\$10,000.00)" from the end of Paragraph Five (5) and substituting in lieu thereof the following:

"Twenty Thousand Dollars (\$20,000.00)".

Section 17. Amend Section 15(C), Chapter 42, Volume 53, Laws of Delaware by adding to the second paragraph after the word "City Manager" the following:

"and assistant City Manager".

Section 18. Amend Section 15(E), Chapter 42, Volume 53, Laws of Delaware as amended by Chapter 343, Volume 63, Laws of Delaware by deleting "except the Chief of police who shall be appointed as hereinafter set forth and adding a period "." after "City".

Section 19. Amend Section 16(B), Chapter 42, Volume 53, Laws of Delaware by deleting the word "shall" in the first (1st) sentence and substituting in lieu thereof:

"may".

Section 20. Amend Section 16(C), 16(D) and 16(E), Chapter 42, Volume 53, Laws of Delaware as amended by Chapter 343, Volume 63, Laws of Delaware by deleting said Section 16(C), 16(D) and 16(E) in their entirety.

Section 21. Amend Section 16(F) and 16(G), Chapter 42, Volume 53, Laws of Delaware by deleting the letter "F" and substituting in lieu thereof the letter "C" and by deleting the "G" and substituting in lieu thereof the letter "D".

Section 22. Amend Section 16(H), Chapter 42, Volume 53, Laws of Delaware by deleting the words "(H) It shall be the duty of the Vice-President" and substituting in lieu thereof the following:

"(E) It shall be the duty of the Vice-Mayor".

Section 23. Amend Section 18, Chapter 42, Volume 53, Laws of Delaware by deleting the first (1st) and second (2nd) paragraphs and substituting in lieu thereof the following:

"Section 18. The said police officers shall be conservators of the peace within the limits of said city and shall monthly, or as often as the Mayor shall deem desirable, submit a consolidated report setting forth at a minimum the number of arrests made during said preceding month. The police officers shall see that ordinances are enforced, and they together with such assistants or other policemen as may be appointed, shall have power to arrest any person or persons for the violations of said federal, state, and city laws or ordinances wherein an arrest for violation is provided; and in addition thereto, shall have all of the same powers and functions as established under Delaware Code Titles 11 and 21.

Each member of the Police force shall be vested, within the city limits and within one mile outside of said limits, with all the powers and authority as established under Delaware Code Titles 11 & 21 and in the case of hot pursuit of an offender, their power and authority shall extend to any part of the State of Delaware."

Section 24. Amend Section 18, Chapter 42, Volume 53, Laws of Delaware by deleting in Paragraph Four (4) the words "Ten nor more than One" and substituting in lieu thereof the following:

"Twenty-five nor more than five".

Section 25. Amend Section 20, Chapter 42, Volume 53, Laws of Delaware by deleting in the first (1st) paragraph the words "spread in full upon the minutes of the Council" and substituting in lieu thereof the following:

"shall be retained as a permanent record of the City Council".

Section 26. Amend Section 20, Chapter 42, Volume 53, Laws of Delaware by deleting the second paragraph in its entirety and substituting in lieu thereof the following:

"It shall be the duty of the City Manager to cause a public notice of the availability for examination of a copy of the detailed audit during regular business hours at the City offices. Said public notice shall be published in at least one newspaper printed or published in the City or posted in at least ten of the most public places in the City."

Section 27. Amend Section 21, Chapter 42, Volume 53, Laws of Delaware by deleting the words "bar of Sussex County" and substituting in lieu thereof the following:

"Bar of the State of Delaware".

Section 28. Amend Section 22, Chapter 42, Volume 53, Laws of Delaware by deleting the words "First of May" and substituting in lieu thereof the following:

"30th day of June".

Section 29. Amend Section 22, Chapter 42, Volume 53, Laws of Delaware by deleting Subsection "2" in its entirety and renumbering Subsection "3" as Subsection "2"; Subsection "4" as Subsection "3"; and Subsection "5" as Subsection "4".

Section 30. Amend Section 23(A), Chapter 42, Volume 53, Laws of Delaware by deleting the second (2nd), third (3rd) and fourth (4th) sentences in their entirety.

Section 31. Amend Section 24(A), Chapter 42, Volume 53, Laws of Delaware by deleting the first paragraph in its entirety and substituting in lieu thereof the following:

"Section 24(A) The City Manager may hire such employees, in such numbers and with such qualifications as, in the City Manager's discretion, are necessary to perform properly and efficiently the functions and duties of the municipality. The salaries of such employees shall be fixed by the City Council. Such employees may be removed by the City

Manager. Any employee discharged under the provisions of this subsection who feels he has been aggrieved may request a hearing before all the members of the Mayor and Council by filing an appeal with the secretary of the council (City Manager) by registered mail with return receipt requested within five (5) days after he has been notified of his discharge. The Mayor shall set a time for such hearing, which shall be held within twenty one (21) days after the date of receipt of the written request and the secretary shall give the employee ten (10) days notice of the time and place of such hearing. Unless the discharged employee requests a public hearing before the Mayor and council, the hearing shall be private. All City employees discharged are covered by the right of appeal except sworn police officers excluding the Chief of Police who must follow title 11, Chapter 92 "The police Bill of Rights". The Chief of Police would have the same rights of appeal as all civilian employees."

Section 32. Amend Section 27, Chapter 42, Volume 53, Laws of Delaware by deleting Subsection (L) in its entirety and substituting in lieu thereof the following:

"(L) In the sale of lands for the payment of delinquent taxes, reasonable and necessary costs and expenses shall be allowed to be deducted from the proceeds of sale or chargeable against the owner as the case may be. 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."

Section 33. Amend Section 28(B)(1), Chapter 42, Volume 53, Laws of Delaware by deleting the words "five (5) or more property owners" and substituting in lieu thereof the following:

"a property owner".

Section 34. Amend Section 36(B), Chapter 42, Volume 53, Laws of Delaware by deleting the period at the end of the second sentence and adding the following:

"or as provided in 22 Del. C. Section 322."

Approved July 7, 1988.

CHAPTER 328

FORMERLY

SENATE BILL NO. 233

AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND SECTION 526A, CHAPTER 5, TITLE 18, DELAWARE CODE, RELATING TO REPORTING REQUIREMENTS AND FINANCIAL DISCLOSURE OF PROPERTY OR CASUALTY INSURERS.

WHEREAS, property/casualty insurers have blamed lawsuits rather than economic forces as the cause of the monumental price hikes and widespread cancellations of liability insurance in late 1985 and early 1986; and

WHEREAS, the 133rd General Assembly enacted legislation in 1986 to require property/casualty insurers to disclose certain financial information to the Delaware Insurance Department in order that the true profitability of the property/casualty insurers doing business in this State could be ascertained; and

WHEREAS, recent statistics of the General Accounting Office in Washington, D. C., for calendar year 1986 indicate that property/casualty insurers' profits for 1986 were at a record high approaching a return on net worth of 18 percent; and

WHEREAS, a substantial number of property/casualty insurers doing business in Delaware have failed to file the financial data required by §526A, Chapter 5, Title 18, Delaware Code, as of the filing deadline.

NOW, THEREFORE:

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

Section 1. Amend §526A, Chapter 5, Title 18, Delaware Code, by adding thereto a new subsection (1) to read as follows:

"(1) The Commissioner shall impose a fine of \$1,000 for each day a report required by this Section is late. Such fine may not be suspended by the Commissioner."

Section 2. The provisions of this Act shall become effective 60 days after its enactment.

Section 3. Amend §526A, Chapter 5, Title 18, Delaware Code by striking subsection "(d)" in its entirety and substituting in lieu thereof the following:

"(d) This report shall be due by the 1st of May of each year."

Approved July 11, 1988.

CHAPTER 329

FORMERLY

HOUSE BILL NO. 461

AN ACT TO AMEND CHAPTER 41, TITLE 21, DELAWARE CODE RELATING TO HANDICAPPED PERSONS PARKING AREAS.

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

Section 1. Amend §4183, Title 21, Delaware Code by striking subsection (b) thereof and substituting in lieu thereof the following:

"(b) For the purpose of this section, the term 'vehicle of the handicapped' shall mean a vehicle which: (1) is displaying a special handicapped registration plate on the rear of the vehicle issued pursuant to §2134 of this title or a vehicle displaying a special handicapped ID parking card in the windshield, such ID card issued pursuant to §2135 of this title, or a plate or permit issued under a similar provision in another jurisdiction; and (2) in which a handicapped person is either the operator or passenger.

Approved July 11, 1988.

CHAPTER 330

FORMERLY

HOUSE BILL NO. 113

AN ACT TO AMEND CHAPTER 5, TITLE 1 OF THE DELAWARE CODE RELATING TO THE CELEBRATION OF MARTIN LUTHER KING DAY AND CORRECTING DR. KING'S NAME.

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

Section 1. Amend §501, Title 1 of the Delaware Code by striking the words "15th day of January" as the same appear in the first paragraph thereof and substituting in lieu thereof the words "third Monday in January".

Section 2. Amend §501, Title 1 of the Delaware Code by inserting ", Jr." after the word "King" and before the word "Day".

Approved July 11, 1988.

CHAPTER 331

FORMERLY

SENATE BILL NO. 405
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 33 AND 35, TITLE 18, DELAWARE CODE RELATING TO MIDWIFERY.

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

Section 1. Amend Chapter 33, Title 18 of the Delaware Code by adding a new section 3336, as follows:

"§3336 Midwife services reimbursement

(a) This section shall apply to every individual policy, contract or certificate issued thereunder, of health or sickness, or accident insurance delivered or issued for delivery within the State which meets the requirements of subsection (d) of this section.

(b) This act shall apply to all such policies, contracts, certificates or programs issued, renewed, modified, altered, amended or reissued on or after the effective date of this act.

(c) This act shall apply to all private and public programs for health services and facilities reimbursement, including but not limited to any such reimbursement programs operated by the State.

(d) Whenever an insurance policy, contract or certificate or health services reimbursement program provides for reimbursement for any health care service which is within those areas of practice for which a midwife may be licensed pursuant to Section 122 of Title 16 or pursuant to statute in the state where the service is delivered, or for the cost of birthing facilities, the insured or any other person covered by the policy, contract or certificate, or health services or facilities reimbursement program shall be entitled to reimbursement for such service or use of the facilities performed by a duly licensed certified nurse midwife practicing within those areas for which the certified nurse midwife is licensed in the state where the licensed certified nurse midwife is practicing. Whenever such service is performed by a licensed certified nurse midwife and reimbursed by a professional health services plan corporation, the licensed certified nurse midwife shall be granted such rights of participation, plan admission and registration as may be granted by the professional health services plan corporation, to a physician or osteopath performing such a service. When payment is made for health care services performed by a licensed certified nurse midwife, no payment or reimbursement shall be payable to a physician or osteopath for the services performed by the licensed certified nurse midwife.

(e) for the purposes of this section 'midwifery' shall only include those having the following qualifications:

- (i) Age of 21 years or older;
- (ii) Licensed as a Registered Professional Nurse in the State of Delaware;
- (iii) Possesses a valid certification by the American College of Nurse Midwives;
- (iv) Submits a sworn statement that he/she has not been convicted of a felony; been professionally penalized or convicted of substance addiction; had a professional nursing license suspended or revoked in this or another state; been professionally penalized or convicted of fraud; is physically and mentally capable of engaging in the practice of midwifery; and
- (v) Has formed an alliance which is defined as a relationship between a midwife and a physician(s) licensed to practice medicine or osteopathy in Delaware whereby medical consultation and referral, available on a 24-hour basis, is agreed upon in writing, signed by both parties, and filed with the State Board of Health."

Section 2. Amend Chapter 35, Title 18 of the Delaware Code by adding a new section 3552, as follows:

"§3552 Midwife services reimbursement

(a) This section shall apply to every group or blanket policy, contract or certificate issued thereunder, of health or sickness, or accident insurance delivered or issued for delivery within the State which meets the requirements of subsection (d) of this section.

(b) This act shall apply to all such policies, contracts, certificates or programs issued, renewed, modified, altered, amended or reissued on or after the effective date of this act.

(c) This act shall apply to all private and public programs for health services and facilities reimbursement, including but not limited to any such reimbursement programs operated by the State.

(d) Whenever an insurance policy, contract or certificate or health services reimbursement program provides for reimbursement for any health care service which is within those areas of practice for which a midwife may be licensed pursuant to Section 122 of Title 16 or pursuant to statute in the state where the service is delivered, or for the cost of birthing facilities, the insured or any other person covered by the policy, contract or certificate, or health services or facilities reimbursement program shall be entitled to reimbursement for such service or use of the facilities performed by a duly licensed certified nurse midwife practicing within those areas for which the certified nurse midwife is licensed in the state where the licensed certified nurse midwife is practicing. Whenever such service is performed by a licensed certified nurse midwife and reimbursed by a professional health services plan corporation, the licensed certified nurse midwife shall be granted such rights of participation, plan admission and registration as may be granted by the professional health services plan corporation, to a physician or osteopath performing such a service. When payment is made for health care services performed by a licensed certified nurse midwife, no payment or reimbursement shall be payable to a physician or osteopath for the services performed by the licensed certified nurse midwife.

(e) for the purposes of this section 'midwifery' shall only include those having the following qualifications:

(i) Age of 21 years or older;

(ii) Licensed as a Registered Professional Nurse in the State of Delaware;

(iii) Possesses a valid certification by the American College of Nurse Midwives;

(iv) Submits a sworn statement that he/she has not been convicted of a felony; been professionally penalized or convicted of substance addiction; had a professional nursing license suspended or revoked in this or another state; been professionally penalized or convicted of fraud; is physically and mentally capable of engaging in the practice of midwifery; and

(v) Has formed an alliance which is defined as a relationship between a midwife and a physician(s) licensed to practice medicine or osteopathy in Delaware whereby medical consultation and referral, available on a 24-hour basis, is agreed upon in writing, signed by both parties, and filed with the State Board of Health."

Section 3. The Insurance Commissioner may promulgate such rules and regulations as are deemed necessary for the effective implementation and operation of this act.

Section 4. This act shall take effect in sixty (60) days.

Approved July 11, 1988.

CHAPTER 332

FORMERLY

SENATE BILL NO. 423
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE KENT COUNTY PERSONNEL BOARD.

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

Section 1. Amend Section 4151, Title 9 of the Delaware Code by striking said section in its entirety and by substituting in lieu thereof the following:

"§4151. Personnel Administration Board

(a) The county government shall, by ordinance, establish a Personnel Board and determine the membership, terms, qualifications, compensation and duties of said board."

Section 2. This Act shall become effective at such time as the county government has adopted said ordinance."

Approved July 11, 1988.

CHAPTER 333

FORMERLY

SENATE BILL NO. 231

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO PENALTIES FOR SPEEDING OFFENSES.

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

Section 1. Amend §4169(c)(4), Chapter 41, Title 21 of the Delaware Code by striking the number "20" and inserting in lieu thereof the number "19".

Approved July 11, 1988.

CHAPTER 334

FORMERLY

HOUSE BILL NO. 599

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 16, OF THE DELAWARE CODE RELATING TO SEXUALLY TRANSMITTED DISEASES.

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 of Title 16 of the Delaware Code by striking said chapter and substituting in lieu thereof the following:

"CHAPTER 7. SEXUALLY TRANSMITTED DISEASES

§701. Definitions

(a) Sexually Transmitted Diseases (formerly referred to as venereal diseases), abbreviated STD, shall be designated by the State Board of Health as reportable through rules and regulations published by the State Board of Health pursuant to Section 706 of this chapter upon finding that such diseases:

- (1) cause significant morbidity and mortality; and
- (2) can be screened, diagnosed, and treated in a public health control program, or if not, are a major public health concern such that surveillance of disease occurrence is in the public interest.

(b) Any person falling into one or more of the following categories is designated as a suspect:

- (1) a person having positive laboratory or clinical findings of a STD;
- (2) a person in whom epidemiologic evidence indicates a STD may exist; and
- (3) a person identified as a sexual contact of a STD case.

(c) Director - shall mean the Director of the Division of Public Health or his authorized deputies within their respective jurisdictions.

(d) Invasive Medical Procedures - shall mean surgical entry into tissues, cavities, or organs.

(e) Health Care Professional - shall mean any physician, nurse, laboratory and blood bank technologist or technician, and any others whose professions involve the diagnosis, care or treatment of persons, or the testing of bodily specimens for the purpose of finding evidence of disease.

(f) Health Facility - shall mean a hospital, nursing home, clinic, blood bank, blood center, sperm bank, laboratory or other health care institution whether public or private.

§702. Reporting of STD's

(a) A physician or any other health care professional who diagnoses, suspects or treats a reportable STD and every administrator of a health facility or State, County, or city prison in which there is a case of a reportable STD shall report such case to the Division of Public Health specifying the infected person's name, address, age, sex and race as well as the date of onset, name and stage of disease, type and amount of treatment given and the name and address of the submitting health professional within one working day. Certain STDs, which shall be identified by the Board of Health, shall be reported in number only in a manner determined by the Board.

(b) Any person who is in charge of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields microscopical, cultural, serological, or other evidence suggestive of a reportable STD shall notify the Division of Public Health of its findings within one working day. The Board of Health may require the notification to contain any information necessary to achieve the purposes of this

act including the tests performed and the results, the name, age, race, sex and address of the persons from whom the specimen was obtained, the reason why the test was performed, and the name and address of the physician and that of the processing clinical laboratory. Certain STDs, which shall be identified by the Board of Health, shall be reported in number only and in a manner determined by the Board.

(c) The Board of Health shall prescribe the form and method of reporting to the Division of Public Health which may be in writing, by telephone, by electronic data transmission, or by other means.

(d) All reports and notifications made pursuant to this section are confidential and protected from release except under the provisions of Sections 710 and 711 of this chapter. From information received from laboratory notifications, the Division of Public Health may contact attending physicians. The Division of Public Health shall inform the attending physician, if the notification indicates the person has an attending physician, before contacting a person from whom a specimen was obtained. However, if delays resulting from informing the physician may enhance the spread of the STD, or otherwise endanger the health of either individuals or the public, the Division of Health may contact the person without first informing the attending physician.

(e) Any laboratory which examines specimens for the purpose of finding evidence of a STD shall permit the Division of Public Health to examine the records of said laboratory in order to evaluate compliance with this section.

(f) Any Health Care Professional or other person making the reports required by this section shall be free of any liability or any cause of action arising out of the making of such report if such Health Care Professional or other person acts without malice and has made a reasonable effort to obtain the facts upon which the report is based.

§703. Examination, Investigation and Treatment of Suspected Persons

The Director shall, when in his or her judgment it is necessary to protect the public health, make examinations of persons reasonably suspected of being infected with a STD of a communicable nature; examine medical records of suspect or diagnosed cases which may be maintained by a health facility or health care professional; require persons infected with a STD of a communicable nature to report for treatment to a health care professional, public or private, qualified to provide treatment and continue treatment until cured, if possible, and also, when in his or her judgment it is necessary to protect the public health, may issue an order seeking to examine, isolate or quarantine persons infected with a STD of a communicable nature or persons suspected of being infected with a STD.

§704. Procedure for Apprehension, Commitment, Treatment and Quarantine of an Infected Person

(a) Orders directed to persons with a STD of a communicable nature or restrictive measures on individuals with a communicable STD, as described herein and in Section 705 hereunder shall be used when other measures to protect the public health have failed, including reasonable efforts, which shall be documented, to obtain the voluntary cooperation of the individual who may be subject to such an order.

(b) When the Director knows or has reason to believe, because of medical or epidemiological information, that a person has a STD of a communicable nature and is a danger to the public health, he may issue an order to:

(1) Require the person to be examined and tested to determine whether he has a STD of a communicable nature;

(2) Require the person with a STD of a communicable nature to report to a qualified health care professional for counseling on the disease and for information on how to avoid infecting others;

(3) Direct a person with a STD of a communicable nature to cease and desist from specified conduct which endangers the health of others when the Director has determined that reliable information exists to believe that such persons has been ordered to report for counseling as provided in paragraph (2) of this subsection (b) and continues to demonstrate behavior which endangers the health of others.

(c) If a person violates a cease and desist order issued pursuant to paragraph (3) subsection (b) of this section and it is shown that the person is a danger to others, the Director may enforce the cease and desist order by imposing such restrictions upon the person as are necessary to prevent the specific conduct which endangers the health of others. Any restriction shall be in writing, setting forth the name of the person to be restricted and the initial period of time, not to exceed three months, during which the order shall remain effective, the terms of the restrictions, and such other conditions as may be necessary to protect the public health. The Director shall review appeals for reconsideration from the subject of the order issued pursuant to this subsection (c).

(d) (1) Any order by the Director pursuant to subsection (b) or (c) of this section shall indicate to the subject of the order the grounds and provisions of the order and notify such person that if he refuses to comply with the order he has a right to be present at a judicial hearing in the Justice of the Peace Court to review the order and that he may have an attorney appear on his behalf in said hearing. Notice of any order by the Director shall either be by personal service or by prepaid certified mail return receipt requested at the subject's last known address.

(2) If the subject of the order refuses to comply with the order the Director may petition the Justice of the Peace Court for an order of compliance with such order. If an order of compliance is requested, the Court shall hear the matter within 10 days after the request. Notice of the place, date, and time of the court hearing shall be made by personal service or, if the person is not available, shall be mailed to the subject of the order by prepaid certified mail, return receipt requested, at his last-known address. The burden of proof shall be on the Director to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed are necessary to protect the public health. Upon conclusion of the hearing, the Court shall issue appropriate orders affirming, modifying, or dismissing the order.

(3) If the Director does not petition the Justice of the Peace Court for an order of compliance within thirty days after the subject of the order refuses to comply, the Director's order shall expire automatically and upon application to the Director by the subject of the order, the fact that the order was issued shall be expunged from the records of the Division of Public Health.

(e) Any hearing conducted pursuant to this section shall be closed and confidential, and any transcripts or records relating thereto shall also be confidential.

§705. Emergency Public Health Procedures

(a) When the procedures of Section 704 have been exhausted or cannot be satisfied as a result of threatened criminal behavior and the Director knows or has reason to believe, because of medical or epidemiological information, that a person has a STD of a communicable nature and that such person presents an imminent danger to the public health, he may bring an action in the Justice of the Peace Court, seeking the following relief:

(1) an injunction prohibiting such person from engaging in or continuing to engage in specific conduct which endangers the public health;

(2) other appropriate court orders including, but not limited to, an order to take such person into custody, for a period not to exceed seventy-two hours, and place him in a facility designated or approved by the Director.

(b) A custody order issued pursuant to subsection (a) of this section for the purpose of counseling and testing to determine whether such person has a STD of a communicable nature shall provide for the immediate release from custody and from the facility of any person who tests negative and may provide for counseling or other appropriate measures to be imposed on any person who tests positive. The subject of the order shall be given notice of the order promptly, personally, and confidentially stating the grounds and provisions of the order and notifying such person that if he refuses to comply with such order he has a right to be present at a hearing to review the order and that he may have an attorney appear on his behalf at the hearing. If such person contests testing or treatment, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to subsection (c) of this section. Nothing in this section shall be construed to deny a person, as an exercise of religious freedom, to rely solely on spiritual means

through prayer to prevent or cure disease, provided that the person complies with all control measures, other than treatment, imposed by the health authority or the department that are reasonable and necessary to prevent the introduction, transmission, and spread of the disease.

(c) Any order issued by the Justice of the Peace Court pursuant to subsection (a) or (b) of this section shall be subject to review in a court hearing. Notice of the place, date, and time of the court hearing shall be given promptly, personally, and confidentially to the subject of the court order by the Sheriff of the appropriate county or by special process server appointed by the Court. Such hearing shall be conducted by the Court no later than forty-eight hours after the issuance of the order. Such person has a right to be present at the hearing and may have an attorney appear on his behalf at the hearing. Upon conclusion of the hearing, the Court shall issue appropriate orders affirming, modifying, or dismissing the order.

(d) The burden of proof shall be on the Director to show by clear and convincing evidence that grounds exist for the issuance of any court order pursuant to subsection (a), (b) or (c) of this section.

(e) Any hearing conducted by the Justice of the Peace Court pursuant to subsection (a), (b) or (c) of this section shall be closed and confidential, and any transcripts or records relating thereto shall also be confidential.

(f) Any order entered by the Justice of the Peace Court pursuant to subsection (a), (b) or (c) of this section shall impose terms and conditions no more restrictive than necessary to protect the public health.

§706. Examination and Treatment of Prisoners

(a) Prison authorities of any State, County or city prison shall ensure that all persons confined or imprisoned in their respective prisons are provided services for the examination, treatment and cure, if possible, of STDs as may be required according to accepted medical practice. Prison medical staff shall adhere to current STD medical protocols established by the Division of Public Health for persons confined or imprisoned; shall inform the Division of Public Health when a person(s) infected with or suspected to have a STD is released from prison without appropriate treatment, counseling or examination; and shall allow the Division of Public Health to examine medical records or other medical information to ensure that appropriate STD medical practices are followed.

(b) Prison authorities of any State, County or city prison shall make available to the Division of Public Health such portion of any State, County or city prison as may be necessary to isolate or quarantine persons known or suspected to have a STD of a communicable nature under the provisions of Section 703, 704 and 705 of this title, provided that no other suitable place for such isolation or quarantine is available, and shall cooperate with the Division of Public Health in the provision of care and treatment to such persons.

§707. Rules and Regulations of Board

(a) The State Board of Health shall make such rules and regulations as may in its judgment be necessary to carry out of the provisions of this act, including rules and regulations designating STDs to be reported, providing for the control and treatment of persons isolated or quarantined, and such other rules and regulations, not in conflict with the provisions of this chapter, concerning the control of STD, and concerning the care, treatment, and quarantine of persons infected therewith, as it may from time to time deem advisable.

(b) All rules and regulations made pursuant to this chapter shall have the force and effect of law.

§708. Prenatal Standard Tests for Syphilis, Gonorrhea, Chlamydia and other STD's

(a) Every Health Care Professional qualified to attend a pregnant woman in this State during gestation shall take or cause to be taken suitable specimens of such woman and submit such specimens to an approved laboratory for standard tests for syphilis and gonorrhea, chlamydia, and other such tests for STDs as may be designated by the State Board of Health. Every other person permitted by law to attend upon pregnant women in the State but not permitted by law to take such specimens shall cause such specimens of such pregnant woman to be taken by a qualified health care professional and submitted to an approved laboratory for

standard tests for gonorrhea, syphilis, and chlamydia, and other such tests for STDs as may be designated by the State Board of Health. The specimens shall be taken at the time of the first examination relating to the current pregnancy and a second specimen during the third trimester of pregnancy which is in addition to or exclusive of the test taken at delivery. Every pregnant woman shall permit the specimens to be taken by a qualified Health Care Professional as herein provided. However, the Director or his authorized deputy within the county wherein any person affected by this section resides may waive the requirements of this section if the Director or deputy is satisfied by written affidavit or other notarized written proof, that the tests required by this section are contrary to the tenets and practices of the religious teachings of which the applicant is an adherent, and that the public health and welfare would not be injuriously affected by such waiver.

(b) The term "approved laboratory" means a laboratory approved for this purpose by the State Board of Health. Standard tests for syphilis, chlamydia, and gonorrhea are ones recognized as such by the State Board.

(c) The laboratory tests required by this section shall be made on request without charge by the State Board.

§709. Authority to Perform Venipuncture

Notwithstanding any other provision of law, a person employed by or detailed to the Division of Public Health as a STD case investigator may perform venipuncture or skin puncture for the purpose of withdrawing blood for test purposes, even though he or she is not otherwise licensed to withdraw blood; provided that such person meets all the following requirements:

- (1) He or She works under the direction of licensed physician.
- (2) He or She has been trained by a licensed physician in the proper procedures to be employed when withdrawing blood, in accordance with training requirements established by the Division of Public Health, and has a statement signed by the instructing physician that such training has been completed.

§710. Minors--Treatment, Consent, and Liability for Payment for Care

Any health facility or health care professional may examine and provide treatment for a STD for any minor if such facility or professional is qualified to provide such examination or treatment. Consent to examination and treatment by a minor shall be controlled by 13 Del. C., Sections 707 and 708. The health care professional in charge or other appropriate authority of the health facility or the health care professional concerned shall prescribe an appropriate course of treatment for such minor. The fact of consultation, examination and treatment of such minor shall be strictly confidential and shall not be divulged by the facility or the health care professional, including sending of a bill for such services to any persons other than the minor, except as follows:

- (1) to persons providing consent pursuant to 13 Del. C. §707 or persons informed of the minor's testing and treatment under 13 Del. C. Section 708;
- (2) as is necessary to comply with the requirements of 16 Del. C. Section 901 et. seq. relating to child abuse investigations;
- (3) or as is necessary to comply with the requirements of this chapter concerning the control and treatment of STDs, as well as the permitted dissemination of records and information under Section 711 of this chapter.

§711. Confidentiality of Records and Information

All information and records held by the Division of Public Health relating to known or suspected causes of STD, including infection with human immunodeficiency virus (HIV), the virus causing Acquired Immunodeficiency Syndrome (AIDS), shall be strictly confidential. Such information shall not be released or made public upon subpoena or otherwise, except that release may be made under the following circumstances:

- (1) release is made of medical or epidemiological information for statistical purposes so that no person can be identified; or,
- (2) release is made of medical or epidemiological information with the consent of all persons identified in the information released; or

(3) release is made of medical or epidemiological information to medical personnel, appropriate State agencies or State courts to the extent required to enforce the provisions of this chapter and related rules and regulations concerning the control and treatment of STDs, or as related to child abuse investigations pursuant to 16 Del. C. Section 901 et. seq.

(4) release is made of medical or epidemiological information to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party; or,

(5) release is made during the course of civil or criminal litigation to a person allowed access to said records by a court order which is issued in compliance with the following provisions:

(a) No court of this State shall issue such order unless the court finds that the person seeking the records and information has demonstrated a compelling need for such records which cannot be accommodated by other means. In assessing compelling need, the court shall weight the need for disclosure against the privacy interest of the subject and the public interest which may be disserved by disclosure which deters future testing and treatment or which may lead to discrimination.

(b) pleadings pertaining to disclosure of such records shall substitute a pseudonym for the true name of the subject of the records. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court.

(c) Before granting any such order, the court shall provide the subject whose records are in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party.

(d) Court proceedings as to disclosure of such records shall be conducted in camera unless the subject agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(e) Upon the issuance of an order to disclose such records, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosures.

§712. Custodian of Records

No State or local health department officer or employee shall be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records for a period examined or treated for a STD or HIV infection by the Division of Public Health, or of the existence of contents of such reports received from a private health care professional or private health facility, without the consent of the person examined and treated for such diseases, except where the information in such records is disclosed pursuant to sections 710, 711(2), 711(3) or 711(5) of this chapter.

§713 Penalties

(a) Except for Section 702, whoever violates this chapter or any lawful rule or regulations made by the Board under Section 706 of this title, or fails to obey any lawful order issued by the Director under this chapter shall be fined not less than \$100 nor more than \$1,000.

(b) Whoever violates Section 702 of this chapter shall be fined not less than \$25 and not more than \$200 for each offense.

(c) Each separate day that a violation of this chapter as defined under Sections 713(a) and (b) continues shall be deemed a separate offense for penalty purposes.

(d) Justices of the Peace shall have jurisdiction of offenses under this chapter.

CHAPTER 335

FORMERLY

HOUSE BILL NO. 637

AN ACT TO AMEND TITLE 16, DELAWARE CODE TO ESTABLISH A REGISTRY OF ALL SPERM BANKS AND TISSUE BANKS; TESTING OF DONORS; PENALTIES.

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

Section 1. Amend Title 16, Delaware Code by adding a new chapter thereto which shall read as follows:

"Chapter 28, Sperm Bank and Tissue Bank Registry; Testing of Donors; Penalties.

§2801. (a) The Board of Health shall establish a registry of all sperm banks and tissue banks operating in this State. All sperm banks and tissue banks operating in this State shall register with the Board by May 1 of each year. Any person, hospital, clinic, corporation, partnership or other legal entity which operates a sperm bank or tissue bank in this State and fails to register with the Board pursuant to this Section shall be subject to a fine of \$5000.

(b) All donors of semen for purposes of artificial insemination, or donors of corneas, bones, organs, or other human tissue for the purpose of injecting, transfusing or transplanting any of them in the human body, shall be tested for evidence of exposure to human immunodeficiency virus (HIV) and any other identified causative agent of acquired immunodeficiency syndrome (AIDS) at the time of or after the donation, but prior to the semen, corneas, bones, organs, or other human tissue being made available for such use. However, when in the opinion of the attending physician the life of a recipient of a bone, organ or other human tissue donation would be jeopardized by delays caused by testing for evidence for exposure to HIV and any other causative agent of AIDS, testing shall not be required prior to the life-saving measures.

(c) No person may intentionally, knowingly, recklessly or negligently use the semen, corneas, bones, organs or other human tissue of a donor unless the requirements of subsection (b) have been met. No person may knowingly, recklessly, intentionally use the semen, corneas, bones, organs or other human tissue of a donor who has tested positive for exposure to HIV or any other identified causative agent of AIDS. Violation of this subsection (c) shall be a Class E felony.

(d) For the purposes of this Section, "tissue bank" means any facility or program that is involved in procuring, furnishing, donating, processing or distributing corneas, bones, organs, or other human tissue for the purpose of injecting, transfusing or transplanting any of them in the human body.

Approved July 11, 1988.

CHAPTER 336

FORMERLY

HOUSE BILL NO. 559
AS AMENDED BY HOUSE AMENDMENT NOS. 4 AND 6

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO INFORMED CONSENT AND CONFIDENTIALITY REGARDING HIV RELATED TESTS.

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

Section 1. Amend Title 16, Delaware Code by adding a new chapter to read as follows:

"Chapter 12. Informed Consent and Confidentiality Regarding HIV Related Tests.

§1202. Definitions.

For purpose of this chapter the following definition shall apply;

- (a) 'AIDS' shall mean Acquired Immunodeficiency Syndrome
- (b) 'HIV' shall mean the human immunodeficiency virus identified as the causative agent of AIDS.
- (c) 'HIV related test' shall mean a test for the antibody or antigen to HIV.
- (d) 'Health facility' shall mean a hospital, nursing home, clinic, blood bank, blood center, sperm bank, laboratory, or other health care institution.
- (e) 'Health care provider' shall mean any nurse, physician, dentist and other dental worker, optometrist, podiatrist, chiropractor, laboratory and blood bank technologist and technician, phlebotomist, dialysis personnel, emergency health care provider (including any paramedic, emergency medical technician, law enforcement personnel, or firefighter), and others whose activities involve contact with patients, their blood or corpses.
- (f) 'Legal guardian' shall mean a person appointed by a court to assume legal authority for another who has been found incompetent or, in the case of a minor, a person who has legal custody of the child.
- (g) 'Person' shall mean any natural person, partnership, association, joint venture, trust, public or private corporation, or health facility.
- (h) 'Release of test results' shall mean a written authorization for disclosure of HIV related test results which is signed, dated and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.
- (i) 'Manner known to transmit HIV' shall mean Parenteral exposure to blood or blood products including but not limited to injection through the skin; or as otherwise determined by the Division of Public Health.

§1202. Informed consent.

- (a) No health facility, health care provider, or other person shall test or shall cause by any means to have tested, any specimen of any patient for HIV related tests, without the informed consent of the subject of the test or the subject's legal guardian. A health care provider shall ensure that informed consent has been received prior to ordering testing by a laboratory or other facility.
- (b) Informed consent to an HIV related test shall consist of a voluntary agreement executed by the subject of the test or the subject's legal guardian. If the agreement is oral, the facts pertaining thereto must be documented by customary practice. Informed consent shall consist of at least the following:
 - (1) an explanation of the test, including its purpose, potential uses, limitations, and the meaning of its results;
 - (2) an explanation of the procedure to be followed, including that the test is voluntary, that consent may be withdrawn, and the extent and limitations of the manner in which the results will be confidential;

- (3) an explanation of the nature of AIDS and other manifestations of HIV infection and the relationship between the test result and those diseases; and
- (4) information about behaviors known to pose risks for transmission of HIV infection.
- (c) Notwithstanding Section 1202(a) the provisions of Sections 1202(a) and 1202(b) do not apply when:
- (1) knowledge of such test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment and the subject of the test is unable to grant or withhold consent;
- (2) the testing is done for the purposes of research, provided that the test is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.
- (3) a health care provider or health care facility procures, processes, distributes or uses (i) blood, (ii) a human body part donated for a purpose specified under the Uniform Anatomical Gift Act, or (iii) semen provided prior to the effective date of this Act for the purpose of artificial insemination, and such test is necessary to assure the medical acceptability of such gift or semen for the purposes intended.
- (4) the health of a health care worker has been threatened during the course of a health care worker's duties, as a result of exposure to blood or body fluids of the patient in a manner known to transmit HIV.
- (5) necessary to control the transmission of HIV infection as may be allowed pursuant to 16 Del. C. Chapter 7 et. seq. as it relates to sexually transmitted diseases, or 11 Del. C. Section 6523 (b) as it relates to the Department of Corrections.
- (6) testing is ordered by a court of competent jurisdiction within the confines of civil or criminal litigation where the results of an HIV related test of a party, or a person in the custody or under the legal control of another party, is relevant to the ultimate issue of culpability and/or liability. Said following provisions:
- (i) No court of this State shall issue such order unless the court finds that there is a compelling need for such test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure of the test results against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters future testing or which may lead to discrimination.
- (ii) Pleadings pertaining to ordering of an HIV related test shall substitute a pseudonym for the true name of the subject of the test. The true name shall be communicated confidentially, in documents not filed with the court.
- (iii) Before granting any such order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party.
- (iv) Court proceedings as to disclosure of test results so ordered shall be conducted in camera unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.
- (d) Any person on whom an HIV related test was performed without first having obtained informed consent pursuant to Section 1202(c)(1), 1202(c)(4) and 1202(c)(5) shall be given notice promptly, personally and confidentially that a test sample was taken and the results of such test may be obtained upon request.
- (e) At the time of learning the test result, the subject of the test or the subject's legal guardian shall be provided with counseling for coping with the emotional consequences of learning the result, for understanding the interpretation of the test result, for understanding measures for preventing infection to others, and to urge the voluntary notification of sexual and needle sharing partners of the risk of infection.

(f) Notwithstanding any other provision of law, a minor 12 years of age or older may consent or refuse consent to be a subject of HIV related testing and to counseling relevant to the test. The consent or refusal of the minor shall be valid and binding as if the minor had achieved his or her majority, and shall not be voidable, nor subject to later disaffirmance, because of minority.

§1203. Confidentiality.

(a) No person may disclose or be compelled to disclose the identity of any person upon whom an HIV related test is performed, or the results of such test in a manner which permits identification of the subject of the test, except to the following person:

- (1) The subject of the test or the subject's legal guardian.
- (2) Any person who secures a legally effective release of test results executed by the subject of the test or the subject's legal guardian.
- (3) An authorized agent or employee of a health facility or health care provider if the health facility or health care provider itself is authorized to obtain the test results, the agent or employee provides patient care or handles or processes specimens of body fluids or tissues, and the agent or employee has a medical need to know such information to provide health care to the patient.
- (4) Health care providers providing medical care to the subject of the test, when knowledge of the test results is necessary to provide appropriate emergency care or treatment.
- (5) When part of official report to the Division of Public Health as may be required by regulation.
- (6) A health facility or health care provider which procures, processes, distributes or uses: (i) blood, (ii) a human body part from a deceased person donated for a purpose specified under the Uniform Anatomical Gift Act; or (iii) semen provided prior to the effective date of this Act for the purpose of artificial insemination.
- (7) Health facility staff committees or accreditation or oversight review organizations which are conducting program monitoring, program evaluation or service reviews.
- (8) Pursuant to 16 Del. C. Section 901 et. seq. as it relates to investigation of child abuse.
- (9) Pursuant to 16 Del. C. Chapter 7 et. seq. as it relates to sexually transmitted diseases and their control.
- (10) A person allowed access to said record by a court order which is issued in compliance with the following provisions:
 - (i) No court of this State shall issue such order unless the court finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters future testing or which may lead to discrimination.
 - (ii) Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court.
 - (iii) Before granting any such order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party.
 - (iv) Court proceedings as to disclosure of test results shall be conducted in camera unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(v) Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosures.

(b) No person to whom the results of an HIV related test have been disclosed pursuant to Section 1203(a) shall disclose the test results to another person except as authorized by Section 1203(a).

(c) The provisions in this section shall not interfere with the transmission of information as may be necessary to obtain third-party payment for medical care related to HIV infection or with the documentation of cause of death on death certificates.

(b) Any person aggrieved by a violation of this Act shall have a right of action in the Superior Court and may recover for each violation:

(1) Against any person who negligently violates a provision of this Act, damages of \$1,000 or actual damages, whichever is greater.

(2) Against any person who intentionally or recklessly violates a provision of this Act, damages of \$5,000 or actual damages, whichever is greater.

(3) Reasonable attorney fee.

(4) Such other relief, including an injunction, as the court may deem appropriate.

(5) Any action under this Act is barred unless the action is commenced within three years after the cause of action accrues. A cause of action will accrue when the injured party becomes aware of an unauthorized disclosure pursuant to Section 1203, or that an HIV related test has been conducted without informed consent pursuant to Section 1202.

(d) The Attorney General may maintain a civil action to enforce this Act in which the court may order any relief authorized by Section 1204(b).

(e) Nothing in this Act shall be construed to impose civil liability or criminal sanction for disclosure of an HIV related test result in accordance with any reporting requirement by the Division of Public Health."

Approved July 11, 1988.

CHAPTER 337

FORMERLY

HOUSE BILL NO. 136
 AS AMENDED BY HOUSE AMENDMENT NO. 1, HOUSE AMENDMENT NO. 1
 TO
 HOUSE AMENDMENT NO. 1 AND HOUSE AMENDMENT NOS. 2 AND 3
 AND SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 7, TITLE 19, DELAWARE CODE, RELATING TO PROHIBITING DISCRIMINATORY PRACTICES IN THE EMPLOYMENT OF THE HANDICAPPED.

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

Section 1. Amend Chapter 7, Title 19, of the Delaware Code by redesignating Subchapter III as Subchapter IV and redesignating Sections 719, 720, 721, 722, 723, and 724, as they appear therein, as Sections 730, 731, 732, 733, 734, and 735 respectively.

Section 2. Amend Chapter 7, Title 19, of the Delaware Code by adding thereto a new Subchapter III, which shall read as follows:

"SUBCHAPTER III. HANDICAPPED PERSONS EMPLOYMENT PROTECTIONS

§720. Short title.

This Subchapter may be cited as the "Handicapped Persons Employment Protections Act."

§721. Statement of purpose and interpretation.

(a) This Subchapter is intended to encourage and enable qualified handicapped persons to engage in remunerative employment which is sought by them in good faith. The General Assembly finds that the practice of employment discrimination based on handicap is contrary to the public interest and the principles of freedom and equality of opportunity. Such discrimination also deprives many handicapped persons of earnings necessary to maintain or contribute to a decent standard of living and necessitates their resort to public support.

(b) This Subchapter shall be liberally construed to promote the full employment opportunity of qualified handicapped persons who seek such opportunity in good faith. Furthermore, in defining the scope or extent of any duty imposed by this Subchapter, including the duty of reasonable accommodation, higher or more comprehensive obligations established by otherwise applicable federal, state, or local enactments may be considered. Nothing in this Subchapter, however, shall be construed to impose liability upon any employer for selecting, hiring, or promoting in good faith a non-handicapped applicant or employee who is better qualified than another applicant or employee who is a qualified handicapped person.

§722. Definitions.

As used in this Subchapter, unless the context otherwise requires:

(a) the terms "person", "employee", "employment agency", "labor organization", "Secretary", and "Review Board" are defined in §710 of this Title.

(b) "Employer" means the State or any political subdivision or board, department, commission or school district thereof and any person employing, within the State, twenty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.

(c) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in Subsection (d) of this Section.

(d) "Handicapped person" means any person who:

(1) has a physical or mental impairment which substantially limits one or more major life activities,

(2) has a record of such an impairment; or

(3) is regarded as having such an impairment. As used in this Subsection, the term:

a. "Major life activities" means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

b. "Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits major life activities.

c. "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities because of the attitudes of others; or (iii) does not have a physical or mental impairment but is treated as having such an impairment. This term is intended to be interpreted in conformity with the federal Rehabilitation Act of 1973, as amended, and, consistent with §728 of this Subchapter, shall be further defined by the Secretary through regulation to clarify and delimit its scope following adequate public notice and comment. Enforcement of this Subchapter by persons qualifying for protection solely under §722(d)(3) shall be deferred until the issuance of the Secretary's final regulation.

d. "Substantially limits" means that the impairment so affects a person as to create a likelihood that such person will experience difficulty in securing, retaining, or advancing in employment because of a handicap.

e. "Handicapped person" shall not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

(e) "Qualified handicapped person" means a handicapped person who, with or without reasonable accommodation, can satisfactorily perform the essential functions of the job in question,

(1) provided that the handicapped person shall not be held to standards of performance of essential job functions different from other employees similarly employed, and

(2) further provided that the handicap does not create an unreasonable and demonstrable risk to the safety or health of the handicapped person, other employees, the employer's customers, or the public.

(f) "Reasonable accommodation" means making reasonable changes in the work place, including, but not limited to, making facilities accessible, modifying equipment and providing mechanical aids to assist in operating equipment, or making reasonable changes in the schedules or duties of the job in question that would accommodate the known handicaps of a handicapped person by enabling such person to satisfactorily perform the essential duties of the job in question; provided that "reasonable accommodation", unless otherwise prescribed by applicable law, does not require that an employer:

(1) provide accommodations of a personal nature, including, but not limited to, eyeglasses, hearing aids, or prostheses, except under the same terms and conditions as such items are provided to the employer's employees generally; or

(2) reassign duties of the job in question to other employees without assigning to the handicapped employee duties that would compensate for those reassigned; or

(3) reassign duties of the job in question to one or more other employees where such reassignment would significantly increase the skill, effort or responsibility required of such other employee or employees from that required prior to the change in duties; or

(4) make changes to accommodate a handicapped person where:

a. for a new employee the cost of such changes would exceed five percent of the annual salary or annualized hourly wage of the job in question; or

b. for an existing employee the total cost of the changes would bring the total cost of changes made to accommodate the employee's handicaps since the employee's initial acceptance of employment with the employer to greater than five percent of the employee's current salary or current annualized hourly wage; or

(5) make any changes that would impose on the employer an undue hardship, provided that the costs of less than five percent of an employee's salary or annualized wage as determined in Subsection (4) above shall be presumed not to be an undue hardship.

§723. Reasonable accommodation duties.

(a) A qualified handicapped person requesting a reasonable accommodation in a good faith effort to seek an employment opportunity must apprise the employer, employment agency, or labor organization of his handicap, submit any necessary medical documentation, make suggestions for such possible accommodations as are known to such handicapped person, and cooperate in any ensuing discussion and evaluation aimed at determining possible or feasible accommodations.

(b) Once a qualified handicapped person has requested an accommodation, or if a potential accommodation is obvious in the circumstances, an employer, employment agency, or labor organization shall investigate whether there are reasonable accommodations that can be made and make reasonable accommodations as defined in §722(f) of this Title. If affirmatively requested in writing by the employer, employment agency, or labor organization, the handicapped person may be required to accept the employment opportunity in writing as a precondition to the initiation of such investigation.

§724. Unlawful employment practices.

(a) Employer prohibitions.

It shall be an unlawful employment practice for an employer because of handicap to:

(1) fail or refuse to hire, recruit, or promote a qualified handicapped person who seeks such an employment opportunity in good faith;

(2) discharge or otherwise discriminate against qualified handicapped persons with respect to compensation, terms, conditions, or privileges of employment;

(3) limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive a qualified handicapped person of employment opportunities or otherwise adversely affects his or her status as an employee;

(4) fail or refuse to hire, recruit, or promote a qualified handicapped person who seeks such an employment opportunity in good faith on the basis of physical, mental or other examinations that are not directly related to the essential functions of the job;

(5) discharge or take other discriminatory action against a qualified handicapped person on the basis of physical, mental or other examinations that are not directly related to the essential functions of the job.

(b) Employment agency prohibitions.

It shall be an unlawful employment practice for an employment agency to refuse or fail to accept, register, classify properly, refer for employment, or otherwise to discriminate against a qualified handicapped person because of handicap.

(c) Labor organization prohibitions.

It shall be an unlawful employment practice for a labor organization because of handicap to:

(1) exclude or expel from its membership or otherwise to discriminate against any qualified handicapped person;

(2) limit, segregate or classify its membership or to classify or fail or refuse to refer for employment any qualified handicapped person in any way which would deprive or tend to deprive any such person of employment opportunities or would limit such employment opportunities or otherwise adversely affect his status as an employee or an applicant for employment; or

(3) cause or attempt to cause an employer to discriminate against a qualified handicapped person in violation of this Section;

(4) fail to cooperate with an employer's efforts to provide reasonable accommodation to a qualified handicapped person to the extent it controls job structure and other employment conditions.

(d) Training program prohibitions.

It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any qualified handicapped person because of handicap in admission to or employment in any program established to provide apprenticeship or other training.

(e) Other prohibitions.

(1) It shall be an unlawful employment practice for an employer or employment agency to require an applicant to identify himself as handicapped prior to a conditional offer of employment; however, any employer may invite an applicant to identify himself as handicapped in order to act affirmatively on his behalf.

(2) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to fail to meet the duties imposed on them by §723(b) of this Title.

(f) Exceptions.

It shall not be considered a violation of this Section for an employer, employment agency, or labor organization:

(1) to make an employment decision on the basis of State and Federal laws or regulations imposing physical, mental, health or educational job requirements;

(2) to make pre-employment or pre-promotional inquiries which are directly related to an applicant's ability to perform essential job-related functions;

(3) to terminate or change the employment status of any person who is unable to adequately perform his or her essential job functions, or to discriminate among persons on the basis of competence or performance in essential job functions if the employer, employment agency, or labor organization has complied with §723(b) of this Title;

(4) to require or request a person to undergo a medical examination, which may include a medical history, for the purpose of determining the person's ability or capacity to safely and satisfactorily perform the duties of available jobs for which the person is otherwise qualified, or to aid in determining possible accommodations for a handicap, provided

(a) that an offer of employment has been made on the condition that the person meets the physical and mental requirements of the job with or without reasonable accommodation; and

(b) that the examination, unless limited to determining the extent to which a person's handicap would interfere with his or her ability or capacity to safely and satisfactorily perform the duties of the job in question or the possible accommodations for a handicap, is required of all persons offered employment for the same position regardless of handicap;

(5) to administer pre-employment tests, provided that the tests

(a) measure only job-related abilities.

(b) are required of all applicants for the same position unless such tests are limited to determining the extent to which a person's handicapping condition would interfere with his or her ability to safely and satisfactorily perform the duties of the job in question or the possible accommodation of the job in question, and

(c) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the handicapped person's impaired sensory, manual or speaking skills except when those skills are requirements of the job in question.

§725. Affirmative defenses.

In defense of any action to enforce §724 of this Title a respondent may assert affirmative defenses, including, but not limited to, the following:

(a) Despite reasonable accommodation, a handicapped person cannot satisfactorily perform the essential functions of the job in question;

(b) Employment of a handicapped person creates an unreasonable and demonstrable risk to the safety or health of the handicapped person, other employees, the employer's customers, or the public;

(c) Any of the enumerated exceptions to reasonable accommodation set forth in §722(f), including undue hardship, are applicable.

§726. Retaliation prohibited.

It shall be an unlawful employment practice for any employer to discharge, refuse to hire, or otherwise discriminate against any person or applicant for employment, or any employment agency to discriminate against any person, or any labor organization to discriminate against any member or applicant for membership because such person has opposed any practice prohibited by this Subchapter or because he has testified, assisted or participated in any manner in proceedings to enforce the provisions of this Subchapter.

§727. Enforcement provisions and election remedies.

(a) Enforcement of this Subchapter shall be in accordance with the procedures for enforcement of rights secured by Subchapter II of this Chapter.

(b) Enforcement of this Subchapter as authorized by Title 19 Del.C §712 shall be barred if the complainant has commenced federal judicial or administrative proceedings under Sections 503 or 504 of the Rehabilitation Act of 1973, as amended, or regulations promulgated thereunder, based upon substantially common facts. If such federal proceedings are commenced subsequent to the filing of a charge pursuant to this Subchapter, any administrative and judicial proceedings authorized by §712 shall be dismissed upon application of the respondent. Provided, however, that if complainant's federal action is dismissed on jurisdictional grounds, including the lack of federal contractor status or federal program funding, the Secretary is authorized to accept a charge under §712 and waive the limitations period of §712(d) upon a finding that the complainant commenced his federal action in good faith.

§728. Regulations.

The Secretary shall adopt such rules and regulations as may be necessary and proper to implement the policies of this Subchapter."

Section 3. Amend §712(a), Chapter 7, Title 19, of the Delaware Code by striking the phrase "§711 of this Title" and substituting in lieu thereof the phrase and punctuation "§§711, 723, and 725 of this Title."

Section 4. Amend §712(j), Chapter 7, Title 19, of the Delaware Code by striking the phrase "this Subchapter" and substituting in lieu thereof the phrase "Subchapters II or III of this Title".

Section 5. Amend §713(a), Chapter 7, Title 19, of the Delaware Code by striking the phrase "this Subchapter" and substituting in lieu thereof the phrase "subchapters II or III of this Title".

Section 6. Amend §714, Chapter 7, Title 19, of the Delaware Code, by striking the phrase "this Subchapter" wherever it appears therein and substituting in lieu thereof the phrase "Subchapters II or III of this Title".

Section 7. Amend §715(d), Chapter 7, Title 19, of the Delaware Code by striking the phrase "this Subchapter" and substituting in lieu thereof the phrase "Subchapters II or III of this Title".

Section 8. Amend §716(a), Chapter 7, Title 19, of the Delaware Code, by striking the phrase "this Subchapter" and substituting in lieu thereof the phrase "Subchapters II and III of this Title".

Section 9. Amend §717, Chapter 7, Title 19, of the Delaware Code by striking the phrase "this Subchapter" and substituting in lieu thereof "Subchapters II or III of this Title".

Section 10. Amend §718, Chapter 7, Title 19, of the Delaware Code, by striking the phrase "this Subchapter" and substituting in lieu thereof the phrase and punctuation "subchapters II and III of this Title".

Section 11. Severability.

If any provision of this Act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 12. Effective date.

This Act shall become effective 120 days after enactment.

Approved July 11, 1988.

CHAPTER 338

FORMERLY

SENATE BILL NO. 72

AN ACT TO AMEND CHAPTER 82, TITLE 9, DELAWARE CODE, RELATING TO SALARIES FOR KENT COUNTY OFFICIALS.

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

Section 1. Amend §8203, Title 9, Delaware Code, by striking the figure "\$6,000" and by inserting in lieu thereof the figure "\$9,000".

Approved July 11, 1988.

CHAPTER 339

FORMERLY

SENATE BILL NO. 432

AN ACT TO AMEND SECTION 9606, TITLE 16 OF THE DELAWARE CODE AND RELATING TO THE ACCRUAL OF VENDING MACHINE INCOME FROM VENDING MACHINES IN A PUBLIC OFFICE BUILDING.

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

Section 1. Amend Section 9606, Title 16 of the Delaware Code by adding a new subsection "d" to read as follows:

"(d) Notwithstanding any provision of Subsection (a) of this section to the contrary:

(1) any provision of 20 U.S.C. Section. 107 et seq. that limits accrual of vending machine income to the Division for the Visually Impaired on the basis of the annual income from such vending machines is not incorporated into the laws of this State by this section, and

(2) any provision of 20 U.S.C. Section. 107 et seq. that governs the use of vending machine income which accrues to the Division for the Visually Impaired is not incorporated into the laws of this State by this section".

Section 2. Amend Section 9606, Title 16 of the Delaware Code by adding a new subsection "e" to read as follows:

"(e) The Secretary of the Department of Health and Social Services shall have the power to promulgate all rules and regulations necessary to accomplish the purposes of this section".

Approved July 11, 1988.

CHAPTER 340

FORMERLY

SENATE BILL NO. 325
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO GENDER DISCRIMINATION IN PENALTIES FOR ELECTION OFFENSES.

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 V of the Constitution of the State of Delaware by deleting the phrase, "If a male," as it appears in the first sentence of Section 7.

Section 2. Amend Section 7 of Article V of the Constitution of the State of Delaware by deleting the words "he", "him", and "himself" wherever they occur and by inserting in lieu thereof the words "said person"; and by deleting the word "his" wherever it occurs and by inserting in lieu thereof the words "said person's".

Approved June 29, 1988

CHAPTER 341

FORMERLY

HOUSE BILL NO. 626

AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE, RELATING TO LICENSING REQUIREMENTS FOR SCHOOL BUS DRIVERS.

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

Section 1. Amend Chapter 27, Title 21, §2708 by adding after the words "5 years" and before the period "." at the end of subsection (a)(6) of §2708 the following:

"for moving violations."

Approved July 11, 1988.

CHAPTER 342

FORMERLY

SENATE BILL NO. 464
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT PROPOSING AN AMENDMENT TO ARTICLES III AND IV OF THE DELAWARE CONSTITUTION TO PROVIDE FOR THE APPOINTMENT BY THE SUPERIOR COURT OF A PROTHONOTARY IN EACH COUNTY.

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, Section 22 of the Delaware Constitution by deleting the word "Prothonotaries," as the same shall appear therein.

Section 2. Amend Article IV, Section 26 of the Delaware Constitution by adding the following sentence as the first sentence of said Section 26:

"The Superior Court shall appoint a Prothonotary in each county to hold office at the pleasure of the said Court."

Section 3. Any person elected and commissioned as a Prothonotary as of the effective date of this bill shall continue to hold the respective office for the full term for which said person was elected; provided, however, that a vacancy in said office prior to the expiration of the full term by reason of ineligibility, death, resignation, or otherwise shall be filled by appointment of the Superior Court.

Approved June 30, 1988.

CHAPTER 343

FORMERLY

SENATE BILL NO. 431
AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11, DELAWARE CODE BY ADDING A NEW CHAPTER 93 RELATING TO POLICE CHIEF DUE PROCESS.

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

Section 1. Amend Title 11, Delaware Code by adding a new Chapter 93 to read as follows:

"CHAPTER 93. POLICE CHIEF DUE PROCESS

§9301. Police Chief Removal; Right to Public Hearing.

No Chief of Police or Police Superintendent of a legislatively authorized Police Department within this State, excluding municipalities with a population greater than 50,000, shall be dismissed unless there is a showing of just cause and such person has been given notice in writing of the specific grounds for such dismissal and an opportunity to be heard in his own defense, personally and/or by counsel, at a public hearing before the elected governing body of the jurisdiction. Such public hearing, unless otherwise specified by charter, shall be held not less than five nor more than 30 days after such notice."

Approved July 12, 1988.

CHAPTER 344

FORMERLY

SENATE BILL NO. 492

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE TO PROVIDE FOR THE LICENSING AND REGULATION OF BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS.

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

Section 1. Add a new Chapter 33 to Title 5 of the Delaware Code, to read as follows:

CHAPTER 33. BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS

Subchapter I. General Provisions

- | | |
|---|---|
| Sec. | Sec. |
| 3301. Short title. | 3325. Avoidance of conflict of interest. |
| 3302. Findings; declaration of purposes. | |
| 3303. Definitions. | Subchapter IV. Mergers, Acquisitions and Sale of Business Assets |
| 3304. Applicability of other laws. | |
| 3305. Corporate name. | |
| 3306. Supervision of Bidcos. | 3331. General rules. |
| 3307. Fees. | |
| 3308. Liberal construction. | Subchapter V. Operating Rules Governing Business of Bidco |
| | |
| Subchapter II. Licensing | |
| 3311. Applications; review by Commissioner. | 3341. Form and Maintenance of Bidco records; annual audited report. |
| 3312. Voluntary surrender of Bidco license. | 3342. Periodic report requirements. |
| | 3343. Examination of Bidcos. |
| Subchapter III. Conduct of Bidco Business | Subchapter VI. Enforcement Powers of Commissioner |
| 3321. Office. | |
| 3322. Business of a Bidco. | 3351. Investigations. |
| 3323. Control of business firm prohibited; exceptions. | 3352. False statements, entries or reports; penalty. |
| 3324. Business of Bidco to be conducted in prudent business manner. | 3353. Violations; remedies. |
| | 3354. Receivership. |
| | 3355. Penalties. |

Subchapter I. General Provisions§3301. Short title

This chapter shall be known and may be cited as the "Delaware Bidco Act."

§3302. Findings; declaration of purposes.

(a) It is determined and declared as a matter of legislative finding that:

(1) The availability of financial and management assistance are important resources to small businesses to locate, remain and expand in the State, which, in time, will result in increased employment opportunities in the State.

(2) There is need for financial and management resource alternatives to small businesses in the State due to lack of bank financing in situations, including, but not limited to, start-ups, under-collateralization, management problems, and above-average risk projects

(3) Many small businesses, although in a growth mode, do not meet the investment criteria of venture capital firms.

(4) In order to increase employment opportunities and commercial transactions in the State, there is a need to encourage the development of resources directed at small businesses, which will help such businesses locate, remain and expand in the State.

(b) It is further determined and declared that the purposes of this chapter shall be to:

(1) Promote economic development by encouraging the formation of private financial institutions known as Bidcos to help meet the financing assistance and management assistance needs of growth-oriented small businesses in the State; and

(2) Provide for the licensing and regulation of Bidcos to prevent fraud, conflict of interest, and mismanagement, in order to encourage:

(i) private equity investments in Bidcos; and

(ii) pension funds, insurance companies, foundations, utilities and other institutions to lend funds to Bidcos.

§3303. Definitions.

For the purposes of this chapter, unless otherwise specifically defined, or unless another intention clearly appears or unless the context requires a different meaning:

(1) "Affiliate" means, if used with respect to a specified person other than a natural person, a person controlling or controlled by such specified person, or a person controlled by a person who also controls such specified person.

(2) "Applicant" means a Delaware corporation that has submitted an application for a license under this chapter.

(3) "Bidco" means a business and industrial development corporation licensed under this chapter.

(4) "Business firm" means a person that transacts business on a regular and continual basis, or that proposes to transact business on a regular and continual basis.

(5) "Commissioner" means the Bank Commissioner of the State.

(6) "Control" means, if used with respect to a specified person, the power to direct or cause the direction of, directly or indirectly through one or more intermediaries, the management and policies of such specified person, whether through the ownership of voting securities, by contract, other than a commercial contract for goods or non-management services, or otherwise. A natural person shall not be considered to control another person solely on account of being a director, officer, or employee of such other person.

(7) "Controlling person" means, if used with respect to a specified person, a person who controls such specified person, directly or indirectly through one (1) or more intermediaries.

(8) "Corporate name" means the name of a corporation as set forth in the certificate of incorporation of such corporation.

(9) "Delaware corporation" means a corporation, whether for profit or non-profit, incorporated under the General Corporation Law of Delaware.

(10) "Insolvent" means a licensee that ceases to pay its debts in the ordinary course of business, that cannot pay its debts as they become due, or whose liabilities exceed its assets.

(11) "Interests of a licensee" includes the interests of shareholders of the licensee.

(12) "License" means a license issued under this chapter authorizing a Delaware corporation to transact business as a Bidco.

(13) "Licensee" means a Delaware corporation which is licensed under this chapter.

(14) "Officer" means:

(a) If used with respect to a corporation, a person appointed or designated as an officer of such corporation by or pursuant to applicable law or the certificate of

Incorporation or bylaws of such corporation, or a person who performs with respect to such corporation functions usually performed by an officer of a corporation; and

(b) If used with respect to a specified person other than a natural person or a corporation, a person who performs with respect to such specified person functions usually performed by an officer of a corporation with respect to such corporation.

(15) "Order" Includes an approval, authorization, consent, exemption, denial, prohibition, or other official act taken by the Commissioner.

(16) "Person" Includes an individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, government, agency of a government, or any other entity or organization. If used with respect to acquiring control of or controlling a specified person, "person" includes a combination of two (2) or more persons acting in concert.

(17) "Principal shareholder" means a person that owns, directly or indirectly, of record or beneficially, securities representing ten (10) percent or more of the outstanding voting securities of a corporation.

(18) "State" means the State of Delaware.

(19) "State Administrative Procedures Act" refers to Chapter 101, Title 29 of the Delaware Code.

(20) "Subject person" means a controlling person, subsidiary, or affiliate of a licensee, a director, officer, or employee of a licensee or of a controlling person, subsidiary, or affiliate of a licensee, or any other person who participates in the conduct of the business of a licensee.

(21) "Subsidiary" means, if used with respect to a licensee, a company or business firm which the licensee holds control of as permitted by section 3323(a)(2), (3), (4) or (5) of this chapter.

(22) "This chapter" includes any order issued or rule promulgated under this chapter.

§3304. Applicability of other laws.

A corporation licensed under and pursuant to this chapter shall be known as a Bidco, shall be subject to regulation by the Commissioner, and shall be deemed subject to the General Corporation Law of Delaware to the extent that such law is not inconsistent with the express provisions of this chapter.

§3305. Corporate name.

Each corporation licensed under this chapter shall use the word "Bidco" in its corporate name.

§3306. Supervision of Bidcos.

(a) The Commissioner shall administer this chapter and shall have supervision responsibility for all Bidcos incorporated under the laws of this State, and shall secure the execution of all laws relative to Bidcos.

(b) The Commissioner shall issue orders and promulgate rules and regulations that are deemed necessary or appropriate to execute, enforce, and effectuate the purposes of this chapter.

(c) Whenever the Commissioner issues an order or license under this chapter, the Commissioner may impose conditions that are deemed necessary or appropriate to effectuate the purposes of this chapter.

(d) Every final order, decision or license action of the Commissioner under this chapter is subject to administrative and judicial review in accordance with law.

§3307. Fees

The Commissioner shall establish a schedule of fees, which the Commissioner determines to be reasonable and necessary to effectuate the purposes of this chapter, in connection with the licensing, administration and supervision of Bidcos, and such schedule shall be subject to amendment by the Commissioner from time to time.

§3308. Liberal construction.

This chapter shall be liberally construed to accomplish its purposes.

Subchapter II. Licensing

§3311. Applications; review by Commissioner.

(a) A Delaware corporation may apply to the Commissioner for a license to form and conduct business as a Bidco. A person other than a Delaware corporation may not apply for such a license.

(b) An application filed with the Commissioner under this chapter shall be in such form and contain such information as the Commissioner may require, but shall contain, at a minimum, the following:

(1) A detailed business plan setting forth the services to be provided by the proposed Bidco to business firms located within or outside of the State;

(2) A summary of the geographical business markets of the proposed Bidco;

(3) Information concerning the experience of the management of the proposed Bidco and how such experience relates to the execution of the business plan referred to in paragraph (1) of this subsection;

(4) Location of the proposed main office of the Bidco and any branch offices, or the vicinity thereof;

(5) A detailed summary of how the management of the proposed Bidco intends to implement a reasonable and prudent policy for conserving and investing the capital of such Bidco;

(6) A summary of the types of business firms to be assisted by the proposed Bidco; and

(7) Three (3) years of detailed financial projections.

(c) After a review of an application and receipt and review of any additional or supplemental information requested by the Commissioner, the Commissioner shall approve the application for a license under this chapter if the Commissioner determines that:

(1) The applicant has, or has firm financing commitments from equity investors or debt sources for, cash or similar liquid assets sufficient to demonstrate that prior to the time such applicant is authorized to transact business as a Bidco, such applicant will have liquid assets available to provide financing assistance to business firms in an amount adequate for such applicant to transact business as a Bidco;

(2) Each director, officer, and controlling person of the applicant is of good character and sound financial standing; each director and officer of such applicant is competent to perform his functions with respect to such applicant; and the directors and officers of such applicant are collectively able to manage the business of such applicant as a Bidco;

(3) It is reasonable to believe that the applicant, if licensed, will comply with this chapter; and

(4) The applicant has reasonable prospects of being a viable, ongoing Bidco and of satisfying the basic objectives of its business plan.

(d) The Commissioner shall require a Bidco to have at the time it is authorized to transact business as a Bidco a minimum net worth of not less than \$1,000,000.

(e) If an application for a license under this chapter is approved and all conditions precedent to the issuance of such license are fulfilled, the Commissioner shall issue a license to the applicant. A licensee shall post the license, or a copy thereof, in a conspicuous place in each of the main and branch offices of the licensee. A license shall not be transferable or assignable. Each license shall expire on December 31 of each year and be subject to an annual renewal.

(f) If the Commissioner denies an application, the Commissioner shall provide the applicant with a written statement explaining the basis for the denial. The formation, acquisition or control of a Bidco pursuant to this chapter shall not be deemed to be a violation of any condition imposed by law upon an out-of state bank holding company or any subsidiary thereof which acquires and holds all or substantially all of the voting shares

of a bank or banks in the State, and such condition shall not, of itself, be basis for denial of an application.

§3312. Voluntary surrender of Bidco license.

(a) Upon approval of a two-thirds vote of its board of directors and after complying with subsection (b) of this section, a licensee may apply to the Commissioner to have the Commissioner accept the surrender of the license of such licensee. If the Commissioner determines that the requirements of this section have been satisfied, the Commissioner shall approve the application, unless in the opinion of the Commissioner the purpose of the application is to evade a current or prospective action by the Commissioner under subchapter VI of this chapter.

(b) Not less than sixty (60) days before filing an application with the Commissioner under subsection (a) of this section, a licensee shall notify each of its shareholders of its intention to file such application. Each such shareholder shall be notified of the right to file with the licensee an objection to the proposed surrender of the license within the sixty (60) day period and shall be advised that, if such shareholder files such an objection, such shareholder should send a copy of such objection to the Commissioner. If shareholders holding twenty (20) percent or more of the outstanding voting securities of the licensee file such objections, the licensee shall not proceed with the application under subsection (a) of this section unless the application is approved by a vote of shareholders holding two-thirds of the outstanding voting securities of such licensee.

Subchapter III. Conduct of Bidco Business.

§3321. Office.

(a) A licensee shall maintain not less than one (1) office in the State.

(b) Each office of a licensee, whether within or outside of the State, shall be located in a place which is reasonably accessible to the public.

(c) A licensee shall maintain at each of its offices personnel who are competent to conduct the business of such office.

(d) Upon written notice to the Commissioner, a licensee may establish, relocate, or close an office.

§3322. Business of a Bidco.

(a) The business of a licensee shall be the business of providing financing assistance and management assistance to business firms.

(b) A licensee may determine the structure and the terms and conditions for financing assistance provided by that licensee to a business firm including, but not limited to, structures such as straight loans, purchase of debt instruments, straight equity investments (e.g. purchase of common stock or preferred stock), debt with equity features (e.g. warrants to purchase stock, convertible debentures, or receipt of a percentage of gross or net income or sales), royalty-based financing, guaranteeing of debt, or leasing of property.

(c) Management assistance provided by a licensee to a business firm may encompass management and technical advice and services.

(d) A licensee may exercise the incidental powers that are necessary or convenient to carry on the business of, or that are reasonably related to the business of, providing financing assistance and management assistance to business firms.

(e) In connection with an extension of credit by a licensee to a business firm, the licensee and such business firms may, notwithstanding any other provisions of the laws of the State, agree to any rate of interest and any schedule of fees.

§3323. Control of business firm prohibited; exceptions.

(a) Either by itself or in concert with one (1) or more of its directors, officers, principal shareholders, or affiliates, one (1) or more other licensees, or one (1) or more directors, officers, principal shareholders, or affiliates of another licensee or licensees, a licensee shall not hold control of a business firm, except as follows:

(1) If and to the extent necessary to protect the interests of a licensee as a creditor of, or investor in, a business firm, a licensee that has provided

financing assistance to a business firm may acquire and hold control of such business firm. Unless the Commissioner approves a longer period, a licensee holding control of a business firm under this paragraph shall divest itself of the interest which constitutes holding control as soon as practicable or within three (3) years after acquiring such interest, whichever is earlier.

(2) With the approval of the Commissioner, a licensee may acquire and hold control of a corporation which is licensed as a small business investment company under the U.S. Small Business Investment Act of 1958, as amended.

(3) With the approval of the Commissioner, a licensee may acquire and hold control of a company which is a development company, whether or not such development company has been or may become certified by the United States Small Business Administration pursuant to the U.S. Small Business Investment Act of 1958, as amended.

(4) With the approval of the Commissioner, a licensee may acquire and hold control of another business firm which is engaged in no business other than the business of providing financing assistance or management assistance to business firms.

(5) With the approval of the Commissioner, a licensee may acquire and hold control of a business firm not referred to in paragraphs (1) through (4) of this subsection. The Commissioner shall not approve an application under this paragraph unless the Commissioner determines that such an acquisition will promote the purposes of this chapter.

(b) If a licensee anticipates acquiring and holding control of a business firm under subsection (a)(1) of this section, the licensee shall file with the Commissioner a plan for acquiring and holding control of such business firm that shall include, at minimum, the following:

(1) The reasons it is necessary for the licensee to acquire and hold control of such business firm;

(2) The percentage of outstanding voting securities of such business firm that the licensee anticipates acquiring and holding;

(3) The licensee's proposed course of action upon obtaining control of such business firm; and

(4) The length of time the licensee anticipates it will be necessary to hold control of such business firm.

(c) The Commissioner may require a licensee to demonstrate the necessity for such licensee to hold control of a business firm under subsection (a)(1) of this section.

(d) For the purposes of this section, "hold control" means ownership, directly or indirectly, of record or beneficially, of voting securities greater than:

(1) For a business firm with outstanding voting securities held by fewer than fifty (50) shareholders, forty (40) percent of such outstanding voting securities.

(2) For a business firm with outstanding voting securities held by fifty (50) or more shareholders, twenty-five (25) percent of the outstanding voting securities.

§3324. Business of Bidco to be conducted in prudent business manner.

(a) A licensee shall transact its business in a prudent business manner and shall maintain itself in a viable condition.

(b) In determining whether a licensee is transacting business in a prudent business manner, the Commissioner shall not consider the risk of the financing assistance provided by such licensee to a business firm, unless the Commissioner determines that the risk is so great compared with the realistically expected return as to demonstrate mismanagement of the licensee.

(c) Subsection (b) of this section shall not limit the authority of the Commissioner to do any of the following:

(1) Determine that a licensee's financing assistance to a single business firm or a group of affiliated business firms is in violation of subsection (a) of this

section if the amount of such financing assistance is unduly large in relation to the total assets or the total shareholders' equity of such licensee.

(2) Require that a licensee maintain a reserve in the amount of anticipated losses.

(3) Require that a licensee have in effect a written financing assistance policy, approved by its board of directors, including credit evaluation criteria and other matters. The Commissioner shall not require that a licensee adopt a financing assistance policy that contains standards which prevent such licensee from exercising needed flexibility in evaluating and structuring financing assistance to business firms on a deal-by-deal basis.

§3325. Avoidance of conflict of interest.

(a) A licensee shall avoid any transaction or act which involves, or has the potential to involve, a conflict of interest, unless such transaction or act and the circumstances underlying the conflict or potential conflict of interest are fully and adequately disclosed to appropriate persons.

(b) Notwithstanding subsection (a) of this section, a licensee shall provide the Commissioner with a separate notice, setting forth the specific facts concerning an actual or potential conflict of interest, prior to the consummation of any transaction or act referred to in subsection (a) of this section.

(c) Nothing in this section shall limit the authority of the Commissioner to determine that a transaction or act involves a conflict of interest, including, but not limited to, disapproval of any proposed transaction, or to take such steps that the Commissioner deems necessary or appropriate to resolve such conflict of interest.

Subchapter IV. Mergers, Acquisitions and Sale of Business Assets.

§3331. General rules.

(a) Without the prior approval of the Commissioner, a licensee shall not consummate a transaction involving a merger, acquisition of control, or a sale of all or substantially all of its business assets, where the licensee is a principal party to such transaction.

(b) The Commissioner shall not approve the merger of a licensee with another corporation unless:

(1) The licensee is the surviving corporation; or

(2) If the licensee is the disappearing corporation, the surviving corporation is also a licensee.

(c) The Commissioner shall approve an application by a licensee for approval of a proposed transaction involving a merger, acquisition of control or a sale of all or substantially all of such licensee's business assets, only upon a finding by the Commissioner that:

(1) Such merger, acquisition, or sale will be on a sound financial basis with respect to the acquiring licensee;

(2) Upon consummation of such merger, acquisition, or sale, it is reasonable to believe that the acquiring licensee will comply with this chapter; and

(3) Such merger, acquisition, or sale will not have a major detrimental impact upon competition in the providing of financing assistance or management assistance to business firms, or if there will be such a major detrimental impact, such merger, acquisition, or sale is necessary in the interests of the financial soundness of any of the parties to such merger, acquisition, or sale, or is otherwise, on balance, in the public interest.

Subchapter V. Operating Rules Governing Business of Bidcos.

§3341. Form and maintenance of Bidco records; annual audited report.

(a) A licensee shall make and keep books, accounts, and other records in such form and manner as the Commissioner may require. Such records shall be kept at such place and shall be preserved for such length of time as the Commissioner may specify.

(b) Not more than ninety (90) days after the close of each fiscal year of a licensee or a longer period if specified by the Commissioner, a licensee shall file with the Commissioner an audited report containing the following:

(1) Financial statements, including balance sheet, statement of income or loss, statement of changes in capital accounts, and statement of changes in financial position;

(2) A report, certificate, or opinion of the independent certified public accountant or independent public accountant who performs the audit, stating that the financial statements were prepared in accordance with generally accepted accounting principles; and

(3) Such other information as the Commissioner may require.

§3342. Periodic report requirements.

In addition to the audited report required by Section 3341(b) of this title, a licensee shall file with the Commissioner such other reports and at such times as the Commissioner may require. Any report required by the Commissioner under this section shall be in such form and shall contain such information as the Commissioner may specify.

§3343. Examination of Bldcos.

(a) The Commissioner shall visit and examine each licensee as frequently as the Commissioner deems it necessary or expedient of such licensee. On the occasion of every such visit and examination, the Commissioner shall (in company with one (1) or more of the officers of such licensee, if requested by such licensee) be given free access to every part of the office or place of business and to the assets, securities, books, papers and records of such licensee.

(b) If in the Commissioner's opinion it is necessary for a thorough examination of a licensee, the Commissioner may retain one (1) or more accountants, attorneys, appraisers, or other third parties to assist the Commissioner in such examination. Within ten (10) days after receipt of a statement from the Commissioner, such licensee shall pay or reimburse the fees, costs and expenses of any third parties retained by the Commissioner under this subsection.

(c) Any examination under this section may be made by any person or persons designated by the Commissioner, and in such case all the powers vested in the Commissioner by this section shall be possessed by such person or persons so designated. When any such examination is made without the presence of the Commissioner, the Commissioner shall give written authority to the person or persons conducting such examination, which shall be exhibited to any person contacted in the course of the investigation.

Subchapter VI. Enforcement Powers of Commissioner

§3351. Investigations.

(a) The Commissioner may make such investigations within or without the State as the Commissioner may consider necessary or appropriate for determining whether to approve an application filed with the Commissioner under this chapter or for determining whether a licensee or other person has violated or is about to violate this chapter, to aid in the enforcement of this chapter, or to aid in issuing an order or promulgating a rule or regulation pursuant to this chapter.

(b) Any investigation under this section may be made by any person or persons designated by the Commissioner, and in such case all the powers vested in the Commissioner by this section shall be possessed by such person or persons so designated. When any such investigation is made without the presence of the Commissioner, the Commissioner shall give written authority to the person or persons conducting such investigation, which shall be exhibited to any person contacted in the course of such investigation.

(c) For purposes of an investigation under this section, the Commissioner may administer oaths and affirmations, subpoena witnesses, including but not limited to the officers, directors, trustees, partners, managers and employees of any entity being examined, compel the attendance of witnesses, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the Commissioner considers relevant to such investigation.

(d) If any person fails to comply with a subpoena or subpoena duces tecum issued by the Commissioner under this section or fails to testify with respect to a matter concerning

which the person may be lawfully questioned, the Court of Chancery, upon application of the Commissioner, may issue an order requiring the attendance of such person and the giving of testimony or production of evidence.

§3352. False statements, entries or reports; penalty.

Every director, officer, agent, clerk or employee of any entity affected by sections 3343 or 3351 of this chapter, who wilfully or knowingly subscribes or exhibits any false paper, with intent to deceive any person authorized to investigate or examine as to the condition of such entity, or who wilfully or knowingly subscribes to or makes any false report, shall be fined not less than \$500 nor more than \$1,000.

§3353. Violations; remedies.

(a) Subject to the State Administrative Procedures Act, the Commissioner may issue an order, setting forth an appropriate remedy, including, without limitation, a cease-and-desist order, an order removing any person from office with a licensee, or prohibiting any person from further participating in any manner in the conduct of the business of such licensee, upon a finding by the Commissioner that such licensee, subject person or other person:

(1) Has violated, is violating, or is about to violate any provision of this chapter or other applicable law, rule or regulation;

(2) Has engaged or participated, or is engaging or participating, or is about to engage or participate detrimentally with respect to the business of such licensee;

(3) Has been indicted or convicted for a crime involving dishonesty or breach of trust; or

(4) Is conducting acts that threaten the interests of such licensee or may threaten to impair public confidence in such licensee.

(b) The licensee, subject person or other person to whom an order is issued under subsection (a) of this section, is entitled to judicial review of such order as set forth in the State Administrative Procedures Act.

§3354. Receivership.

(a) If the Commissioner finds that a licensee is insolvent, or such licensee is transacting business without authority or in violation of this chapter or any other law, or it is contrary to the purposes of this Act for such licensee to continue business, the Commissioner shall communicate the facts to the Attorney General of the State who shall file in the Court of Chancery, in any county where such licensee is doing business, a complaint setting forth the facts and applying for an order requiring such licensee to show cause why its business should not be closed.

(b) In a proper case made, the Court of Chancery shall have the power to appoint a receiver to take charge of, settle and wind up the affairs of a licensee under the direction of the Court, to enjoin such licensee from doing business, or to make such other order or decree as the circumstances shall warrant and the Court shall deem proper.

§3355. Penalties.

(a) Subject to the State Administrative Procedures Act, should the Commissioner find that any person has violated this chapter, other than that prohibited under Section 3352 of this chapter, the Commissioner may order such person to pay to the State a civil penalty in such amount as the Commissioner may specify. However, the amount of any such civil penalty shall not exceed \$10,000.00 for each violation, or in the case of a continuing violation, \$10,000.00 for each day for which the violation continues.

(b) This section shall not apply to any act committed or omitted in good faith in conformity with an order, rule, declaratory ruling, or written interpretative opinion of the Commissioner, notwithstanding that such order, rule, declaratory ruling, or written interpretative opinion may be later amended, rescinded, or repealed, or determined by judicial or other authority to be invalid for any reason.

(c) The provisions of subsection (a) of this section are in addition to, and not an alternative to, other provisions of this chapter which authorize the Commissioner to issue orders or to take other action on account of a violation of this chapter.

(d) The provisions of subsection (a) of this section are in addition to, and not an alternative to, any criminal penalties that may be available under State and Federal law.

Section 2. This Act shall become effective on July 1, 1988.

Approved July 12, 1988.

CHAPTER 345

FORMERLY

SENATE BILL NO. 496

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION FOR CERTAIN GRANTS-IN-AID.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (THREE-FOURTHS OF ALL THE MEMBERS ELECTED TO EACH HOUSE THEREOF CONCURRING THEREIN):

Section 1. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(10-07-02)	<u>Delaware Justice Information System</u>	
	Local Police Coordination	\$ 32,500
	Aid to Local Law Enforcement	300,000
(20-06-16)	<u>Office of Arts Council</u>	
	Delaware Arts Council	\$ 575,000
(35-01-10)	<u>Dept. of Health & Social Services - Secretary</u>	
	Adolescent Program	\$ 410,000

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(35-14-10)	<u>Division of Aging</u>	
	<u>Senior Centers</u>	
	Absolom Jones Senior Center	\$ 85,940
	Brandywine Senior Center	59,228
	Bridgeville Senior Center	68,907
	Cape Henlopen Senior Center	112,975
	Chesapeake and Delaware Senior Center	34,628
	Clarence Fraim Senior Center	98,933
	DeLaHarr Senior Center	63,228
	Frederica Adult Center	54,309
	Harrington Senior Center	50,946
	Harvest Years Senior Center	27,749
	Howard Weston Senior Center	176,190
	Indian River Senior Center	51,316
	Jewish Community Center	51,824
	Jimmy Jenkins Senior Center	55,332
	Julia Tallman Golden Age Center	56,992
	Kirkwood United Methodist Church Senior Center	19,172
	Laurel Senior Center	112,315
	Lewes Senior Citizens Center	29,426
	M.O.T. Senior Center	58,628
	Mid-County Senior Center	109,702
	Milford Senior Center	62,946
	Modern Maturity Center	149,334
	Nanticoke Senior Center	99,811
	New Castle Senior Center	46,555
	Newark Senior Center	90,709
	Northeast Senior Center	61,011
	Oak Grove Senior Center, Inc.	114,362
	Peoples Settlement - Senior Citizens Program	47,192
	St. Ann's Neighborhood Services	74,292
	St. Anthony's Senior Center	76,972
	St. Hedwig's Senior Center	152,233
	St. Patrick's Senior Center	97,832
	St. Peter's Adult Center	74,632
	St. Thomas Senior Center	90,933
	Sellers Senior Center	66,228

Smyrna-Clayton Senior Center	19,209
West Center City Senior Activity Center	69,192
Wilmington Senior Center	135,933

TOTAL - Section 1 \$ 4,224,616

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Category/Description</u>	<u>Amount</u>
<u>Arts/Historical/Cultural/Tourism</u>	
Afro-American Historical Society of Delaware, Inc.	\$ 8,000
Associated Community Talents, Inc.-The Everett Theater	9,000
Delaware Academy of Science-Iron Hill Museum	2,000
Delaware Agriculture Museum	26,000
Delaware City Day Committee	7,500
Delaware Humanities Council-Visiting Scholars Program	20,000
Delaware State Fair	50,000
Harrington Historical Society	8,000
Historic Red Clay Valley, Inc.	
Wilmington & Western Railroad	3,000
Historical Society of Delaware	45,000
Miss Delaware Pageant	5,000
Mohawk Foundation, Inc.	34,000
Namaan's Kill Questors	4,000
New Castle - Separation Day	8,500
WHYY	315,000

Aging - Other

Boys Club of Wilmington	\$ 12,000
Geriatric Services of Delaware, Inc.	65,000
Meals on Wheels - Lewes and Rehoboth	28,000
Rehabilitative Opportunities for Homebound Residents	20,000
Sussex County Home Services (HOPE Program)	30,000
West Center City Community Center	
- Physical Fitness Program	6,000

Handicapped/Health/Labor

AHEDD, Inc. - Kent/Sussex	\$ 19,000
AHEDD, Inc. - Wilmington	13,200
Adult Educable Mentally Retarded	41,200
Alliance for the Mentally Ill	27,500
Arthritis Foundation	8,000
Career Exploration Program, Inc.	23,000
Delaware Association for Blind Athletes	6,000
Delaware Association for the Blind	40,700
Delaware Elwyn Institute	12,000
Delaware Hospice, Inc.	150,000
Delaware Paralyzed Veterans Association, Inc.	12,000
Delaware Special Olympics	5,000
Delaware Vietnam Veterans Leadership Program	8,800
Easter Seal Society for Crippled Children	
& Adults of Delaware	66,000
Institute for Development of Human Resources	22,000
Jobs for Delaware Graduates	100,000
Kent/Sussex Industries	35,000
Mancus Foundation	26,300
Mary Campbell Center, Inc.	100,000
Mental Health Association in Delaware	12,000
National Multiple Sclerosis Society	5,000

Family and Youth Services

<u>Residential Treatment</u>	
Ald-In-Dover, Inc. (Eight-O-One)	\$ 35,000
Children's Home, Inc.	40,000
Diamond State Youth, Inc.	95,000
Independent Living - Apartment Training	54,000

Independent Living - Senior Home Share	10,000
Education	
Beechwood Individualized Parent/Child Program	\$ 80,000
Other	
Big Brothers/Big Sisters of Delaware, Inc.	\$ 35,200
Child, Inc.	55,000
Children's Bureau of Delaware	98,000
Delaware Assn. of Chiefs of Police - Camp Barnes	20,000
Del. Guidance Services for Children & Youth, Inc.	125,000
Del. State Headstart Parents Association	10,000
Family Services of Delaware	32,000
Juvenile Awareness Education Program	15,000
National Council on Agricultural Life and Research Fund, Inc.	15,000
Parents Anonymous of Delaware	20,000
Peoples Place II	70,000
Turnabout Counseling Center/Seaford Action Committee	140,000
United Cerebral Palsy of Delaware, Inc.,	40,000
YMCA of Southern Delaware - Mini-Bike	22,000
Youth Guidance Program	12,000
Adult Day Care	
Total Living Care, Inc.	\$ 20,000
Alcohol/Drug Abuse	
ANKH, Inc.	\$ 18,000
1212 Program	13,000
Center for Pastoral Care	25,000
Llmen House	32,000
Open Door, Inc.	75,000
Resource Center, Inc.	40,000
Neighborhood/Community Services	
Casa San Francisco	\$ 20,000
Chesapeake Bay Girl Scout Council, Inc.	15,000
Civil Air Patrol - Cadet Program	9,000
Claymont Community Center	200,000
Community Legal Aid - Social Security Advocacy	85,000
CONTACT Wilmington	50,000
Delaware Crime Stoppers	11,000
Delaware Crop Improvement Association	2,500
Delaware Safety Council, Inc.	38,000
Eastlawn Area Human Services, Inc.	75,000
Eastside Citizens, Inc.	40,000
Edgemoor Educational and Recreational Community Center	130,000
Food Conservers	75,000
Girls Club of Delaware	25,000
Greater Elsmere Recreation & Education Center	100,000
Hilltop Lutheran Neighborhood Center	29,000
Hockessin Community Center	48,000
Home of Divine Providence, Inc.	30,000
Latin American Community Center, Inc.	27,000
M.O.T. Community Action	35,000
Mary Mother of Hope - House of Joseph	24,000
Mary Mother of Hope House - Phase I	42,000
Neighborhood/Community Services (cont.)	
Mary Mother of Hope House - Phase II and III	\$ 46,000
Mary Mother of Hope House - Emmanuel Dining Room	46,000
Mary Mother of Hope House - Job Placement Center	17,000
Methodist Mission and Church Extension Society, Inc. - Methodist Action Program	25,000
Neighborhood House, Inc.	42,000

New Castle County Crisis Pregnancy Center	22,000
Newark Housing Ministries	26,000
Richardson Park Community Action	15,000
Rosehill Community Center, Inc.	97,000
Salvation Army Emergency Housing	65,000
Salvation Army - Kent County Crisis Alleviation	22,000
Slaughter Neck Community Action Committee	32,000
South Wilmington Medical Center	67,000
South Wilmington Senior Adult Center	6,000
Southwest Wilmington Community Center	87,000
St. Helena's Church - Social Ministry	6,000
Sussex Community Crisis Housing Services, Inc.	10,000
Sussex County Community Action	44,000
Tri-State Bird Rescue and Research	11,000
Union Baptist Services	47,000
West End Neighborhood House, Inc.	27,000
Whatcoat Social Service Agency	42,000
YMCA of Delaware Eastern Sussex Family Branch	12,000
YMCA of New Castle County	75,000

TOTAL - Section 2 \$ 4,684,400

Section 3. (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	\$ 11,908
Belvedere Volunteer Fire Company	Belvedere	11,908
Brandywine Hundred Fire Co. No. 1	Bellefonte	11,908
Christiana Fire Co.	Christiana	11,908
Claymont Fire Co.	Claymont	11,908
Cranston Heights Fire Co.	Cranston Heights	11,908
Delaware City Fire Co.	Delaware City	11,908
Elsmere Fire Co.	Elsmere	11,908
Five Points Fire Co. No. 1	Richardson Park	11,908
Goodwill Fire Co. No. 1	New Castle	11,908
Hockessin Fire Co.	Hockessin	11,908
Holloway Terrace Fire Co.	Holloway Terrace	11,908
Mill Creek Fire Co.	Marshallton	11,908
Minquadales Fire Co.	Minquadales	11,908
Minquas Fire Co. No. 1	Newport	11,908
Odessa Fire Co., Inc.	Odessa	11,908
Port Penn Volunteer Fire Co., Inc.	Port Penn	11,908
Talleyville Fire Co., Inc.	Talleyville	11,908
Townsend Fire Co., Inc.	Townsend	11,908
Volunteer Hose Co., Inc.	Middletown	11,908
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	11,908

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	\$ 11,908
Camden-Wyoming Fire Co.	Camden	11,908
Carlisle Fire Co.	Carlisle	11,908
Cheswold Volunteer Fire Co.	Cheswold	11,908
Citizens' Hose Co. No. 1, Inc.	Smyrna	11,908
Clayton Fire Co.	Clayton	11,908
Robbins Hose Co. (Dover Fire Dept.)	Dover	11,908
Farmington Volunteer Fire Co.	Farmington	11,908
Felton Community Fire Co.	Felton	11,908
Frederica Volunteer Fire Co.	Frederica	11,908
Harrington Fire Co.	Harrington	11,908
Hartly Volunteer Fire Co.	Hartly	11,908
Houston Volunteer Fire Co.	Houston	11,908
Leipsic Volunteer Fire Co.	Leipsic	11,908
Little Creek Volunteer Fire Co.	Little Creek	11,908
Magnolia Volunteer Fire Co.	Magnolia	11,908
Marydel Volunteer Fire Co., Inc.	Marydel	11,908
South Bowers Fire Co.	South Bowers	11,908

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 11,908
Blades Volunteer Fire Co., Inc.	Blades	11,908
Bridgeville Volunteer Fire Co.	Bridgeville	11,908
Dagsboro Volunteer Fire Co.	Dagsboro	11,908
Delmar Fire Department	Delmar	11,908
Ellendale Volunteer Fire Co.	Ellendale	11,908
Frankford Volunteer Fire Co.	Frankford	11,908
Georgetown Fire Co., Inc.	Georgetown	11,908
Greenwood Volunteer Fire Co.	Greenwood	11,908
Gumboro Volunteer Fire Co., Inc.	Gumboro	11,908
Indian River Volunteer Fire Co.	Indian River	11,908
Laurel Fire Department, Inc.	Laurel	11,908
Lewes Fire Department, Inc.	Lewes	11,908
Millsboro Fire Co.	Millsboro	11,908
Milton Volunteer Fire Co.	Milton	11,908
Millville Volunteer Fire Co.	Millville	11,908
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	11,908
Roxanna Volunteer Fire Co.	Roxanna	11,908
Seaford Volunteer Fire Dept., Inc.	Seaford	11,908
Selbyville Volunteer Fire Co., Inc.	Selbyville	11,908
Slaughter Beach Memorial Fire Co.	Slaughter Beach	11,908

TOTAL \$ 714,480

(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	\$ 1,631
Blades Volunteer Fire Co., Inc.	Blades	1,631
Bridgeville Volunteer Fire Co.	Bridgeville	1,631
Bowers Volunteer Fire Co., Inc.	Bowers	1,631
Brandywine Hundred Fire Co., No. 1	Bellefonte	1,631
Camden-Hyoming Fire Co.	Camden	1,631
Carlisle Fire Co.	Millford	1,631
Cheswold Volunteer Fire Co.	Cheswold	1,631
Christiana Fire Co.	Christiana	1,631
Claymont Fire Co.	Claymont	1,631
Cranston Heights Fire Co.	Cranston Heights	1,631
Dagsboro Volunteer Fire Co.	Dagsboro	1,631
Delaware City Fire Co.	Delaware City	1,631
Delmar Fire Department	Delmar	1,631
Ellendale Volunteer Fire Co.	Ellendale	1,631
Elsmere Fire Co.	Elsmere	1,631
Felton Community Fire Co.	Felton	1,631
Five Points Fire Co. No. 1	Richardson Park	1,631
Frankford Volunteer Fire Co. No. 1	Frankford	1,631
Frederica Volunteer Fire Co.	Frederica	1,631
Goodwill Fire Co. No. 1	New Castle	1,631
Greenwood Volunteer Fire Co.	Greenwood	1,631
Gumboro Volunteer Fire Co., Inc.	Gumboro	1,631
Harrington Fire Co.	Harrington	1,631
Hartly Volunteer Fire Co., Inc.	Hartly	1,631
Holloway Terrace Fire Co.	Holloway Terrace	1,631
Hockessin Fire Co.	Hockessin	1,631
Laurel Fire Department, Inc.	Laurel	1,631
Lepsic Volunteer Fire Co.	Lepsic	1,631
Lewes Fire Department, Inc.	Lewes	1,631
Magnolia Volunteer Fire Co.	Magnolia	1,631
Mill Creek Fire Co.	Marshallton	1,631
Millville Volunteer Fire Co., Inc.	Millville	1,631
Milton Volunteer Fire Co.	Milton	1,631
Minquadales Fire Co.	Minquadales	1,631
Minquas Fire Co. No. 1	Newport	1,631
Port Penn Volunteer Fire Co.	Port Penn	1,631
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	1,631
Roxanna Volunteer Fire Co.	Roxanna	1,631
Seaford Volunteer Fire Co., Inc.	Seaford	1,631
Selbyville Volunteer Fire Co., Inc.	Selbyville	1,631
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,631
Talleyville Fire Co., Inc.	Talleyville	1,631
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	1,631

TOTAL \$ 71,764

(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	\$ 1,631
Bethany Beach Volunteer Fire Co.	Bethany Beach	1,631
Blades Volunteer Fire Co.	Blades	1,631
Bowers Volunteer Fire Co., Inc.	Bowers	1,631
Brandywine Hundred Fire Co. No. 1	Bellefonte	1,631
Bridgeville Volunteer Fire Co.	Bridgeville	1,631
Camden-Wyoming Fire Co.	Camden	1,631
Carlisle Fire Co.	Millford	1,631
Cheswold Volunteer Fire Co.	Cheswold	1,631
Christiana Fire Co.	Christiana	1,631
Citizens' Hose Co. No. 1, Inc.	Smyrna	1,631
Claymont Fire Co.	Claymont	1,631
Clayton Fire Co.	Clayton	1,631
Cranston Heights Fire Co.	Cranston Heights	1,631
Dagsboro Volunteer Fire Co.	Dagsboro	1,631
Delaware City Fire Co.	Delaware City	1,631
Delmar Fire Department	Delmar	1,631
Robbins Hose Co. (Dover Fire Dept.)	Dover	1,631
Elsmere Fire Co.	Elsmere	1,631
Farmington Volunteer Fire Co.	Farmington	1,631
Felton Community Fire Co.	Felton	1,631
Five Points Fire Co. No. 1	Richardson Park	1,631
Frederica Volunteer Fire Co.	Frederica	1,631
Georgetown Fire Co.	Georgetown	1,631
Greenwood Fire Co. No. 1	Greenwood	1,631
Goodwill Fire Co. No. 1	New Castle	1,631
Harrington Fire Co.	Harrington	1,631
Hartly Volunteer Fire Co., Inc.	Hartly	1,631
Hockessin Fire Co.	Hockessin	1,631
Holloway Terrace Fire Co.	Holloway Terrace	1,631
Indian River Volunteer Fire Co.	Indian River	1,631
Laurel Fire Dept., Inc.	Laurel	1,631
Leipsic Volunteer Fire Co.	Leipsic	1,631
Lewes Fire Department, Inc.	Lewes	1,631
Little Creek Volunteer Fire Co.	Little Creek	1,631
Magnolia Volunteer Fire Co.	Magnolia	1,631
Marydel Volunteer Fire Co.	Marydel	1,631
Mill Creek Fire Co.	Marshallton	1,631
Millsboro Fire Co.	Millsboro	1,631
Millville Volunteer Fire Co., Inc.	Millville	1,631
Milton Volunteer Fire Co.	Milton	1,631
Minquadales Fire Co.	Minquadales	1,631
Minquas Fire Co. No. 1	Newport	1,631
Odessa Fire Co., Inc.	Odessa	1,631
Port Penn Volunteer Fire Co., Inc.	Port Penn	1,631
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	1,631
Roxanna Volunteer Fire Co.	Roxanna	1,631
Seaford Volunteer Fire Department, Inc.	Seaford	1,631
Selbyville Fire Co., Inc.	Selbyville	1,631
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,631
South Bowers Fire Co.	South Bowers	1,631
Ellendale Volunteer Fire Co.	Ellendale	1,631
Houston Volunteer Fire Co.	Houston	1,631
Talleyville Fire Co., Inc.	Talleyville	1,631
Townsend Fire Co., Inc.	Townsend	1,631
Volunteer Hose Co., Inc.	Middletown	1,631
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	1,631

TOTAL \$ 92,967

(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	\$	2,432
Brandywine Hundred Fire Co., No. 1	Bellefonte		2,432
Christiana Fire Co.	Christiana		2,432
Claymont Fire Co.	Claymont		2,432
Delaware City Fire Co.	Delaware City		2,432
Elsmere Fire Co.	Elsmere		2,432
Five Points Fire Co. No. 1	Richardson Park		2,432
Goodwill Fire Co. No. 1	New Castle		2,432
Mill Creek Fire Co.	Marshallton		2,432
Talleyville Fire Co., Inc.	Talleyville		2,432
Volunteer Hose Co., Inc.	Middletown		2,432
Wilmington Manor Volunteer Fire Co.	Wilmington Manor		2,432

Kent County

Camden-Wyoming Fire Company	Camden	\$	2,432
Carlisle Fire Co.	Milford		2,432
Citizens' Hose Co., No. 1, Inc.	Smyrna		2,432
Hartly Volunteer Fire Co., Inc.	Hartly		2,432
Robbins Hose Co., (Dover Fire Dept.)	Dover		2,432

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	2,432
Lewes Fire Department, Inc.	Lewes		2,432
Millsboro Fire Co.	Millsboro		2,432
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach		2,432
Seaford Volunteer Fire Co., Inc.	Seaford		2,432
	TOTAL	\$	53,504

(e) There is appropriated to the Mayor and Council of Wilmington the following sums to be used for:

(1) The prevention and extinguishment of fires throughout the City of Wilmington and for the maintenance of the apparatus and equipment of the 8 fire companies organized and equipped in the City.	\$	95,264
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(11) 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.	\$	7,296
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TOTAL	\$	102,560
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(f) There is appropriated to the listed fire companies the following sums to help level up the insurance premium tax revenues to be used for the maintenance of apparatus and equipment:

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	15,618
Blades Volunteer Fire Co., Inc.	Blades		15,618
Bowers Volunteer Fire Co., Inc.	Bowers		15,618
Bridgeville Volunteer Fire Co.	Bridgeville		15,618
Camden-Wyoming Fire Co.	Camden		15,618
Carlisle Fire Co.	Milford		15,618
Cheswold Volunteer Fire Co.	Cheswold		15,618
Citizens' Hose Co. No. 1, Inc.	Smyrna		15,618
Clayton Fire Co.	Clayton		15,618
Dagsboro Volunteer Fire Co.	Dagsboro		15,618
Delmar Fire Department	Delmar		15,618
Robbins Hose Co., (Dover Fire Dept.)	Dover		15,618
Ellendale Volunteer Fire Co.	Ellendale		15,618
Farmington Volunteer Fire Co.	Farmington		15,618
Felton Community Fire Co.	Felton		15,618
Frankford Volunteer Fire Co.	Frankford		15,618
Frederica Volunteer Fire Co.	Frederica		15,618
Georgetown Fire Co., Inc.	Georgetown		15,618

Greenwood Volunteer Fire Co.	Greenwood	15,618
Gumboro Volunteer Fire Co., Inc.	Gumboro	15,618
Harrington Fire Co.	Harrington	15,618
Hartly Volunteer Fire Co.	Hartly	15,618
Houston Volunteer Fire Co.	Houston	15,618
Indian River Volunteer Fire Co.	Indian River	15,618
Laurel Fire Department, Inc.	Laurel	15,618
Leipsic Volunteer Fire Co.	Leipsic	15,618
Lewes Fire Department, Inc.	Lewes	15,618
Little Creek Volunteer Fire Co.	Little Creek	15,618
Magnolia Volunteer Fire Co.	Magnolia	15,618
Marydel Volunteer Fire Co., Inc.	Marydel	15,618
Millsboro Fire Co.	Millsboro	15,618
Milton Volunteer Fire Co.	Milton	15,618
Millville Volunteer Fire Co.	Millville	15,618
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	15,618
Roxanna Volunteer Fire Co.	Roxanna	15,618
Seaford Volunteer Fire Dept., Inc.	Seaford	15,618
Selbyville Volunteer Fire Co., Inc.	Selbyville	15,618
Slaughter Beach Memorial Fire Co.	Slaughter Beach	15,618
South Bowers Fire Co.	South Bowers	15,618
TOTAL		\$ 609,102

(g) 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	\$ 1,631
American Legion, Sussex Post #8	Georgetown	1,631
American Legion, Kent Post #14	Smyrna	1,631
Sussex Memorial Post #7422, V.F.W.	Millsboro	1,631
TOTAL		\$ 6,524

Total - Section 3 \$ 1,650,901

Section 4. (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	\$ 21,382
Veterans of Foreign Wars, Department of Delaware	21,382
Disabled American Veterans, Department of Delaware	17,816
Vietnam Veterans of America, Department of Delaware	17,816
Paralyzed Veterans of America, Department of Delaware	17,816

(b) Funds are hereby appropriated to the following grants-in-aid in the amounts listed for operations expenses:

Veterans of Foreign Wars, Department of Delaware	\$ 5,199
American Legion, Department of Delaware	5,199
Disabled American Veterans, Department of Delaware	5,199
Vietnam Veterans of America	5,199
Jewish War Veterans of the U.S., Department of Delaware	2,976
Delaware Veterans of World War I	2,223
Paralyzed Veterans of America, Department of Delaware	4,457

(c) Expenses for Memorial Day programs incurred by local Posts in Sussex, Kent and New Castle Counties shall 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 \$4,203 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 \$4,203 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 \$1,679 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 4

\$ 136,749

Section 5. The appropriation in Section 2 of this Act to Delaware State Fair, Inc., shall be used for expenses and 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 6. 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 7. 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. Those senior centers receiving funds under the Older Americans Act of 1965, as amended, shall present to the Division of Aging a proposal for expenditure of State 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, the Budget Director, and the Controller General for the State of Delaware.

Section 8. The provisions of House Joint Resolution No. 2, as amended by House Amendment No. 1, of the 132nd General Assembly shall continue in effect for the term of this Act.

Section 9. No funds appropriated in this Act shall be expended in a political campaign or for partisan political purposes.

Section 10. The Controller General may from time to time conduct performance audits of any non-state agency for which funds are appropriated in this Act.

Section 11. Section 1 of this Act provides an appropriation to the Delaware State Arts Council. It is the legislative intent of this appropriation to provide, under the leadership of the Delaware State Arts Council, a unified process for allocating matching funds to the numerous cultural and arts organizations requesting assistance. Furthermore, the funds from State government are intended to match funds from the federal, county and municipal governments and the private sector in the support of arts and cultural programs.

Section 12. Funds appropriated in this Act shall not be used by any agency to provide child day care. It is the intent of the General Assembly that no funds will be appropriated in Fiscal Year 1990 in grants-in-aid to agencies for the purchase of capital equipment, relocation, rehabilitation, renovation or purchase of buildings.

Section 13. This Act is a supplementary appropriation and the monies appropriated shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended or unencumbered as of June 30, 1989, shall revert to the General Fund of the State of Delaware.

Section 14. (a) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation in Section 2 of this Act at the beginning of the first quarter of Fiscal Year 1989 for the agencies as follows:

Afro American Historical Society
 Delaware Association for Blind Athletes
 Delaware Association of Police Chiefs - Camp Barnes
 Delaware City Day Committee
 Delaware State Fair
 Miss Delaware Pageant
 New Castle - Separation Day
 National Multiple Sclerosis Society
 South Wilmington Senior Adult Center

(b) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation in Section 1 of this Act at the beginning of the first quarter of Fiscal Year 1989 for the municipalities which receive \$4,000 or less from the line item Aid to Local Law Enforcement.

(c) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation to fire companies listed in Section 3 of this Act at the beginning of the first quarter of Fiscal Year 1989.

Section 15. Paragraph (d), Chapter 65, Title 29, Delaware Code, provides that monies appropriated for grants-in-aid shall be paid in installments of twenty-five percent each quarter of the fiscal year. An installment payment may be delayed or withheld if the grant-in-aid recipient because of, but not limited to, the following:

- (a) Has not submitted a quarterly statement of expenditures if required to do so;
- (b) Expended funds from the grant-in-aid for purposes not intended by the General Assembly;
- (c) Expended funds for day care, purchase of capital equipment, relocation, renovation, rehabilitation or purchase of buildings; and
- (d) Agency is no longer in operation.

Upon notification by the Chairman of the Joint Finance Committee, the State Treasurer shall be directed to withhold such installment payment(s).

Section 16. (a) It is the intent of the General Assembly that each Grant-In-Aid recipient shall submit one of the following with its application for a grant award in Fiscal Year 1990:

(i) An audit prepared by a Certified Public Accountant covering the prior full fiscal year of the receiving agency, or

(ii) A Balance Sheet reflecting total Assets, Liabilities, and Fund Balances covering the prior fiscal year of the receiving agency; Statements of Support, Revenue and Expenses and Changes in Fund Balances covering the prior fiscal year of the receiving agency; and Statements of Functional Expenses covering the prior fiscal year of the receiving agency.

(b) Fire companies listed in this Act shall submit financial information on the form approved by the State Treasurer, the Budget Director and the Controller General. Consequently, the listed fire companies are exempt from the provisions of Subsection (a) of this Section.

(c) Veterans' organizations in Subsection (4) of this Act are exempt from the provisions of this Section.

(d) Recipients of the appropriation for Aid to Local Law Enforcement shall be exempt from the provisions of this Section.

(e) Non-compliance by a Grant-In-Aid recipient with the provisions of this Section shall automatically disqualify the applicant for consideration of a Grant-In-Aid award in Fiscal Year 1990.

(f) For Fiscal Year 1989, it is the legislative intent that a Grant-In-Aid recipient listed in Sections 1 or 2 of this Act shall not be entitled to receive any of the funds appropriated by this Act unless certain financial information has been received by the Office of the Controller

General on or before July 25, 1988. Such financial information shall be in the form as defined in Subsection (a)(1) or Subsection (a)(11) of this Section covering full fiscal year of the receiving agency. If any Grant-in-Aid recipient fails to comply with this Subsection (f) the funds appropriated by this Act to that recipient shall revert to the General Fund of the State.

Section 17. Amend §6533 (f) and (g), Chapter 65, Title 29 of the Delaware Code, by striking said sections in their entirety and substituting in lieu thereof the following:

"(f) No appropriation or supplemental appropriation enacted for any given fiscal year for grants-in-aid in the aggregate shall: (1) exceed 1.2 percent of the estimated net state General Fund revenue estimated in March for such fiscal year from all sources; and (2) cause the aggregate state General Fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated net state General Fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year. The term 'estimated net state General Fund revenue' means the estimated gross state General Fund revenue less estimated revenue refunds."

"(g) Any appropriation for Municipal Street Aid shall not be subject to the limitation in subsection (f) of §6533."

Section 18. For Fiscal Year 1990 and thereafter, the annual Grant-in-Aid Appropriation Bill will not increase more than 108% of the prior year's total Grants-in-Aid Appropriation Bill until the limit under Section 6533 (f) of Chapter 65, Title 29, of the Delaware Code is reached.

Approved July 12, 1988.

CHAPTER 346

FORMERLY

SENATE BILL NO. 382

AN ACT TO AMEND CHAPTER 56, TITLE 29 OF THE DELAWARE CODE RELATING TO PENSIONS FOR MEMBERS OF THE STATE JUDICIARY.

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

Section 1. Amend §5603 (2) (b), Chapter 56, Title 29, Del. C. by deleting the phrase "the maximum pension" as it appears therein and substituting in lieu thereof the phrase "the pension".

Approved July 12, 1988.

CHAPTER 347

FORMERLY

SENATE BILL NO. 158

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

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

Section 1. Amend §6907, Title 29 of the Delaware Code by striking it in its entirety and by substituting in lieu thereof the following:

"The bids shall be publicly opened at the time and place specified and the contract shall be awarded within 30 days thereafter by the agency or a representative delegated by the agency, except that in the case of a public school district and its board the contract shall be awarded within 60 days thereafter, in accordance with regulations prescribed by the agency, to the lowest responsible vendor unless, in the opinion of the agency or its delegated representative, the interest of the State or the contracting county shall be better served by the awarding of the contract to some other vendor, which may then be done, provided the agency shall set down in its minutes the reason or reasons for granting the contract to the person other than the lowest responsible vendor, and clearly describing how the interest of the State or the contracting county shall be better served by awarding the contract to other than the lowest vendor. In determining how the interest of the State or contracting county is better served in making an award to other than the lowest responsible vendor, the agency may take into consideration unsatisfactory performances on any previously awarded contract by the vendor being rejected. If 2 or more responsible vendors shall bid an equal amount and such amount shall be the lowest bid, the agency or its delegated representative may award the contract to any 1 of them. The agency or its delegated representative may reject all bids."

Approved July 12, 1988.

CHAPTER 348

FORMERLY

SENATE BILL NO. 243

AN ACT TO AMEND CHAPTER 40, TITLE 10, OF THE DELAWARE CODE RELATING TO THE TORT CLAIMS ACT.

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

Section 1. Amend Section 4001, Chapter 40, Title 10 of the Delaware Code by inserting after the word "commission" and before the words "or agency" a comma and the words "Conservation Districts"

Approved July 12, 1988.

CHAPTER 349

FORMERLY

SENATE BILL NO. 392

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 65, TITLE 11, DELAWARE CODE RELATING TO THE COMPENSATION OF MEMBERS OF THE INSTITUTIONAL RELEASE CLASSIFICATION BOARD.

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

Section 1. Amend §6529A(c), Chapter 65, Title 11, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) The three (3) individuals to be appointed by the Council on Administration of Justice shall receive compensation in the amount of \$90 per meeting. However, no member so appointed shall receive compensation in excess of \$4,000 per annum."

Approved July 12, 1988.

CHAPTER 35D

FORMERLY

SENATE BILL NO. 76
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, TITLE 12, DELAWARE CODE, RELATING TO DISTRIBUTION OF DECEDENT'S PROPERTY WITHOUT GRANT OF LETTERS WHERE ESTATE ASSETS DO NOT EXCEED \$12,500.

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

Section 1. Amend §2306 (a), Chapter 23, Title 12 Delaware Code by inserting after the words "by the decedent," and before the words "shall be entitled" as they appear therein the following:

"or a funeral director licensed in the State of Delaware,".

Section 2. Amend §2306 (b), Chapter 23, Title 12, Delaware Code, by inserting after the words "of the decedent" and before the words "in that order" as they appear therein the following:

", or to a funeral director licensed in the State of Delaware,"

Approved July 12, 1988.

CHAPTER 351

FORMERLY

SENATE BILL NO. 442

AN ACT TO AMEND DELAWARE CODE TITLE 29, CHAPTER 50, BY CREATING THE DELAWARE TECHNICAL INNOVATION PROGRAM.

WHEREAS, the Small Business Innovation Research (SBIR) Program is a Federal program begun in 1982 and continuing through September 1993 that requires Federal agencies with nongovernmental research and development budgets in excess of \$100 million to allocate 1.25% of their research and development budgets to small business competitors; and

WHEREAS, the SBIR program operates in three phases: Phase I awards up to \$50,000 for six months to determine project feasibility, Phase II awards up to \$500,000 for two years to fund additional research and development on innovative projects that show positive results during Phase I, Phase III commercialization of the project; and

WHEREAS, in Delaware the SBIR program stimulates technological growth, scientific advancement, and economic competitiveness through supporting industrially-relevant research in technological fields consistent with Delaware strengths and resources; and

WHEREAS, the SBIR program provides small businesses with an excellent opportunity to propose innovative ideas that meet the research and development needs of the Federal government, contributes to Delaware's private sector technology and opens the door to possible future commercialization; and

WHEREAS, the SBIR program is important to Delaware because it can help create jobs in technically oriented small business firms as well as keeping employing industries current with innovation; and

WHEREAS, the SBIR program provides the kinds of pre-venture capital seed money it is most difficult for early stage technology businesses to find and provides those dollars in the form of project money rather than either equity or debt; and

WHEREAS, economists have determined the future success of a State will be more technologically determined than ever before, that 40% of improved manufacturing productivity is technology-based and if properly used, the SBIR program strengthens the ability of a state to improve the productivity of its industrial, agricultural or service business base; and

WHEREAS, in the 1987 "Report to the States" from the Small Business High Technology Institute, Delaware missed its target of dollar value of total awards by almost \$1.2 million; and

WHEREAS, the most reliable forecaster of a state's performance in the SBIR program is the relationship between actual and targeted numbers of proposals. Delaware missed its proposed target by 47% and its Phase I target by 50% over the first four years of the program; and

WHEREAS, the 1988 Operation Plan for the Delaware Development Office "Economic Growth in Delaware" has stated as a specific goal in promoting high technology growth to "Develop an ongoing mechanism to encourage technological innovation and greater technology transfer among Delaware government, academia, and industry".

NOW, THEREFORE:

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

Section 1. Amend Chapter 50, Title 29, Delaware Code by adding a new Subchapter II A to read as follows:

"Subchapter II A. Delaware Technical Innovation Program

§5035. Creation; Definitions.

a) There is hereby created the Delaware Technical Innovation Program to be administered by the Delaware Development Office.

b) For the purpose of this Subchapter the following definitions shall apply:

1) 'Office' means the Delaware Development Office.

2) 'Council' means the Council on Development Finance as defined in §5007 of this chapter.

3) 'Small business innovation research program' or 'SBIR' means that program, enacted pursuant to the small business innovation development act of 1982 (P.L. 97-219), which provides funds to small businesses to conduct innovative research having commercial application.

4) 'Small business' means a corporation, partnership, sole proprietorship or individual, operating a business for profit, with one hundred employees or less, including employees employed in any subsidiary or affiliated corporation which otherwise meets the requirements of the federal small business innovation research program.

§5036. Duties.

In carrying out this program, to promote technology development and utilization within the small business sector, the duties of the Delaware Development Office shall include but not be limited to:

- 1) Promote the SBIR program among Delaware small businesses.
- 2) Seek technical assistance for small businesses to participate more effectively in the Federal Small Business Innovation Research (SBIR) program.
- 3) Coordinate efforts with small business, institutions of higher education, financial institutions, and government to affect timely development and utilization of new development of technology.
- 4) Administer state matching funds in association with the Delaware Technical Innovation Program for the Federal SBIR program to provide state matching funds to compensate for the lag between Federal Phase I and Phase II awards.
- 5) Coordinate efforts within the business sector to commercialize innovative products and processes developed by small businesses.
- 6) Assist small businesses that are engaged in technology development and utilization in obtaining private sector financing.
- 7) Develop job training programs to meet specific needs for small business.
- 8) Review and recommend ways of streamlining relevant state regulations to expedite the development of innovative products and processes.

§5037. Matching Funds for the Federal Small Business Innovation Research Program.

- 1) The State may provide matching funds up to a maximum of the Federal grant for Phase I if:
 - a) a small business has won a Phase I award in the Federal Small Business Innovation Research (SBIR) program; and
 - b) Such small business has submitted a proposal for a Phase II award; and
 - c) Such small business' principal place of business is located in this state; and
 - d) Such small business certifies that the research to be conducted will benefit the Delaware economy.

2) The Council shall establish criteria and the Office shall administer the state matching funds.

§5038. Reporting.

The Delaware Development Office shall report to the Governor and the General Assembly on or before January 15, 1990 and every year thereafter."

Section 2 This Act shall become effective upon an appropriation by the General Assembly.

Approved July 12, 1988.

CHAPTER 352

FORMERLY

SENATE BILL NO. 452
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 1, TITLE 8, OF THE DELAWARE CODE TO AMEND THE GENERAL CORPORATION LAW AND CHAPTER 23, TITLE 29 OF THE DELAWARE CODE, TO ESTABLISH A SECRETARY OF STATE SPECIAL OPERATIONS FUND AND FEES FOR REMOTE ACCESS TO ELECTRONIC FILES.

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

Section 1. Amend subsection (1) of § 102(a), of Subchapter I, Chapter 1, Title 8, Delaware Code, by adding after "the names of other corporations" the following: "or limited partnerships", adding after "registered as a foreign corporation" the following: "or foreign limited partnership", and adding after "laws of this State" the following: "except with the written consent of such other foreign corporation or domestic or foreign limited partnership, executed, acknowledged, and filed with the Secretary of State in accordance with section 103 of this title."

Section 2. Amend § 103, Subchapter I, Chapter 1, Title 8, Delaware Code, by adding new subsections (g) and (h) reading as follows:

"(g) Notwithstanding that any instrument authorized to be filed with the Secretary of State under any provision of this title is when filed inaccurately, defectively or erroneously executed, sealed or acknowledged, or otherwise defective in any respect, the Secretary of State shall have no liability to any person for the preclearance for filing, the acceptance for filing, or the filing and indexing of such instrument by the Secretary of State.

(h) Any signature on any instrument authorized to be filed with the Secretary of State under any provision of this title may be a facsimile."

Section 3. Amend Subchapter VIII, Chapter 1, Title 8, Delaware Code, by deleting § 246 in its entirety.

Section 4. Amend clause (3) of § 254(c) of Subchapter IX, Chapter 1, Title 8, Delaware Code, by deleting the clause in its entirety and substituting in lieu thereof the following:

"(3) the manner of converting the shares of stock of each stock corporation, the interests of members of each non-stock corporation, and the shares, memberships or financial or beneficial interests in each of the joint-stock associations into shares or other securities of a stock corporation or membership interests of a non-stock corporation surviving or resulting from such merger or consolidation, and, if any shares of any such stock corporation, any membership interests of any such non-stock corporation, or any shares, memberships, or financial or beneficial interests in any such joint-stock association are not to be converted solely into shares or other securities of the stock corporation or membership interests of the non-stock corporation surviving or resulting from such merger or consolidation, the cash, property, rights or securities of any other corporation or entity which the holders of shares of any such stock corporation, membership interests of any such non-stock corporation, or shares, memberships or financial or beneficial interests of any such joint-stock association are to receive in exchange for, or upon conversion of such shares, membership interests, or shares, memberships or financial or beneficial interests, and the surrender of any certificates evidencing them, which cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of the stock corporation or membership interests of the non-stock corporation surviving or resulting from such merger or consolidation; and".

Section 5. Amend the first sentence of subsection (d) of § 254 of Subchapter IX, Chapter 1, Title 8, Delaware Code, by adding after "agreement" the following: "required by subsection (c) of this section".

Section 6. Amend subsection (e) of § 254 of Subchapter IX, Chapter 1, Title 8, Delaware Code, by adding after "251(e)," the following: "251(f),".

Section 7. Amend clause (4) of § 257(b) of Subchapter IX, Chapter 1, Title 8, Delaware Code, by deleting the clause in its entirety and substituting in lieu thereof the following:

"(4) the manner of converting the shares of stock of a stock corporation and the interests of the members of a non-stock corporation into shares or other securities of a stock corporation or membership interests of a non-stock corporation surviving or resulting from such merger or consolidation, and, if any shares of any such stock corporation or membership interests of any such non-stock corporation are not to be converted solely into shares or other securities of the stock corporation or membership interests of the non-stock corporation surviving or resulting from such merger or consolidation, the cash, property, rights or securities of any other corporation or entity which the holders of shares of any such stock corporation or membership interests of any such non-stock corporation are to receive in exchange for, or upon conversion of such shares or membership interests, and the surrender of any certificates evidencing them, which cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of any stock corporation or membership interests of any non-stock corporation surviving or resulting from such merger or consolidation;"

Section 8. Amend the first sentence of subsection (c) of § 257 of Subchapter IX, Chapter 1, Title 8, Delaware Code, by adding after "agreement" the following: "required by subsection (b) of this section".

Section 9. Amend subsection (b) of § 262 of Subchapter IX, Chapter 1, Title 8, Delaware Code, by deleting the word "or" after "257" and substituting therefor the following: ",", and by adding after "258" the following: "or 263".

Section 10. Amend Subchapter IX, Chapter 1, Title 8, Delaware Code, by adding a new § 263 reading as follows:

"§ 263. Merger or consolidation of domestic corporation and limited partnership.

(a) Any 1 or more corporations of this State may merge or consolidate with 1 or more limited partnerships, of this State or of any other state or states of the United States, or of the District of Columbia, unless the laws of such other state or states or the District of Columbia forbid such merger or consolidation. Such corporation or corporations and such 1 or more limited partnerships may merge with or into a corporation, which may be any 1 of such corporations, or they may merge with or into a limited partnership, which may be any 1 of such limited partnerships, or they may consolidate into a new corporation or limited partnership formed by the consolidation, which shall be a corporation or limited partnership of this State or any other state of the United States, or the District of Columbia, which permits such merger or consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) Each such corporation and limited partnership shall enter into a written agreement of merger or consolidation. The agreement shall state: (1) the terms and conditions of the merger or consolidation; (2) the mode of carrying the same into effect; (3) the manner of converting the shares of stock of each such corporation and the partnership interests of each such limited partnership into shares, partnership interests or other securities of the entity surviving or resulting from such merger or consolidation, and if any shares of any such corporation or any partnership interests of any such limited partnership are not to be converted solely into shares, partnership interests or other securities of the entity surviving or resulting from such merger or consolidation, the cash, property, rights or securities of any other corporation or entity which the holders of such shares or partnership interests are to receive in exchange for, or upon conversion of such shares or partnership interests and the surrender of any certificates evidencing them, which cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares, partnership interests or other securities of the entity surviving or resulting from such merger or consolidation; and (4) such other details or provisions as are deemed desirable, including, without limiting the generality of the foregoing, a provision for the payment of cash in lieu of the issuance of fractional shares or interests of the surviving or resulting corporation or limited partnership. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation.

(c) The agreement required by subsection (b) shall be adopted, approved, certified, executed and acknowledged by each of the corporations in the same manner as is provided in § 251 of this title and, in the case of the limited

partnerships, in accordance with their limited partnership agreements and in accordance with the laws of the state under which they are formed, as the case may be. The agreement shall be filed and recorded and shall become effective for all purposes of the laws of this State when and as provided in § 251 of this title with respect to the merger or consolidation of corporations of this State. In lieu of filing and recording the agreement of merger or consolidation, the surviving or resulting corporation or limited partnership may file a certificate of merger or consolidation, executed in accordance with § 103 of this title, if the surviving or resulting entity is a corporation, or by a general partner, if the surviving or resulting entity is a limited partnership, which states: (1) the name and state of domicile of each of the constituent entities; (2) that an agreement of merger or consolidation has been approved, adopted, certified, executed and acknowledged by each of the constituent entities in accordance with this subsection; (3) the name of the surviving or resulting corporation or limited partnership; (4) in the case of a merger in which a corporation is the surviving entity, such amendments or changes in the certificate of incorporation of the surviving corporation as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation; (5) in the case of a consolidation in which a corporation is the resulting entity, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the certificate; (6) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving corporation or limited partnership and the address thereof; (7) that a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting entity, on request and without cost, to any stockholder of any constituent corporation or any partner of any constituent limited partnership; and (8) the agreement, if any, required by subsection (d) of this section.

(d) If the entity surviving or resulting from the merger or consolidation is to be governed by the laws of the District of Columbia or any state other than this State, it shall agree that it may be served with process in this State in any proceeding for enforcement of any obligation of any constituent corporation or limited partnership of this State, as well as for enforcement of any obligation of the surviving or resulting corporation or limited partnership arising from the merger or consolidation, including any suit or other proceeding to enforce the right of any stockholders as determined in appraisal proceedings pursuant to the provisions of § 262 of this title, and shall irrevocably appoint the Secretary of State as its agent to accept service of process in any such suit or other proceedings and shall specify the address to which a copy of such process shall be mailed by the Secretary of State. In the event of such service upon the Secretary of State in accordance with this subsection, the Secretary of State shall forthwith notify such surviving or resulting corporation or limited partnership thereof by letter, certified mail, return receipt requested, directed to such surviving or resulting corporation or limited partnership at its address so specified, unless such surviving or resulting corporation or limited partnership shall have designated in writing to the Secretary of State a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection and to pay the Secretary of State the sum of \$25.00 for the use of the State, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and the defendant, the title, docket number and nature of the proceeding in which process has been served upon him, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour service was made. The Secretary of State shall not be required to retain such information longer than five years from his receipt of the service of process.

(e) Sections 251(d), 251(e), 251(f), 259 through 261 and 328 of this title shall, insofar as they are applicable, apply to mergers or consolidations between corporations and limited partnerships."

Section 11. Amend subsection (1) of §312(d) of Subchapter XII, Chapter 1, Title 8, Delaware Code, by adding after "of this section" the following: ", and the date of filing of its original certificate of incorporation with the Secretary of State".

Section 12. Amend subsection (c) of § 371 of Subchapter XV, Chapter 1, Title 8, Delaware Code, by adding after "the names of other corporations" the following: "or limited partnerships", by adding after "registered as a foreign corporation" the following: "or foreign limited partnership", and by adding after "such other corporation" the following: "or limited partnership".

Section 13. Amend subsection (4) of §391(a) of Subchapter XVII, Chapter 1, Title 8, Delaware Code, by adding to the end thereof the following: "The foregoing tax shall be in addition to any tax or fee required under any other law of this State to be paid by any constituent entity that is not a corporation in connection with the filing of the certificate of merger or consolidation."

Section 14. Amend § 391, Subchapter XVII, Chapter 1, Title 8, Delaware Code, by adding a new subsection (1) reading as follows:

"(1) A domestic corporation or a foreign corporation registered to do business in this State that files with the Secretary of State any instrument or certificate, and in connection therewith, neglects, refuses or fails to pay any fee or tax under chapter 1 or chapter 6 of this title shall, after written demand therefor by the Secretary of State by mail addressed to such domestic corporation or foreign corporation in care of its registered agent in this State, cease to be in good standing as a domestic corporation or registered as a foreign corporation in this State on the 90th day following the date of mailing of such demand, unless such fee or tax and, if applicable, the fee provided for in subsection (g) are paid in full prior to the 90th day following the date of mailing of such demand. A domestic corporation that has ceased to be in good standing or a foreign corporation that has ceased to be registered by reason of the neglect, refusal or failure to pay any such fee or tax shall be restored to and have the status of a domestic corporation in good standing or a foreign corporation that is registered in this State upon the payment of the fee or tax which such domestic corporation or foreign corporation neglected, refused or failed to pay together with the fee provided for in subsection (g), if applicable. The Secretary of State shall not accept for filing any instrument authorized to be filed with the Secretary of State under any provision of this title in respect of any domestic corporation that is not in good standing or any foreign corporation that has ceased to be registered by reason of the neglect, refusal or failure to pay any such fee or tax, and shall not issue any certificate of good standing with respect to such domestic corporation or foreign corporation, unless and until such domestic corporation or foreign corporation shall have been restored to and have the status of a domestic corporation in good standing or a foreign corporation duly registered in this State."

Section 15. Amend subsection (a) of §2311, Chapter 23, Title 29 of the Delaware Code by adding after "Title 8" the following: "and §2318 of Title 29".

Section 16. Amend subsection (b) of §2311, Chapter 23, Title 29 of the Delaware Code by deleting the word "seven" immediately before the word "appropriated".

Section 17. Amend §2311, Chapter 23, Title 29 of the Delaware Code by adding new subsections (f) and (g) to read as follows:

"(f) There is hereby created, within the office of the Secretary of State, a special fund to be designated as the Secretary of State Special Operations Fund. Funds deposited in said Special Operations Fund shall be used to maintain and improve the capability to perform the operations, functions, and duties of the Secretary of State, including but not limited to maintaining and improving the statewide communications network maintained by the Secretary of State, creating, maintaining and improving electronic files, creating, maintaining and improving the ability to provide remote access to electronic files maintained by the Secretary of State, and funding appropriated positions relating to such activities.

(g) All fees which are by law payable to the Secretary of State pursuant to 29 Del. C. §2318 shall be deposited in the State Treasury to the credit of said Secretary of State Special Operations Fund. No other fees or taxes collected by the Secretary of State shall be deposited in said fund".

Section 18. Amend Chapter 23, Title 29 of the Delaware Code by adding a new §2318 to read as follows:

"§2318 Remote access to electronic files

(a) The Secretary of State may, in his discretion, permit persons remote access to electronic files maintained by the Secretary of State, and may from time to time make, amend, alter and rescind rules and regulations governing remote access to such electronic files.

(b) The Secretary of State shall establish, and may from time to time amend or alter, a schedule of fees and charges payable to the Secretary of State by, and shall collect such fees and charges for the use of the State from, persons permitted remote access to electronic files, such schedule not to exceed \$10 for each fee or charge."

Section 19. Except for Section 10, which shall become effective December 1, 1988, this bill shall become effective upon enactment.

Approved July 12, 1988.

CHAPTER 353

FORMERLY

SENATE BILL NO. 360

AN ACT TO AMEND CHAPTER 5, TITLE 17 OF THE DELAWARE CODE RELATING TO THE DAMAGES ASSESSED TO TREES, SHRUBS AND LANDSCAPING.

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

Section 1. Amend Chapter 5, Title 17 of the Delaware Code by adding a new §520 to read as follows:

"§520. Injury to Trees, Shrubs, and Landscaping; Treble Damages; Jurisdiction of Courts; Procedure and Appeal

(a) Whoever negligently, willfully or maliciously injures or damages trees, shrubs, or other landscaping under the jurisdiction and control of the Department shall forfeit and pay treble damages therefore. The damages shall be computed as the sum of the cost of purchase of new trees, shrubs, or other landscaping of equivalent size and quality and the removal and installation costs to replace the damaged trees, shrubs, or other landscaping, including direct labor costs plus overhead costs, computed in accordance with accepted governmental accounting principles.

(b) Justices of the Peace, the Court of Common Pleas and the Superior Court shall have concurrent jurisdictions of actions under this Section.

(c) In actions before Justices of the Peace, the procedure shall be the same as is provided for actions of trespass by Justices of the Peace, with the right of appeal to the Superior Court, and in actions in the Court of Common Pleas, the right of appeal to the Superior Court shall be preserved as in other actions within the jurisdiction of the Courts."

Approved July 12, 1988.

CHAPTER 354

FORMERLY

SENATE BILL NO. 103

AS AMENDED BY HOUSE AMENDMENT NO. 2 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 100, TITLE 29 OF THE DELAWARE CODE RELATING TO THE FREEDOM OF INFORMATION ACT.

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

Section 1. Amend §10005 (d), Chapter 100, Title 29, Delaware Code by adding at the end of §10005 (d), the following:

"The Court may award attorney fees and costs to a successful plaintiff of any action brought under this section. The Court may award attorney fees and costs to a successful defendant, but only if the Court finds that the action was frivolous or was brought solely for the purpose of harassment."

Section 2. Amend §10005, Chapter 100, Title 29 of the Delaware Code by adding thereto two new subsections to read as follows:

"(e) Any citizen may petition the Attorney General to determine whether a violation of this chapter has occurred or is about to occur. The petition shall set forth briefly the nature of the alleged violation. Upon receiving a petition, the Attorney General shall, within ten days, notify in writing the custodian of records or public body involved. Within twenty days of receiving the petition, the Attorney General shall make a written determination of whether a violation has occurred or is about to occur, and shall provide the citizen and any custodian of records or public body involved with a copy of the determination. If the Attorney General finds that a violation of this chapter has occurred or is about occur, the citizen may (1) file suit as set forth in this chapter, or (2) request in writing that the Attorney General file suit on the citizen's behalf. If such request is made, the Attorney General may file suit, and shall within fifteen days notify the citizen of the decision to file suit, unless the custodian of records or public body has agreed to comply with this chapter. The citizen shall have the absolute right to file suit regardless of the determination of the Attorney General, and may move to intervene as a party in any suit filed by the Attorney General.

(f) Subsection (e) of this Section shall not apply to an alleged violation by an administrative office or officer, agency, department, board, commission, or instrumentality of state government which the Attorney General is obliged to represent pursuant to §2504 of this Title."

Approved July 12, 1988.

CHAPTER 355

FORMERLY

SENATE BILL NO. 437

AN ACT TO AMEND CHAPTER 5, TITLE 7, DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF A LIMITED, THREE DAY, NON-RESIDENT HUNTING LICENSE FOR THE PURPOSE OF HUNTING UPLAND GAME, EXCLUSIVE OF WATERFOWL, DEER AND WILD TURKEY.

WHEREAS, under the provisions of Chapter 5, Title 7, Delaware Code, non-residents who desire to hunt up-land game, exclusive of waterfowl, deer and wild turkey, in Delaware, either as guest of relatives, in-laws or friends who live in Delaware, or just simply wish to take advantage of our hunting season, must purchase a non-resident license at a cost of \$45.00 for the season; In other words, there are no provisions in our law a 3-day license, one must purchase a license for the full hunting season; and

WHEREAS, Pennsylvania, New Jersey and Maryland all provide for a limited non-resident hunting license as opposed to the requirement of purchasing a season license; and

WHEREAS, countless Delawareans annually trek to Pennsylvania, New Jersey, Maryland and Virginia to hunt upland game, especially pheasant, quail, and grouse.

NOW, THEREFORE:

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

Section 1. Amend §508, Title 7, Delaware Code, by adding a new (5) to read as follows:

"(5) \$15.00 for a small game hunting license good for three consecutive days from the date of issue and not valid for hunting waterfowl, deer or turkeys; and not valid for hunting on any publicly owned land."

Section 2. This Act shall become effective on September 1, 1988.

Approved July 12, 1988.

CHAPTER 356

FORMERLY

SENATE BILL NO. 217

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE, RELATING TO HEARINGS IN CERTAIN VOLUNTARY RELINQUISHMENTS OF PARENTAL RIGHTS.

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

Section 1. Amend §1107(a), Title 13, of the Delaware Code by adding the words "or hearing" after the words "however, no such notice".

Approved July 12, 1988.

CHAPTER 357

FORMERLY

SENATE BILL NO. 475

AN ACT TO AMEND TITLE 24, CHAPTER 17 OF THE DELAWARE CODE SO AS TO ALLOW PHYSICIAN PEER REVIEW BODIES TO BE IMMUNE FROM LIABILITY AS PROVIDED IN THE FEDERAL HEALTH CARE QUALITY IMPROVEMENT ACT OF 1986.

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

Section 1. Amend Chapter 17, Title 24 of the Delaware Code by adding a new section to read as follows:

"§1740. Protection From Liability.

(a) Pursuant to the State Early Opt-In provision of 42 U.S.C. 11111 (c) (2), the protection from liability set forth in Subsection (a) of Section 11111 of Title 42 of the United States Code shall apply to professional review actions, as defined in 42 U.S.C. Section 11151, commenced on or after the effective date of this act."

Section 2. This act shall become effective 60 days after the signature of the Governor.

Approved July 12, 1988.

CHAPTER 358

FORMERLY

SENATE BILL NO. 465

AN ACT TO AMEND CHAPTER 17 OF TITLE 24 OF THE DELAWARE CODE RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

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

Section 1. Amend §1768(a), Chapter 17, Title 24, Delaware Code, by inserting immediately after the word "thereby" on the second line the following:

"or the members of any committee appointed by a certified health maintenance organization".

Approved July 12, 1988

CHAPTER 359

FORMERLY

SENATE BILL NO. 385
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 50, OF TITLE 15, DELAWARE CODE AND CHAPTERS 10, 19 AND 21 OF TITLE 14, DELAWARE CODE RELATING TO THE MANDATORY REQUIREMENT FOR THE USE OF VOTING MACHINES, WITH CERTAIN EXCEPTIONS, IN ELECTIONS HELD UNDER THE PROVISIONS OF TITLE 14, DELAWARE CODE.

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

Section 1. Amend §5003, Chapter 50, Title 15, Delaware Code by striking the third sentence beginning with the words "Voting machines" and ending with the words "Title 14" as the same appears therein and substituting in lieu thereof the following: "Voting machines shall be used in elections held under Title 14, Delaware Code."

Section 2. Amend §1908, Chapter 19, Title 14, Delaware Code by striking said section in its entirety and substituting a new §1908 to read as follows:

"§1908 Method of voting; referendum to transfer tax funds

(a) For an election under this Chapter to increase taxes, the election shall be conducted by the use of voting machines. The words "For Additional Tax" and "Against Additional Tax" shall appear on the machine next to the appropriate levers

(b) For an election under this Chapter for the purpose of increasing the real estate tax under this Chapter, while simultaneously decreasing the real estate tax under Chapter 21 of this Title by the same amount, the election shall be conducted by the use of voting machines. The words "For the Tax Transfer" and "Against Tax Transfer" shall appear on the machine next to the appropriate levers."

Amend §1910 (a) and (b), Chapter 19, Title 14, Delaware Code by striking said subsections in their entirety and substituting in lieu thereof the following:

"(a) If ten or more voters of the district in which the election, under §1903 of this Title, is held shall petition for a recount before the day for announcing the result to the State Board of Education, if the election is held in any school district, the machine count in the district shall be recounted and the results shall be announced in accordance with such recount. If a recount is conducted pursuant to this section the voting machines shall be impounded and/or securely locked by the Attorney General of this State or his designee.

(b) The machine count shall be retained and kept safely under instructions from the Attorney General or his designee until the day for announcing the result and shall be delivered to the board making the recount when called for by it."

Section 3. Amend §1076, Chapter 10, Title 14, Delaware Code by striking said section in its entirety and substituting a new section to read as follows:

"§1076. Voting Machines; Election Supplies; Cost

(a) School elections shall be conducted by the use of voting machines

(b) The Clerk of the Peace, or her successor, of each county shall cause to appear on the machines next to the appropriate levers the following:

(1) For the election of school board members, the names of all persons nominated shall be listed alphabetically without political party designation.

(2) For consolidation, the division or change of boundaries of reorganized school districts the voting machine shall briefly state the question and provide for voting for or against the proposal, with such words:

For the Proposal

Against the Proposal

(c) The Clerk of the Peace or a person designated by him shall supervise the setting for the machines to denote the choices indicated in subsection (b) of this

section and shall in advance of the date of the election instruct the designated election officers in the proper use of the machines.

(d) The needed election supplies shall be provided by the Clerk of the Peace, or her successor, of the county, in which the reorganized school district is located.

(e) The cost of necessary election supplies, publication of notices shall be paid by the Levy Court or County Council of the county in which the reorganized school district is located.

(f) Any reorganized school district shall use voting machines and such reorganized school district shall pay the transportation for the voting machines and other necessary charges for the use of such voting machines.

(g) In case of an election for the consolidation, division or change of boundaries of a reorganized school district, all preparation for and cost of the election shall be borne by the reorganized school district or districts.

(h) In the event there is no contest for the election of school board members, then, the district shall not be required to conduct such an election by the use of voting machines."

Section 4. Amend §2122 (g) and (h) of Chapter 21, Title 14, Delaware Code by striking said subsection (g) and (h) in their entirety and substituting in lieu thereof the following:

"(g) An election under this Chapter for the purpose of authorizing a bond issue shall be conducted by use of voting machines. The words "For the bond issue" and "Against the bond issue" shall appear on the machine next to the appropriate levers.

(h) An election under this Chapter for the purpose of increasing the real estate tax rate under Chapter 19 of this Title, while simultaneously decreasing the real estate tax rate under this Chapter by the same amount, shall be by the use of voting machines. The words "For the Tax Transfer" and "Against the Tax Transfer" shall appear on the machine next to the appropriate levers."

Section 5. Notwithstanding any other provision within Title 14, Delaware Code to the contrary the provisions of this Act shall prevail; namely, that voting machines shall be utilized in all school related elections.

Approved July 12, 1988.

CHAPTER 360

FORMERLY

HOUSE BILL NO. 698

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE AND REVENUE BONDS OF THE DELAWARE TRANSPORTATION AUTHORITY; APPROPRIATING FUNDS FROM THE FIRST STATE IMPROVEMENT FUND AND THE TRANSPORTATION TRUST FUND; PLEDGING DOCUMENT FEES TO THE TRANSPORTATION TRUST FUND TOGETHER WITH MOTOR FUEL TAXES AND MOTOR CARRIER REGISTRATION FEES; MAKING CERTAIN ADDITIONAL AMENDMENTS TO AND READOPTING TITLE 2, CHAPTER 13 AND CHAPTER 14; TRANSFERRING CERTAIN GENERAL OBLIGATION BOND AUTHORIZATIONS TO THE TRANSPORTATION TRUST FUND; TRANSFERRING CERTAIN DELAWARE TRANSPORTATION AUTHORITY BOND AUTHORIZATIONS TO THE TRANSPORTATION TRUST FUND; DEAUTHORIZING CERTAIN GENERAL OBLIGATION BONDS OF THE STATE AND CERTAIN BONDS OF THE DELAWARE TRANSPORTATION AUTHORITY AND CERTAIN AUTHORITY FOR GUARANTEED INDUSTRIAL REVENUE BONDS; REVERTING AND REPROGRAMMING CERTAIN SURPLUS FUNDS OF THE STATE AND REPROGRAMMING CERTAIN FUNDS OF THE DELAWARE TRANSPORTATION AUTHORITY CREATING CERTAIN FUNDS OF THE STATE; APPROPRIATING CERTAIN GENERAL AND SPECIAL FUNDS OF THE STATE AND THE DELAWARE TRANSPORTATION AUTHORITY; AUTHORIZING THE DEPARTMENT OF ADMINISTRATIVE SERVICES TO ALLOCATE STRIPPER WELL FUNDS TO CERTAIN ELIGIBLE CAPITAL IMPROVEMENTS AUTHORIZED IN THIS ACT; AMENDING CHAPTER 50, TITLE 29 OF THE DELAWARE CODE RELATING TO THE CREATION OF A DEVELOPMENT INCENTIVE FUND; AMENDING TITLE 29 OF THE DELAWARE CODE BY ADDING A NEW CHAPTER 34 RELATING TO THE ESTABLISHMENT OF A COMMISSION ON NATURAL AREAS AND OPEN SPACES; AMENDING TITLE 29, CHAPTER 65 OF THE DELAWARE CODE, REGARDING THE DEPARTMENT OF TRANSPORTATION CAPITAL PROGRAM AUTHORIZATIONS AND ACCOUNTING SYSTEM, AMENDING TITLE 2, CHAPTER 14 OF THE DELAWARE CODE RELATING TO THE POWERS AND DUTIES OF THE DELAWARE TRANSPORTATION AUTHORITY; AMENDING VOLUMES 65, 66 AND 62 OF THE LAWS OF DELAWARE RELATING TO NATIONAL GUARD PROJECTS AND SHORELINE STABILIZATION; AMENDING TITLE 29, CHAPTER 74 OF THE DELAWARE CODE REGARDING PAYMENT OF DEBT SERVICE AND CHAPTER 83 REGARDING NOTIFICATION OF BOND ISSUANCES; AMENDING CHAPTER 51, TITLE 30 OF THE DELAWARE CODE REGARDING MUNICIPAL STREET AID; AMENDING CHAPTER 69, TITLE 29 OF THE DELAWARE CODE RELATING TO BID PROCEDURES; AMENDING TITLE 30, CHAPTER 30 OF THE DELAWARE CODE RELATING TO THE DELAWARE TRANSPORTATION AUTHORITY.

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

Section 1. Authorization of Twenty-Year Bonds. The State hereby authorizes the issuance of Twenty-Six Million Seven Hundred Seven Thousand Dollars (\$26,707,000) bonds to which the State shall pledge its full faith and credit. Bonds authorized to be issued by this Section shall mature not later than twenty (20) years from their date of issuance. The proceeds of such bonds are hereby appropriated for a portion of the purposes set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof and summarized as follows:

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Budget Office	\$ 900,000
Delaware Development Office	300,000
Department of Administrative Services	4,685,000
Department of Health & Social Services	350,000
Department of Services for Children, Youth & Their Families	3,596,000
Department of Correction	2,234,000
Department of Natural Resources & Environmental Control	2,000,000
Department of Public Safety	200,000
Department of Agriculture	1,385,000

State Fire Prevention Commission	620,000
University of Delaware	1,250,000
Delaware State College	480,000
Delaware Technical & Community College	2,900,000
State Board of Education	5,422,000

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Maximum Total Cost</u>
Colonial School District	\$ 532,000	\$ -0-	\$ 532,000
Cape Henlopen - Sussex Elementary Consortium	984,000	-0-	984,000
Cape Henlopen - Administration Building	55,000	36,667	91,667
Lake Forest School District	1,061,000	707,334	1,768,334
Christina School District	2,130,000	1,420,000	3,550,000
Appoquinimink School District	<u>660,000</u>	<u>440,000</u>	<u>1,100,000</u>
Subtotal	\$5,422,000	\$2,604,001	\$ 8,026,001

Judicial 385,000

TOTAL \$26,707,000

Section 2. Authorization of Ten-Year Bonds. The State hereby authorizes the issuance of Nineteen Million Four Hundred Eighty-Seven Thousand Seven Hundred Forty Dollars (\$19,487,740) bonds to which the State shall pledge its full faith and credit. Bonds authorized to be issued by this Section shall mature not later than ten (10) years from their date of issuance. The proceeds of such bonds are hereby appropriated for a portion of the purposes set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof and summarized as follows:

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of State	\$3,400,000
Department of Administrative Services	3,079,688
Department of Health & Social Services	4,075,000
Department of Services for Children, Youth & Their Families	975,000
Department of Correction	670,000
Department of Natural Resources & Environmental Control	550,000
Department of Public Safety	125,000
Department of Community Affairs	50,000
Department of National Guard	100,000
State Fire Prevention Commission	65,000
Delaware State College	750,000
Delaware Technical & Community College	325,000
State Board of Education	5,323,052

Maximum

Maximum

<u>Purpose</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Seaford	\$ 930,846	\$ 620,564	\$1,551,410
Christina-Palmer - Paint	45,000	30,000	75,000
Woodbridge - Windows	75,000	-0-	75,000
Ennis School	60,000	-0-	60,000
Delcastle	600,000	-0-	600,000
Hodgson	<u>109,924</u>	<u>-0-</u>	<u>109,924</u>
Subtotal	\$1,820,770	\$ 650,564	\$2,471,334

TOTAL\$19,487,740

Section 3. Appropriation of First State Improvement Fund. The State hereby authorizes the appropriation of Two Million Six Hundred Thirteen Thousand Nine Hundred Fifty-Three Dollars (\$2,613,953) from the First State Improvement Fund for a portion of the purposes set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Delaware Development Office	<u>\$2,613,953</u>
<u>TOTAL</u>	<u>\$2,613,953</u>

Section 4. Deauthorization of State Guaranteed Bonds.

(a) Amend §5054(d)(2) of Title 29 of the Delaware Code, as amended, by striking the number "\$25,619,290" wherever it appears in said subsection and inserting in lieu thereof the number "\$24,030,800".

(b) Nothing in this Act shall reduce the amount of bonds authorized to be issued by The Delaware Economic Development Authority, or any successor authority, to which may be pledged the full faith and credit of the State below the amount of such bonds issued and unpaid on the effective date of this Act. The provisions of Section 11 of Chapter 387 of Volume 63 of the Laws of Delaware shall apply in this regard.

Section 5. Appropriation of General Funds. It is the intent of the General Assembly that Thirty Million Five Hundred Thousand Dollars (\$30,500,000) be appropriated from the General Fund to the following departments, agencies and instrumentalities of the State and in the following amounts for the purpose set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof. This is a supplemental appropriation of and in addition to the monies appropriated by the Fiscal Year 1989 Budget Act and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended or unencumbered by June 30, 1991, shall revert to the General Fund of the State of Delaware.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Budget Office	\$ 600,000
Delaware Development Office	9,258,047
<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of State	\$ 100,000
Department of Administrative Services	190,000
Department of Health & Social Services	950,464
Department of Services for Children, Youth & Their Families	500,000

Department of Natural Resources & Environmental Control	12,909,000
Department of Public Safety	612,963
Department of Community Affairs	19,800
University of Delaware	2,451,200
Delaware State College	215,000
Delaware Technical & Community College	825,450
State Board of Education	<u>1,868,076</u>
TOTAL	<u>\$30,500,000</u>

Section 6. Reversion of Fund Balances. On the effective date of this Act, the State Treasurer shall transfer the remaining cash balances, not in excess of the amounts indicated below in the enumerated project accounts, to the State Treasurer's Bond Reversion Account (12-05-003-40-00).

<u>Department, Agency, or Instrumentality</u>	<u>Authorized Vol. & Ch.</u>	<u>Project Account Code</u>	<u>Amount</u>
Delaware Development Office	66/92	10-03-03-9634	\$ 496,800
Department of State	65/385	20-06-01-5712	48,235
Department of Services for Children, Youth and Their Families	63/179	37-01-10-5221	626
University of Delaware	66/92	90-01-01-0197	145,000
Delaware State College	63/387	90-03-04-5313	457
Delaware State College	64/343	90-03-04-5517	8,457
Delaware State College	65/212	90-03-04-5615	8
Delaware State College	65/385	90-03-04-5716	105
Delaware Technical & Community College	66/92	90-04-06-5812	1,000,000
Delaware Technical & Community College	66/206	90-04-06-0280	250,000
Delaware Technical & Community College	63/387	90-04-05-5312	100
Delaware Technical & Community College	65/385	90-04 04 5713	243
Delaware Technical & Community College	65/385	90-04-05-5713	3,042
Department of Public Instruction	66/92	95-39-00-9632	650,000
<u>Department, Agency, or Instrumentality</u>	<u>Authorized Vol. & Ch.</u>	<u>Project Account Code</u>	<u>Amount</u>
Department of Public Instruction	62/407	95-35-00-5112	889
Department of Public Instruction	63/387	95-23-00-5312	572
Department of Public Instruction	63/387	95-24 00-5312	900
Department of Public Instruction	63/387	95-33-00-5302	139
Department of Public Instruction	63/387	95-38-00-5312	453
Department of Public Instruction	63/387	95-51-00-5312	258
Department of Public Instruction	64/131	95-38-00-5412	2,841
Department of Public Instruction	64/343	95-51-00-5512	<u>17,125</u>
TOTAL			<u>\$2,626,250</u>

Section 7. Transfers from Reversion Account. Notwithstanding the provisions of other State law, the State Treasurer shall transfer, as funds become available, the sum of Three Million One Hundred Seventy-Five Thousand Three Hundred Twelve Dollars (\$3,175,312) from the State Treasurer's Bond Reversion Account (12-05-003-40-00) to the following departments in the following amounts for the purposes set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services	\$3,175,312
<u>TOTAL</u>	<u>\$3,175,312</u>

Section 8. Transfers from the School Bond Reversion Account. Notwithstanding the provisions of any other State law, the State Treasurer shall transfer, as funds become available, the sum of Three Hundred Seventeen Thousand Seven Hundred Eighteen Dollars (\$317,718) on deposit in the School Bond Reversion Account (12-05-003-60-00) for the following purpose in the following amount as set forth in the "Fiscal Year 1989 Capital Improvements Projects Schedule" attached hereto and made a part hereof.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
State Board of Education	\$ 317,718
<u>TOTAL</u>	<u>\$ 317,718</u>

Section 9. Allocation of Stripper Well Funds. The State hereby authorizes the Department of Administrative Services to allocate One Million Five Hundred Seventy-Six Thousand Two Hundred Fifty Dollars (\$1,576,250) from the proceeds of the Stripper Well Court Case Settlement for eligible projects up to the amounts set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof. All potentially eligible projects will be submitted to the Energy Office for review. Eligible projects will be referred to the State Energy Weatherization Committee for consideration for funding from proceeds from the Stripper Well Court Case. For all projects found eligible for Stripper Well funding by the State Energy Weatherization Committee, the Department of Administrative Services shall allocate and release funds in a manner consistent with the Stripper Well Court Case Settlement.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services	\$ 100,000
Department of Health & Social Services	587,640
Department of Correction	573,478
Department of Natural Resources & Environmental Control	10,500
Department of Transportation	31,500
Delaware National Guard	118,000
Delaware Technical & Community College	155,132
<u>TOTAL</u>	<u>\$1,576,250</u>

Section 10. Transportation Trust Fund Authorizations.

(a) There is hereby appropriated One Hundred Fifty-Five Million Four Hundred Forty-Two Thousand Dollars (\$155,442,000) from the Transportation Trust Fund for transportation programs as set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof.

(b) To fund a portion of the amount set forth in (a) above, the Delaware Transportation Authority is hereby authorized to issue bonds in an amount not exceeding One Hundred Ten Million Dollars (\$110,000,000) pursuant to the provisions of Chapter 14, Title 2, Delaware Code, as amended, of which Ninety-Six Million Dollars (\$96,000,000) shall be used for purposes set forth in the "Fiscal Year 1989 Capital Improvements Projects Schedule" attached hereto and made a part hereof, with the remainder to be used to fund issuance costs and necessary reserves from the Reserve Account.

(c) The Delaware Transportation Authority is hereby authorized to issue bonds in an amount not exceeding One Hundred Seventy-Five Million Dollars (\$175,000,000) pursuant to the provisions of Chapter 14, Title 2, Delaware Code, as amended, to refund outstanding bonds issued by the Delaware Transportation Authority, to fund bond reserves and to pay costs associated with the issuance of such refunding bonds.

Section 11. Department of Transportation Reprogramming. Pursuant to previous years' authorizations by the General Assembly, certain transportation projects have been completed at less than anticipated costs or are unable to be completed and, therefore, the State hereby authorizes the sum of Seven Hundred Twelve Thousand Four Hundred Seventy-Five Dollars (\$712,475) previously appropriated to the following accounts and in the following amounts, to be used to carry out new projects as set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof:

<u>Project Acct. Code</u>	<u>Amount</u>
55-05-00-56-00	\$ 143,800
55-05-00-57-11	94,000
55-05-00-66-00	474,000
55-06-00-67-11	675
<u>TOTAL</u>	<u>\$ 712,475</u>

Section 12. Department of Transportation - Transfer General Obligation Bond Authorization to Transportation Trust Fund.

(a) There is hereby repealed authorization to issue Fifty-One Million One Hundred Twenty-Four Thousand Seven Hundred and Seven Dollars (\$51,124,707) State general obligation bonds which have been previously authorized but are unissued for transportation projects in the following amounts:

<u>Department</u>	<u>Vol./Ch.</u>	<u>Project Account Code</u>	<u>Year Of Authorization</u>	<u>Amount</u>
Transportation	65/212	55-05-00-56-00	1986	\$ 631,485

<u>Department</u>	<u>Vol./Ch.</u>	<u>Project Account Code</u>	<u>Year Of Authorization</u>	<u>Amount</u>
Transportation	65/385	55-05-00-56-00	1987	\$6,269,222
"	"	" -57-00	"	700,000
"	"	" -58-00	"	1,000,000
"	"	" -59-00	"	700,000
"	"	" -60-00	"	300,000
"	"	" -61-00	"	400,000
"	"	" -62-00	"	1,000,000
"	"	" -63-00	"	500,000
"	"	" -64-00	"	7,000,000
"	"	" -65-00	"	5,700,000
"	"	" -66-00	"	5,300,000

<u>Department</u>	<u>Vol./Ch.</u>	<u>Project Account Code</u>	<u>Year Of Authorization</u>	<u>Amount</u>
Transportation	66/92	55-05-00-56-00	1988	\$ 1,000,000
"	"	" -57-00	"	700,000
"	"	" -58-00	"	1,000,000
"	"	" -59-00	"	700,000
"	"	" -60-00	"	300,000
"	"	" -61-00	"	600,000
"	"	" -62-00	"	1,000,000
"	"	" -63-00	"	480,000
"	"	" -64-00	"	10,457,500
"	"	" -65-00	"	5,386,500

TOTAL

\$51,124,707

(b) There is hereby authorized the issuance of Fifty-One Million One Hundred Twenty-Four Thousand Seven Hundred and Seven Dollars (\$51,124,707) of bonds by the Delaware Transportation Authority pursuant to Chapter 14, Title 2, Delaware Code, as amended for the purposes and programs and in the amounts for which the bonds in Subsection (a) were originally authorized.

Section 13. Delaware Transportation Authority Bond Transfer to Transportation System Revenue Bonds

(a) Authorization is hereby repealed to Issue Three Million Two Hundred Seventy-Seven Thousand Dollars (\$3,277,000) Delaware Transportation Authority Bonds which were previously authorized but unissued for transportation projects in the following amount:

<u>Department</u>	<u>Vol./Ch.</u>	<u>Project Account Code</u>	<u>Year Of Authorization</u>	<u>Amount</u>
Transportation	65/385	55-05-00-66-00	1987	\$3,277,000.00

(b) There is hereby authorized the issuance of Two Million Seven Hundred Fifty-Six Thousand Dollars (\$2,756,000) bonds by the Delaware Transportation Authority pursuant to Chapter 14, Title 2, Delaware Code, as amended, for the purposes and programs for which the bonds in Subsection (a) were originally authorized.

Section 14. Transportation Trust Fund Appropriations.

(a) Appropriations from the Transportation Trust Fund to the Delaware Transportation Authority for the purposes of maintenance and equipment shall be transferred in total to the Department of Transportation Bureau of Maintenance (55-05-70) for NSF Capital Outlay of Two Million Eight Hundred Thirty-Nine Thousand Eight Hundred Dollars (\$2,839,800) and NSF Operations of Five Million Seven Hundred Thousand Dollars (\$5,700,000). All subsequent cash transfers of these appropriations from the Transportation Trust Fund to the General Fund of the State shall be deposited directly to the credit of the Bureau of Maintenance accounts as described herein. This section shall prevail over any other provisions of this Act or of the Fiscal Year 1989 Budget Act as adopted by the 134th General Assembly.

(b) It is the intent of the General Assembly that Five Million Seven Hundred Seventy-Seven Thousand Dollars (\$5,777,000) appropriated in the Fiscal Year 1989 Budget Act to the Delaware Transportation Authority ("Authority") for Debt Service - Transportation Trust Fund be used to pay issuing costs, establish reserve accounts and pay debt service on bonds issued by the Authority pursuant to the provisions of Chapter 14, Title 2, Delaware Code, as amended.

Section 15. Exxon Funds. It is the intent of the General Assembly that the monies appropriated in this Act may be used to match Exxon funds for any purpose deemed appropriate by the State Energy Weatherization Committee and so long as the purpose does not contradict the purposes set forth in the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Section 16. Interest Rate Swaps. Amend Title 29, Chapter 74 of the Delaware Code by striking Section 7417 in its entirety and substituting in lieu thereof a new Section 7417 to read as follows:

"Section 7417. Payment of debt service; first lien.

Each annual budget appropriation bill enacted by the General Assembly shall make sufficient provisions for the payment of principal of, premium, if any, and interest on all bonds, notes, and revenue notes payable or to be paid by their terms during the fiscal year of the State for which such budget appropriations bill is enacted.

Vouchers for the payment of principal of, premium, if any, and interest on bonds, notes, and revenue notes for payment of expenses incident to the issuance of such obligations shall be signed by the State Treasurer.

Any appropriation made by the General Assembly to pay principal of, premium, if any, and interest on bonds, notes or revenue notes may be applied to pay principal of, premium, if any, and interest on obligations of other issuers pursuant to an agreement made by the issuing officers with a person agreeing to pay principal of, premium, if any, or interest on bonds, notes or revenue notes issued by the State.

If, at any time, the State fails to make sufficient provisions to pay such principal of, premium, if any, and interest on bonds, notes or revenue notes, or, at the time such principal, premium or interest is payable sufficient monies are unavailable for such payment, a sufficient sum shall be set apart by the State Treasurer from the first revenues thereafter received by the State and shall be applied to such purposes. The State Treasurer may be required to set apart and apply such revenues

as provided herein at the suit of any holder of obligations for which such insufficient provision is made."

Section 17. Notification of Proposed Bond Issuance. Amend Title 29, Chapter 83 of the Delaware Code by adding a new Section 8317 to read as follows:

"Section 8317. Notification of Proposed Bond Issuance.

Each political subdivision of the State shall file with the Secretary of Finance a notice of intent to issue its general obligations or revenue-supported debt at least fourteen (14) days prior to the anticipated sale date of any such obligations. The notice shall describe briefly the proposed principal amount of obligations to be sold, the proposed sale date, and the purpose of the issue, and shall be signed by the chief fiscal officer of the political subdivision submitting the notice. Failure to submit such notice or any change in the details of the issue from those set forth in such notice shall not invalidate the issuance of any such obligations."

Section 18. Northern Data Center. The General Assembly intends that Nine Hundred Thousand Dollars (\$900,000) appropriated to the Budget Office ("Office") in Section 1 of this Act be used for the Northern Data Center ("Center"). Before the Office chooses the site for the Center, all locations and buildings currently owned by the Department of Health & Social Services ("Department") shall be studied to arrive at the best location for the Center. The Director of the Office and the Secretary of the Department shall determine the best location for the Center.

Section 19. Radios and Support Equipment. It is the intent of the General Assembly that Six Hundred Thousand Dollars (\$600,000) appropriated in Section 5 of this Act to the Budget Office be used for radios and support equipment that will best meet statewide communication needs. No funds appropriated herein may be expended without the approval of the Advisory Committee on Telecommunications.

Section 20. Medical Center of Delaware.

(a) It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) appropriated to the Delaware Development Office ("Office") in Section 5 of this Act be used to renovate space and purchase equipment at the Christiana Medical Center ("Center") to foster pharmaceutical research. It is also the intent of the General Assembly that the State not pay for any operating expenses associated with this project.

(b) Before the Office expends any funds appropriated herein, the Director of the Office must be satisfied that the Medical Center has reformed its policy concerning Egnell nursing machines. This reformed policy must allow women of Kent and Sussex Counties, who have given birth at the Center, to have the option of renting such machines on an equal basis with New Castle Countians.

Section 21. Hockessin Library. It is the intent of the General Assembly that Three Hundred Thousand Dollars (\$300,000) appropriated to the Delaware Development Office ("Office") in Section 1 of this Act be used to construct a library in Hockessin on a parcel of land located on the south side of Valley Road, west of Old Lancaster Pike, New Castle County, Delaware. The funds appropriated herein may be encumbered only if the following conditions are met.

(1) New Castle County provides the parcel of land on which the library is to be constructed.

(2) New Castle County will fund the operation of the library in the same manner as it funds other libraries in the County library system.

(3) The funds appropriated herein are equally matched by non-State monies, and

(4) The Secretary of Finance and the Director of the Office certify that the conditions in (1) through (3) above have been met.

Section 22. City of Milford Industrial Water Rate.

(a) It is the intent of the General Assembly that the sum of Two Hundred Thousand Dollars (\$200,000) appropriated in Section 3 of this Act to the Delaware Development Office be used to offset the cost of improvements associated with the

recently repared Washington Street Bridge in the City of Milford ("City"). The City had set aside Two Hundred Thousand Dollars (\$200,000) to repay the Department of Transportation ("Department") for costs associated with repairs to the bridge. However, the City used the Two Hundred Thousand Dollar (\$200,000) set-aside to reduce the balance of the City's federal Farmers' Home Administration loan. The use of this set-aside was necessary due to federal time constraints. The federal loan is to expand and renovate the Milford water system so that the industrial water rate is reduced to a level which is sufficiently competitive to prevent the loss of approximately one thousand five hundred (1,500) food processing industry jobs in the community. The appropriation herein, therefore, reduces the City's water rate for economic development purposes.

(b) It is also the intent of the General Assembly that by September 1, 1988, the Delaware Development Office transfer the funds appropriated herein to the Department. When the Department receives this appropriation, it shall reduce the debt owed by the City to the Department for repairs to the Washington Street Bridge by Two Hundred Thousand Dollars (\$200,000).

Section 23. Kent County Industrial Park.

(a) It is the intent of the General Assembly that Three Hundred Thousand Dollars (\$300,000) appropriated in Section 3 of this Act to the Delaware Development Office be used for publicly owned industrial parks in Kent County. Of the funds appropriated herein, up to Three Hundred Thousand Dollars (\$300,000) may be used for infrastructure improvements at the Kent County Industrial Park.

(b) Also of the Three Hundred Thousand Dollars (\$300,000) appropriated herein, up to One Hundred Thousand Dollars (\$100,000) may be used to construct building(s) in publicly owned industrial parks in Kent County. Any monies appropriated herein and used to construct such building(s) must be repaid to the State. Such repayments must be made within nine (9) months of the completion of such building(s). Eligible public entities wishing to use funds appropriated herein for building construction must also:

(1) Match State monies on a one-to-one basis with new, non-State funds and/or new, in-kind contributions;

(2) The community applying for funds must guarantee, with funds in escrow and appropriate documentation, that the property upon which the building will be sited, is or will be zoned accordingly, plotted and served by infrastructure, including utilities, to serve at least twenty (20) acres and to serve at least four (4) planned lots; and

(3) The entity applying for funds must demonstrate it has sufficient, dedicated revenues to market and maintain the industrial park.

(c) For the purposes of this Section, an industrial park is defined as publicly owned property which is zoned accordingly, plotted and served with infrastructure.

(d) Proceeds from the repayment of the funds appropriated herein shall be deposited in the State Treasurer's Bond Reversion Account.

Section 24. Kent County AeroPark. Of the funds appropriated to the Delaware Transportation Authority from the Transportation Trust Fund, One Hundred Thousand Dollars (\$100,000) shall be used for the Kent County AeroPark. This appropriation is made in anticipation of a Federal Aviation Administration grant which will be coordinated through the Delaware Department of Transportation. The funds appropriated herein shall constitute ten percent (10%) of the total cost of the project. In the event that the Federal Aviation Administration funds are not available, this appropriation shall be reprogrammed in the Transportation Trust Fund on June 30, 1989.

Section 25. Middletown Industrial Park. It is the intent of the General Assembly that One Hundred Thousand Dollars (\$100,000) appropriated in Section 3 of this Act to the Delaware Development Office be used to make infrastructure improvements at the Middletown Industrial Park, located south of Main Street and west of the Penn Central Railroad in Middletown. The improvement provided for herein will enable economic development officials to attract industry and employment opportunities to the area. The State funds appropriated herein must be matched by at least One Hundred Thousand Dollars (\$100,000) in non-State funds or in-kind services before any State funds are encumbered.

Section 26. Sussex County Economic Development.

(a) The General Assembly hereby finds and determines that planned economic development in industrial parks encourages a high quality of life for Delaware citizens. To induce industry to locate in industrial park sites, sites that communities have specifically planned and chosen for industry, the General Assembly hereby appropriates Three Hundred Thousand Dollars (\$300,000) in Section 3 of this Act to the Delaware Development Office ("Office"). The Office shall use the funds appropriated herein to purchase land and/or to renovate, construct, upgrade and/or otherwise improve infrastructure to and in publicly owned industrial parks in Sussex County. Of the funds appropriated herein, One Hundred Thousand Dollars (\$100,000) may also be used to construct building(s) in Sussex County publicly owned industrial parks. Any monies appropriated herein and used to construct building(s) must be repaid to the State. Such payments must be made within nine (9) months of completion of such building(s).

(b) For the purposes of distributing the funds appropriated herein, an industrial park is defined as publicly owned property which is zoned accordingly, plotted and served with infrastructure. Communities wishing to use the funds appropriated herein must meet the following criteria:

(1) Communities must match State monies on a one-to-one basis with new non-State funds and/or new, in-kind contributions;

(2) If the State funding is for an infrastructure project, the completed project must include infrastructure, including utilities, within the borders of the industrial park property to serve at least twenty (20) acres and to serve at least four (4) planned lots;

(3) If the expected State funding is for a land acquisition project and/or building construction, the community applying for funds must guarantee, with funds in escrow and appropriate documentation, that the property will be zoned accordingly, plotted and served by infrastructure, including utilities, to serve at least twenty (20) acres and to serve at least four (4) planned lots; and

(4) The community applying must show it has sufficient, dedicated revenues to market and maintain the industrial park.

(c) The Office shall administer the fund appropriated herein and shall author regulations to effect this Section by September 30, 1988.

(d) Proceeds from the repayment of the funds appropriated herein shall be deposited in the State Treasurer's Bond Reversion Account.

Section 27. Dover Civic Center. The General Assembly intends that One Million Four Hundred Thousand Dollars (\$1,400,000) appropriated to the Delaware Development Office ("Office") in Section 5 of this Act be used for a Civic Center ("Center") in or near Dover. None of the monies appropriated herein may be spent by the Director of the Office for the construction of the Center until all the conditions listed below have been met:

(a) A five- (5-) member committee ("Committee") be established, composed of three (3) members appointed by the Governor, one (1) being the Chairperson, one (1) by the Mayor of the City of Dover; and one (1) by the President of Kent County Levy Court. The Committee shall be created and organized to evaluate the Lavenethol and Horwath Report ("Report") entitled "Estimates of Market Demand, Prospective Financial Performance and Economic and Fiscal Benefits for a Proposed Civic Center in Dover, Delaware" dated February, 1988.

(b) The Committee shall determine the feasibility of the Report and its recommendations and consider alternative proposals that address the public need for a statewide Center for cultural, social and economic activities.

(c) Based upon their findings, determined by activities listed in (b) above, the Committee shall commission studies to include, but not be limited to, Center location and architectural design, Center operating and construction costs, finance mechanisms and a funding formula. The funding formula must equitably distribute the Center's costs among the State, Kent County, the City of Dover and the private sector. This formula shall be based upon the aforementioned parties' economic return and ability to contribute to the Center's construction and operational costs. These studies and proposals shall be presented to the Governor and the General Assembly on or before December 1, 1988.

(d) Legislation shall be drafted by the Committee and enacted into law by the General Assembly and shall include, but not be limited to, the following:

(1) The establishment of a not-for-profit Civic Center Corporation ("Corporation") that will be composed of seven (7) members to be appointed by the Governor and who will serve staggered terms. Of these seven (7) members, three (3) members shall be appointed by the Governor, one (1) to be the Chairperson; two (2) shall be recommended by the Mayor of Dover; and two (2) by the President of Levy Court. All appointees shall be approved by the Delaware State Senate.

(2) The Corporation shall be empowered to establish the Center's budget, set appropriate fees and charges and seek private donations in support of the Corporation's operations.

Section 28. Development Incentive Fund. It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) appropriated in Section 3 of this Act to the Delaware Development Office ("Office") be used for the Development Incentive Fund. Of the amount appropriated herein, up to One Hundred Fifty Thousand Dollars (\$150,000) may be used annually for projects eligible for Delaware Technical Innovation Grants. By September 1, 1988, the Office shall transfer the funds appropriated herein to The Delaware Economic Development Authority. It is also the intent of the General Assembly that the Development Incentive Fund be established by amending Chapter 50, Title 29 of the Delaware Code by creating a new Subchapter I A to read as follows:

"Subchapter I A - Development Incentive Fund

§5020. Legislative Intent.

The General Assembly finds that State development officials confront extraordinary economic development opportunities that, if exploited, would have significant impact on Delaware's future economic health and competitiveness. The General Assembly also finds that such situations frequently require expeditious action and offers of State assistance that are beyond the capacity of existing Delaware and local programs. To meet these challenges, it is the intent of the General Assembly that the Development Incentive Fund be used to assist the Delaware Development Office in the establishment, retention, expansion and attraction of private-sector enterprises and institutions and federal research and development institutes that will contribute to the economic vitality of the State.

§5021. Creation of the Fund.

(a) A Special Fund to be known as the "Development Incentive Fund," hereinafter shall be referred to as the "Fund," shall be created.

(b) The Fund shall initially consist of Five Hundred Thousand Dollars (\$500,000) and shall be replenished annually to a balance of Five Hundred Thousand Dollars (\$500,000).

(c) The Fund shall be invested by the State Treasurer of the State in securities consistent with the policies established by the Cash Management Policy Board. All interest on the Fund's monies and any proceeds from the repayment of the Fund's proceeds shall be deposited in the Fund.

(d) In the event of an emergency involving the health, safety or welfare of the citizens of the State, any portion of the balance remaining in the Fund and uncommitted may be expended pursuant to an act of appropriation passed by the General Assembly with the concurrence of three-fifths of all members elected to each Chamber thereof, and approved by the Governor.

§5022. Fund Purposes.

(a) Funds appropriated to the Fund may be loaned or granted by The Delaware Economic Development Authority ("Authority") for the following activities:

(1) Renovation, construction, or any other type of improvements to roads, utilities and related infrastructure;

(2) Assistance for land and building acquisition and development; and

(3) Delaware Technical Innovation Grants not to exceed One Hundred Fifty Thousand Dollars (\$150,000) annually.

(b) Except for those projects receiving Delaware Technical Innovation Grants, monies appropriated to the Fund shall not be loaned or granted for:

(1) Projects which do not attract, expand or retain employment opportunities;

(2) Funding projects located outside the State;

(3) Private, non-profit activities; and

(4) Private speculative real estate ventures.

(c) No more than Two Hundred Thousand Dollars (\$200,000) may be loaned or granted to any one project. A project, for the purposes of this subchapter, is any eligible activity as set forth in Sections 5022 and 5023.

§5023. Fund Eligibility.

Except for those projects receiving Delaware Technical Innovation Grants, in order for a project to be eligible for the funding purposes cited in §5022 above, the project must meet the following criteria:

(1) The firm to benefit from Fund proceeds must create or save direct, permanent, quality, full-time jobs;

(2) The firm to benefit from Fund proceeds must provide at least a Two Hundred Thousand Dollar (\$200,000) capital investment in or secure at least Two Hundred Thousand Dollars (\$200,000) of capital leases for buildings and/or equipment in the State; or

(3) The firm to benefit from the Fund shall meet the criteria of the Authority's Industrial Revenue Bond Program as defined in Title 29, Chapter 50, Subchapter IV of the Delaware Code.

§5024. Findings and Determinations for Assistance.

Projects to be aided by the Fund shall be approved and recommended by the Council on Development Finance ("Council"). No project shall receive any benefit from the Fund unless such benefit is approved by at least five (5) of the seven (7) members of the Council or three-quarters of the members if vacancies on the Council exist.

§5025. Report to the General Assembly.

By December 31 of each year, the Delaware Development Office shall report the Fund's previous year's uses to the General Assembly."

Section 29. Economic Development Fund.

(a) The General Assembly finds that the 1987 federal tax law changes significantly diminished the State's sole business financing program to the extent that Delaware virtually has no financing program to encourage business relocation and expansion. The General Assembly also finds that neighboring states, in competition with Delaware, do have business financing programs and that the existence of these programs and the lack of a Delaware program have caused Delaware's business recruitment and retention activities to suffer. It is the intent of the General Assembly that the Economic Development Fund ("Fund") be established to assist the Delaware Development Office in the establishment, retention, expansion and attraction of private-sector enterprises and institutions and federal research and development institutes that will contribute to the economic vitality of the State.

(b) It is the intent of the General Assembly that Three Million Dollars (\$3,000,000) appropriated in Section 5 of this Act to the Delaware Development Office

("Office") be used for Fund activities, as defined in the following paragraphs. By September 1, 1988, the Office shall transfer the funds appropriated herein to The Delaware Economic Development Authority.

(c) The Director of the Office ("Director") and the Secretary of Finance ("Secretary") shall write, distribute to area financing institutions and advertise in appropriate newspapers a request for proposals ("Request"). This Request shall describe the parameters of the Fund.

(d) Financing Institutions shall respond to the Request by describing a financing plan that meets, as practically as possible, the parameters of the Request. The Director and the Secretary shall choose one or more financing institutions' plan(s) and enter into appropriate agreements with the chosen financing institutions to effectuate the Fund. The Fund shall include at least the following requirements:

(1) Fund monies shall be leveraged, to the greatest extent possible, with private-sector monies;

(2) The Fund's proceeds shall not be used as collateral, to the greatest extent possible;

(3) Minimal additional State staff support shall be needed to operate the Fund;

(4) The amount of Fund monies necessary for fees charged to the State shall be as low as practically possible;

(5) Fund monies shall not be used for refinancing;

(6) The Fund's monies shall be used for targeted businesses. Targeted businesses shall include manufacturers, wholesalers, research and development laboratories or facilities, incubator service firms and the administration and management support required for these activities;

(7) Fund loans shall be made at the lowest interest rate practically possible;

(8) Fund proceeds may be used for fixed asset and working capital;

(9) Fund proceeds may not be used by an eligible business until the project site for which the monies are to be used has been properly zoned and subdivided;

(10) Fund proceeds may not be used by an eligible business until the project for which the monies are to be used has its environmental permits in order; and

(11) Any project for which Fund proceeds are to be used must be reviewed by the Office with the appropriate local government personnel in whose jurisdiction the project will be located.

(d) At least One Million Dollars (\$1,000,000) of the Three Million Dollars (\$3,000,000) appropriated herein must benefit business loans of Two Hundred Fifty Thousand Dollars (\$250,000) or less.

(e) Projects to be aided by the Fund shall be recommended by the Council on Development Finance ("Council") and approved by the Director. No project shall receive any benefit from the Fund unless such benefit is approved by at least five (5) of the seven (7) members of the Council or three-quarters of the members if vacancies on the Council exist.

(f) The proceeds from repayment of the Fund's proceeds shall be deposited in the Fund.

(g) The Office shall author regulations to effect this Section forty-five (45) days after the Director and the Secretary have chosen the financing institutions to effectuate the Fund.

(h) Amend Section 5054, Chapter 50, Title 29 of the Delaware Code by adding the phrase "to provide any other form of financing support" after the phrase "To enter into loan agreements with," and "or other financing support" after "loans" and before "may" in Section (e)(6).

(i) Amend Section 5055(a), Chapter 50, Title 29 of the Delaware Code by adding the words "or to provide another form of financing support to a project" to the end of the first sentence of subsection (a).

(j) Amend Section 5055(b), Chapter 50, Title 29 of the Delaware Code by adding the words "or another form of financing support is not provided" in between the words "disbursed" and "to" in subsection (b).

Section 30. Agribusiness BIDCO.

(a) It is the intent of the General Assembly that Two Hundred Fifty Thousand Dollars (\$250,000) appropriated in Section 5 to the Delaware Development Office ("Office") be used as an investment in one or more agribusiness Business and Industrial Development Corporations (BIDCO). The Office shall transfer funds appropriated herein to The Delaware Economic Development Authority ("Authority") by September 1, 1988.

(b) The Authority may invest in an agribusiness BIDCO only when the following criteria are met:

(1) The agribusiness BIDCO's Board of Directors must be approved jointly by the Director of the Office ("Director") and the State Bank Commissioner ("Commissioner"). The Board of Directors must include the Secretary of Finance ("Secretary") and the Secretary of the Department of Agriculture as non-voting members;

(2) The agribusiness BIDCO must have a well-developed agribusiness plan, as approved by the Director, the Secretary and the Commissioner;

(3) The agribusiness BIDCO must agree to supply annual business and capital plans to the Director for review; and

(4) The agribusiness BIDCO must have private-sector investment of at least three (3) times the State's investment.

(c) Once the criteria in Section (b) above are met, the State may purchase non-voting stock in the agribusiness BIDCO, with reserve rights to sell such stock to private investors in the future.

(d) Should the agribusiness BIDCO declare dividends to the shareholders, those dividends that represent the State's equity share shall be deposited in the State Treasurer's Bond Reversion Account. Should the State's equity investment in the agribusiness BIDCO be sold, liquidated, or otherwise returned to the State, these proceeds shall also be deposited in the State Treasurer's Bond Reversion Account.

(e) For the purposes of this Section, an agribusiness BIDCO is a Business and Industrial Development Corporation whose reason for existence is to invest in businesses which have main activities involving agricultural products.

Section 31. Agribusiness Development. It is the intent of the General Assembly that Two Hundred Twenty-Five Thousand Dollars (\$225,000) appropriated in Section 3 of this Act to the Delaware Development Office ("Office") be used for agribusiness development. Of the amount appropriated herein, the Office shall transfer the sum of One Hundred Seventy-Five Thousand Dollars (\$175,000) to the Department of Natural Resources and Environmental Control for poultry manure sheds by September 1, 1988. Also of the amount appropriated herein, Fifty Thousand Dollars (\$50,000) shall be used for High Tech Poultry Research.

Section 32. Train Station Renovation. It is the intent of the General Assembly that of the Two Hundred Thirty-Five Thousand Dollars (\$235,000) appropriated to the Department of State ("Department") in Section 2 of this Act for minor capital improvements, that no more than Fifteen Thousand Dollars (\$15,000) be used for renovation of the train station in the City of Rehoboth ("City"). The Secretary of the Department is hereby directed to enter into appropriation contracts with the City to make necessary renovations to the train station.

Section 33. Wilmington Public Building. It is the intent of the General Assembly that Six Hundred Fifty Thousand Dollars (\$650,000) appropriated in Section 1 of this Act to the Department of Administrative Services be used for renovations to the Wilmington Public Building. Of the funds appropriated herein, a sum not to exceed Three Hundred Fifty Thousand Dollars (\$350,000) shall be used for the construction of a third courtroom for other offices and support facilities for the Court of Chancery. The

balance of the funds appropriated herein shall be used to plan, design and begin construction of additional, necessary judicial facilities in the space to be vacated by the City of Wilmington Police Department.

Section 34. Tatnall Building/Legislative Hall. It is the intent of the General Assembly that One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) appropriated in Section 1 of this Act to the Department of Administrative Services be used in concert with funds appropriated in the Fiscal Year 1988 Capital Improvement Act to undertake a renovation of the Tatnall Building/Legislative Hall. These renovations shall be based on plans approved by Legislative Council upon enactment of this legislation. The final design plans for the space allocated to the General Assembly shall require the approval of Legislative Council prior to the solicitation of competitive bids.

Section 35. Department of Administrative Services/Minor Capital Improvements. It is the intent of the General Assembly that of the One Million Seven Hundred Fifteen Thousand Dollars (\$1,715,000) appropriated in Section 2 of this Act to the Department of Administrative Services, that One Hundred Fifty Thousand Dollars (\$150,000) be allocated to complete the Sussex County Family Court facility and that an additional Seventy-Five Thousand Dollars (\$75,000) be allocated for furniture for the Sussex County Family Court facility and that Two Hundred Thousand Dollars (\$200,000) be allocated to complete the Kent County Family Court facility and an additional One Hundred Fifteen Thousand Dollars (\$115,000) be allocated for furniture for the Kent County Family Court facility. Forty Thousand Dollars (\$40,000) shall be allocated to the Delaware Development Office for office furnishings and improvements.

Section 36. Asbestos.

(a) The sum of Three Million Dollars (\$3,000,000) appropriated in Section 7 of this Act to the Department of Administrative Services shall be used to implement a comprehensive program of asbestos control in State-owned facilities and public schools. The Secretary of Administrative Services is hereby directed to implement the prioritized listing of asbestos control projects in accordance with the consultant's studies performed for the Department of Administrative Services and for the Department of Public Instruction.

(b) The funds appropriated herein may be used by the Secretary of Administrative Services for any activity relating to the detection, removal, encapsulation and/or enclosure of asbestos, or reinsulation of areas where asbestos has been removed, in State-owned buildings and public schools, including the relocation of personnel, functions or activities whenever necessary at the discretion of the Secretary of Administrative Services.

(c) Of the Three Million Dollars (\$3,000,000) herein appropriated, One Million Dollars (\$1,000,000) shall be made available for asbestos control projects in public schools in the State of Delaware. Funds allocated by the Secretary of Administrative Services for use by local school districts shall constitute the State's sixty percent (60%) share of a minor capital improvement as defined by Section 7528 of Title 29 of the Delaware Code. Each qualifying school district shall authorize its forty percent (40%) share which, together with the State match, shall be used to complete the designated asbestos control project. If the school district is able to obtain federal funds for an approved asbestos removal project, each qualifying school district shall be authorized its forty percent (40%) share of the non-federal portion of the project which, together with the State match, shall be used to qualify for federal funds. No local school district may participate in the use of these funds without first providing its local share pursuant to the provisions of this Section and other pertinent provisions of Delaware law.

(d) The Secretary of Administrative Services shall approve the standards and specifications for all asbestos control projects funded with State monies from any source. The selection of asbestos abatement contractors and environmental monitoring firms will be based solely upon qualifications, experience and ability to perform asbestos abatement activities. The Department of Administrative Services shall approve the selections of the asbestos abatement contractors for all asbestos control projects funded with State monies from any source.

Section 37. Woods-Haven Kruse Land Purchase. It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) appropriated in Section 5 of this Act to the Department of Services for Children, Youth and Their Families ("Department") be used by the Department to purchase land commonly known as "Woods-Haven Kruse" and all improvements thereon. The property and improvements to be purchased are situated on the

northern side of Darley Road, between Philadelphia Pike and I-95 overpass, Brandywine Hundred, New Castle County, Delaware.

Section 38. Shoreline Stabilization and Bypass System - Indian River Inlet. Section 4, Volume 65, Chapter 212 of the Laws of Delaware notwithstanding, the funds allocated in the Fiscal Year 1986 Capital Budget and amended by House Bill No. 409 of the 134th General Assembly for the Sand Bypass System and the Shoreline Stabilization projects at Indian River Inlet shall not revert until June 30, 1991.

Section 39. Pavilion. It is the intent of the General Assembly that of the One Million Dollars (\$1,000,000) appropriated to the Department of Natural Resources and Environmental Control in Section 5 of this Act for Bellevue Park ("Park"), that Fourteen Thousand Dollars (\$14,000) be used for a pavilion at the Park.

Section 40. Banning Park. It is the intent of the General Assembly that Three Hundred Fifty-Five Thousand Dollars (\$355,000) appropriated to the Department of Natural Resources and Environmental Control in Section 5 of this Act be used to purchase and improve a parcel of land adjacent to Banning Park consisting of approximately four (4) acres commonly known as the "Clark Property" between Banning Park and the community of Forest Brook Glen, New Castle County, Delaware. These funds may also be used to purchase equipment for use at Banning Park. It is further the intent of the General Assembly that the County take title to the property within three (3) months after the State has purchased it.

Section 41. Remediation. It is the intent of the General Assembly that Fifty Thousand Dollars (\$50,000) appropriated in Section 5 of this Act to the Department of Natural Resources and Environmental Control be used to inspect and remediate, if necessary, a property located at the northeast intersection of Somervell Road and State Route 141 in order to remove any and all environmental problems, including, but not limited to, any leakages from underground storage tanks. In the event that any and all environmental concerns can be resolved, including, but not limited to, compliance with the requirements of Chapter 74, Title 7 of the Delaware Code with the funds heretofore appropriated, the Department of Transportation ("Department") in accordance with Department procedures, shall purchase the property from funds available within the Transportation Trust Fund after completion of any necessary remediation or cleanup work. In the event that the purchase is completed and a determination is made by the Department to build a connecting road from Paul Road to Somervell Road, funding for that project shall be made from the Suburban Street Funds. Should funds appropriated herein remain after inspection and remediation work is completed, the Department of Natural Resources and Environmental Control is directed to transfer any unencumbered funds appropriated herein to the Department for the purchase of said property.

Section 42. Leaking Underground Storage Tanks. It is the intent of the General Assembly that funds appropriated in this Act for Leaking Underground Storage Tanks and any previous Acts appropriating monies for the Superfund and Leaking Underground Storage Tanks programs may be used for either aforementioned program, regardless of any original appropriating language, intent or amendments thereto.

Section 43 Ocean Beach Renourishment and Preservation.

(a) The General Assembly hereby appropriates One Million Three Hundred Thousand Dollars (\$1,300,000) to the Department of Natural Resources and Environmental Control ("Department") in Section 5 to renourish and preserve the State's ocean beaches. The Department may not encumber the funds appropriated herein for individual projects until at least an equal amount of non-State funds are available for such individual projects. The availability of the aforementioned non-State matching funds must be approved by the Secretary of Finance and the Secretary of the Department.

(b) Amend Section 6903(a), Chapter 69, Title 7 of the Delaware Code by adding a new subsection (8) thereto to read as follows:

"(8) Where the purchased material or work which is the subject of the contract is necessary to enable the Department of Natural Resources and Environmental Control to engage in the preservation of the beaches of the Atlantic Ocean and Delaware Bay shoreline of Delaware in accordance with the Beach Preservation Act, 7 Delaware Code §6801 et. seq. Notwithstanding the foregoing, any such purchase must be approved by the Budget Commission prior to the commencement of any purchase of material of work."

Section 44. Conservation Cost Sharing Program. It is the intent of the General Assembly that Three Hundred Fifteen Thousand Dollars (\$315,000) appropriated to

the Department of Natural Resources and Environmental Control ("Department") in Section 5 of this Act be used for the Department's soil and water district conservation program. Of the Three Hundred Fifteen Thousand Dollars (\$315,000) appropriated herein, the Department shall spend one-third [One Hundred Five Thousand Dollars (\$105,000)] for use in each county.

Section 45. Land & Water Conservation Fund.

(a) Notwithstanding the provisions of Chapter 47, Subchapter III, Title 7 of the Delaware Code, it is the intent of the General Assembly that Seven Million Dollars (\$7,000,000) appropriated in Section 5 to the Department of Natural Resources and Environmental Control ("Department") be deposited into the Land and Water Conservation Fund ("Fund") to acquire or partially acquire the following eight (8) parcels of land. The tracts to be acquired with the funds appropriated herein are lands commonly known as the following:

- (1) The "S. Hallock DuPont Tract," comprised of about 321 acres;
- (2) The "Hickman Tract," comprised of about 198 acres;
- (3) The "Thompson Island," comprised of about 159 acres;
- (4) The "Cole Tract," comprised of about 218 acres;
- (5) The "Walker Tract," comprised of about 220 acres;
- (6) The "Killen Property," comprised of about 65 acres;
- (7) The "Timmons Property," comprised of about 113 acres; and

- (8) The "Phillips Property," comprised of about 80 acres.

The General Assembly intends to complete, in fiscal years 1990 and 1991, the acquisition of any of the properties listed above not fully acquired with the funds appropriated herein.

(b) Of the interest earned on the Fund, an amount may be expended for the purchase of parcel(s) of land suitable for establishing a borrow pit for the purpose of mining sand to replenish Delaware beaches. The purchase of such parcel(s), if appropriate one(s) can be located, is subject to the approval of the State Geologist and the Department Secretary. The remainder of the interest earned shall be expended for the purposes described in Chapter 47, Subchapter III, Title 7 of the Delaware Code.

(c) The Secretary of the Department is hereby empowered to conduct negotiations for the acquisition of the eight (8) parcels and the borrow pit parcel(s), as outlined in Section (b) above, and to enter into contracts for the purchase of or options to purchase parcels and may utilize various methods of acquisition including but not limited to outright purchases, installment purchases, and mortgages (such as purchase money mortgages). However any such negotiations and agreements shall be expressly conditioned upon the following terms:

(1) No transfer of title regarding any of these parcels may take place until the Commission on Natural Areas and Open Spaces Acquisition ("Commission") has approved such purchase by a majority vote or the General Assembly, upon review, has approved the transaction as more specifically set forth in the new Chapter 34 created below.

(2) The monies appropriated herein may not be used for administrative expenses of the Department. However, monies appropriated herein may be used for related expenses including but not limited to appraisals, surveys and closing costs.

(d) Amend Title 29, of the Delaware Code by adding a new Chapter 34 to read as follows:

"Chapter 34. Commission on Natural Areas and Open Spaces

§3401. Establishment and Composition.

There is hereby created the Commission on Natural Areas and Open Spaces Acquisition ("Commission") for the purpose of acquiring State lands for open spaces, natural areas and recreational uses.

(1) The Commission shall be composed of 7 citizens of the State as follows: 1 member shall be appointed by the President pro tempore of the Senate and 1 member by the Speaker of the House respectively; 3 members (1 from each county) shall be appointed by the Governor; and the remaining 2 members shall be the Director of the Delaware Development Office (or his designee) and the Secretary of Finance who shall also serve as chairman.

(2) 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.

§3042. Powers and Duties.

The Secretary of the Department of Natural Resources and Environmental Control ("Secretary") shall present to the Commission for approval any contract or option to acquire parcels designated for open spaces, natural areas and recreational uses. No transfer of title or obligation of State funds for the purchase of such parcels may take place without majority approval by the Commission of the terms and conditions of the agreements negotiated by the Secretary. However, should the Commission disapprove any of the Secretary's proposed purchase agreements or options, the Secretary may, with concurrence of the Governor, seek review of the Commission's action by the General Assembly which may override the Commission's decision by a majority vote."

Section 46. Welgh Station Improvements. Whereas the sum of Twenty-Six Thousand Dollars (\$26,000) was authorized in the "Fiscal Year 1988 Capital Improvements Project Schedule" to the Department of Public Safety for Welgh Station Improvements, and the Department of Transportation will be the lead agency in making the repairs to the Welgh Station, the Budget Director is authorized and directed to transfer said appropriation from the Department of Public Safety to the Department of Transportation.

Section 47. Department of Transportation Accounting Procedures.

(a) In order to properly account for program expenditures from the Transportation Trust Fund, the Department of Transportation and the Budget Office are hereby authorized and directed to make the following account code revisions:

<u>Previous Account Code</u>	<u>New Account Code</u>
55-05-00-5500	55-05-00-6600
55-05-00-5711	55-05-00-5700
55-05-00-6700	55-05-00-6400
55-05-00-6900	55-05-00-5600
55-05-00-7000	55-05-00-6500
55-06-00-6711	55-06-00-6700

(b) Nothing in this section shall be construed as authorizing the Secretary of Transportation to deauthorize, cancel or in any way defer any previously authorized Capital Improvements Project.

Section 48. Rail Crossings. The Secretary of the Department of Transportation is authorized to use such funds as may be necessary from funds appropriated for Paving Rehabilitation, and miscellaneous improvements (4R) to make required improvements and conduct required maintenance to railroad grade crossings in the State. For purposes of the New Castle County Road 15, Mount Pleasant to U.S. Route 13 project, Section 703(a) of Title 17 of the Delaware Code, as amended, is waived.

Section 49. Powers, Duties and Authority of the Delaware Transportation Authority.

(a) Title 2, Chapter 14, Delaware Code, is hereby amended:

(1) By adding to Section 1403 new subsections (4) and (5), as set forth below, and changing the numbers of existing subsections (4) and (5) to (6) and (7)

"(4) to purchase, acquire, lease or rent such equipment, materials, vehicles, machinery, office equipment or other items from Authority appropriations for authorized use by the Authority, State or its instrumentalities for their respective purposes, including but

not limited to office supplies, tools, construction equipment, utilities, furniture and such other items as the Authority may authorize;"

"(5) to use funds available in DART operations "public" to cover the expenses, both capital and operating related to public transportation services provided by DART and to consolidate its various accounts consistent with sound accounting principals and practices in order to accomplish the goals of the Authority in accordance with the purposes and programs approved by the General Assembly; and"

(2) By striking the last sentence of Section 1404, and substituting in lieu thereof the following:

"Nothing in this chapter shall adversely affect the security of any bonds issued by the Authority pursuant to a trust agreement dated as of September 1, 1979, as amended, between the Authority and the trustee for holders of bonds secured thereunder or pursuant to a trust agreement dated as of September 1, 1981, as amended, between the Authority and the trustee for holders of bonds secured thereunder."

(3) By deleting Section 1405(1) in its entirety and substituting in lieu thereof the following:

"(1) The provisions of Section 1312 of the Delaware Transportation Authority Act shall not apply to Bonds of the Authority issued pursuant to this Act. However, the Authority shall issue no bonds for any purpose unless the General Assembly by an act passed with the concurrence of three-fourths of all the members elected to each House shall approve the purpose for which the Bonds are issued and maximum amount of such Bonds. No approval of the General Assembly shall be required (i) to refund bonds issued to fund the Delaware Turnpike with bonds the payment of principal and interest on which is to be met solely from tolls imposed on or revenues derived from the Delaware Turnpike; (ii) to refund bonds issued pursuant to this Act provided that the present value of the aggregate principal and interest payments of the refunding bonds are less than the present value of the aggregate principal and interest payments on the bonds to be refunded or (iii) to issue bonds to fund the costs of the Delaware Turnpike or any other toll road provided that such bonds are payable solely from the tolls imposed and other revenues derived therefrom or from the proceeds of such bonds.

(4) By adding the following sentence to Section 1409:

"Neither the use of the Authority's assets for the purposes of this chapter nor the existence of the Authority shall be terminated for any reason prior to the time the principal of, premium, if any, and interest on any bonds of the Authority have been paid or adequate provision for their payment has been made notwithstanding any provision to the contrary if any, in Chapter 102, Title 29, Delaware Code."

(5) by deleting Section 1414 (a) and (b) in their entirety and substituting in lieu thereof the following:

"(a)(1) Notwithstanding the provisions of Title 2, Chapter 13, Delaware Code, Section 1310(b)(3), at such time as there are no longer outstanding any bonds secured by the trust agreement dated as of September 1, 1979 between the Authority and the trustee for the holders of said bonds or provisions for the payment thereof have been made in accordance with the terms of said trust agreement, (A) the motor fuel taxes and motor carrier registration fees remaining after said taxes and fees have been applied as required by the trust agreement dated as of September 1, 1981 between the Authority and the trustee for the holders of bonds secured by said trust agreement shall be paid to the Transportation Trust Fund to be applied by the Authority as provided by this chapter and shall thereupon, without the necessity of any further action by the General Assembly, be irrevocably and automatically pledged and assigned and continuously

appropriated to the Transportation Trust Fund; (B) the provisions of Title 2, Chapter 13, Delaware Code, Section 1310 shall no longer be of any force or effect; and (C) all revenues derived from or with respect to the operations of the Delaware Turnpike shall be deposited in the Transportation Trust Fund.

(11) Notwithstanding the provisions of Title 2, Chapter 13, Delaware Code, Section 1310, at such time as there are no longer outstanding any bonds secured by the trust agreement dated as of September 1, 1979 or the trust agreement dated as of September 1, 1981, both between the Authority and the trustee for the holders of said bonds, or provisions for the payment thereof have been made in accordance with the respective terms of said trust agreements, motor fuel taxes and motor carrier registration fees shall be paid to the Transportation Trust Fund to be applied by the Authority as provided in this chapter and shall thereupon without the necessity of any further action by the General Assembly, be irrevocably and automatically pledged and assigned and continuously appropriated to the Transportation Trust Fund.

(b) The State hereby irrevocably pledges and assigns and continuously appropriates the motor vehicle document fee imposed by the State pursuant to Chapter 30, Title 30, Delaware Code, as amended from time to time, the motor fuel taxes imposed by the State pursuant to Chapter 51, Title 30, Delaware Code, as amended from time to time, and the motor carrier registration fees imposed by the State pursuant to the Section 5211(a), Chapter 52, Title 30, Delaware Code, as amended from time to time, to the Transportation Trust Fund, subject to the rights of holders of outstanding bonds of the Authority issued pursuant to the Delaware Transportation Authority Act."

(6) By adding to Section 1414(d) the following:

"The Authority's power to review and revise any tolls, fares, rents, rates and other charges shall not be subject to supervision or regulation by any department, division, commission, board, council, bureau or agency of the State or any political subdivision thereof. The Authority will consider the purposes of this chapter when establishing such charges, fares, fees, rates, rentals and tolls."

(7) By deleting Section 1415 in its entirety and substituting in lieu thereof the following:

"Notwithstanding the provisions of Section 1310(c)(8) of this title, the Authority shall not transfer available money in the motor fuel tax reimbursement fund to the General Fund of the State. The Authority shall make provisions in its annual budget to reimburse the State from the Transportation Trust Fund an amount equal to the refunds payable by the State on motor fuel taxes pursuant to Sections 5120 and 5214, Title 30, Delaware Code, as amended."

(8) By deleting Section 1416 in its entirety and substituting in lieu thereof the following:

"Notwithstanding the provisions of Section 1310(c)(9) of this title, the Authority shall not transfer available money in the motor carrier registration reimbursement fund to the General Fund of the State and shall not otherwise be required to reimburse the State for motor carrier registration fees."

(9) By deleting Section 1417 in its entirety and substituting in lieu thereof the following:

"The expenditures of the Authority from the Transportation Trust Fund, including expenditures required to be made by resolutions or trust agreements made or to be made by the Authority, shall be approved annually by the General Assembly. The obligations under any such resolution or trust agreement shall be met solely from motor fuel taxes, motor vehicle document fees, receipts and revenues derived from the Delaware Turnpike and any other receipts and revenues of the Authority pledged and assigned to the holders of bonds of the Authority. The budget for capital and operating

expenditures of the Authority payable from the Transportation Trust Fund shall be presented annually by the Authority to the General Assembly. If the General Assembly does not approve the operating budget of the Authority prior to July 1 for the year such budget is submitted, the operating budget, as submitted to the General Assembly, shall be deemed adopted by the Authority until such time as the budget is approved by the General Assembly, provided that the operating expenditures of the Authority shall not exceed similar expenditures of the Authority for the year prior to the budget year by more than a factor equal to the Consumer Price Index as defined in Section 1320(f) of this title. Any obligations incurred by the Authority pursuant to an operating budget deemed adopted by the Authority shall be binding on the Authority. Failure by the General Assembly to approve the capital or operating budget of the Authority shall not affect or impair the obligation of the Authority to meet its obligations to holders of outstanding bonds. The provisions of Chapter 84 of Title 29, including the establishment of priorities for spending state funds, shall apply to available money and bonding capacity in the Transportation Trust Fund for highway projects. The Authority's annual budget as prepared and approved shall reflect that a significant objective of this chapter is to achieve adequate funding and predictable implementation of the Department of Transportation's Capital Improvement Program and other needs of the transportation system."

(b) Title 30, Chapter 30, Delaware Code is hereby amended by deleting from Section 3002(a) the words "in the General Fund" in the first sentence thereof and substituting in lieu thereof "to the credit of the Delaware Transportation Authority pursuant to Chapter 14 of Title 2, as amended, and any resolution or agreement of the Delaware Transportation Authority, authorizing the issuance of bonds to finance the costs of transportation facilities described in said title, to be used to finance the costs of roads, highways and other transportation facilities and not to defray the expenses and obligations of the general government of the State."

Section 50. Transportation Trust Fund. The Transportation Trust Fund Act as amended by the foregoing sections of this Act is hereby readopted.

Section 51. Transport Release Automated Cargo Status System. Of the funds appropriated to the Department of Transportation in this Act, Fifty Thousand Dollars (\$50,000) shall be used to explore the feasibility of developing a computerized cargo tracking system, commonly known as "TRACS" (Transport Release Automated Cargo Status System) either as an individual project or in conjunction with other port development projects. Such a system must be compatible for use by the Port of Wilmington, as required by U.S. Customs.

Section 52. Municipal Street Aid. Amend Section 5162, Chapter 51, Title 30 of the Delaware Code effective as of July 1, 1988, by striking said Section in its entirety and substituting in lieu thereof the following:

"There shall be appropriated annually to municipalities within the State beginning in the State's 1989 Fiscal Year and each subsequent year thereafter in conjunction with, pursuant to and as a portion of the Delaware Transportation Trust Fund within the Capital Improvement Program, a sum not in excess of \$3,000,000. The sum so appropriated shall be transferred to the Municipal Street Aid Fund by the State Treasurer and distributed to municipalities as provided in this subchapter."

Section 53. Department of Transportation Compensation. Each year the Federal Highway Administration makes available additional funding for highway projects. In order for a State to take advantage of this opportunity, the projects must be ready to immediately utilize the funding. Additionally, whereas the expanded size of the Department's Capital Improvement Program requires more time to administer in a timely manner, the Secretary of the Department of Transportation ("Department") is hereby authorized to pay overtime wages during Fiscal Year 1989 to the Department's employees engaged in all authorized activities necessary to accomplish the Capital Improvements Program. In order to accomplish the purpose expressed herein, any relevant Delaware law, rule or regulation to the contrary is hereby waived.

Section 54. Department of Transportation Accounts.

(a) Any funds appropriated from any source to the Department of Transportation ("Department") shall be accounted for by program category as specified in

the "Fiscal Year 1989 Capital Improvements Project Schedule" attached hereto and made a part hereof. Amounts indicated for individual projects in the "Supplemental List of Transportation Projects" are the Department's best estimates of cost, but may vary depending on bid results and project designs. The description and limits are general in nature and are to be used only for project identification purposes. It is the intent of the General Assembly that the Secretary of the Department make all reasonable efforts to insure the timely completion of projects subject to the limitation of the total funds available in each program.

(b) The Secretary of the Department is directed to continue inspecting the condition of bridges in the State of Delaware and to use the Bridge Program funds made available by this and previous acts to insure that bridge repairs and replacements are carried out in an expeditious manner.

Section 55. Advances and Reimbursement Agreement with the Department of Transportation. Amend Section 6519, Chapter 65, Title 29, Delaware Code, as amended, by adding the following paragraph:

"Notwithstanding any other provision of law, the State may advance, from time to time, from the General Fund to the Department of Transportation for its corporate purposes an amount reasonably expected to be reimbursed to the State by or on behalf of the Department of Transportation within two weeks of any such advance or by written agreement between the Secretary of Finance and the Secretary of Transportation. However, under any circumstances, the Department of Transportation shall fully reimburse all funds advanced prior to the end of the fiscal year. The Secretary of Finance is hereby authorized on behalf of the State to enter into contracts or other arrangements with the Department of Transportation to provide for such advances and reimbursement. Any such contracts or arrangements shall take into account the availability of amounts in the General Fund to meet the obligations of the State for the purposes to be met from appropriations by the General Assembly."

Section 56. Department of Agriculture. The sum of One Million Three Hundred Eighty-Five Thousand Dollars (\$1,385,000) appropriated to the Department of Agriculture in Section 1 of this Act for the renovation and expansion of the Department of Agriculture Building shall be transferred to the Department of Administrative Services for contract award and project administration after approval of final design plans by the Secretary of Agriculture and the Secretary of Administrative Services.

Section 57. National Guard Projects.

(a) Amend Volume 65, Chapter 385, of the Laws of Delaware by deleting the word "addition" after "Dagsboro Armory" in the "Fiscal Year 1987 Capital Improvements Project Schedule."

(b) Amend Volume 66, Chapter 92, of the Laws of Delaware by deleting the words "(Add /Renov.)" after the words "Dagsboro Armory" in the "Fiscal Year 1988 Capital Improvements Project Schedule".

(c) Amend Volume 62, Chapter 407, of the Laws of Delaware by adding the words "and various roofs" after the words "Comb. Support & Organiz. Maint. Shop #5", in the "Fiscal Year 1981 Capital Improvements Project Schedule".

(d) Notwithstanding Title 29, Section 7416, of the Delaware Code, the funds appropriated in Volume 62, Chapter 407, Laws of Delaware to the Delaware National Guard for the Combined Support and Organizational Maintenance Shop #5 shall not be deauthorized or reverted until June 30, 1990.

Section 58. Fire Marshal Building. The sum of Six Hundred Twenty Thousand Dollars (\$620,000) appropriated to the Fire Prevention Commission in Section 1 of this Act for construction of the Fire Marshal Building shall be transferred immediately by the Budget Office and State Treasurer to the Department of Administrative Services for contract award and project administration.

Section 59. Hydraulic Rescue Tools. It is the intent of the General Assembly that Sixty-Five Thousand Dollars (\$65,000) appropriated in Section 2 of this Act to the State Fire Prevention Commission be used for the purchase of hydraulic rescue tools. The Director of the State Fire School shall purchase and distribute these tools on the basis of age and/or condition of existing tools in service.

Section 60. University Planning. It is the intent of the General Assembly that Two Hundred Fifty Thousand Dollars (\$250,000) appropriated to the University of

Delaware ("University") in Section 5 of this Act be used to develop a comprehensive capital plan for the University including building needs or designs, funding formulas for University, State or private contributions and any related design materials needed to illustrate such a plan covering the next five (5) years. This plan is to be developed in cooperation with the Director of the Delaware Development Office so that the University needs may be programmed into the overall capital requirements for the State.

Section 61. Basketball Arena. It is the intent of the General Assembly that Two Million Dollars (\$2,000,000) appropriated in Section 5 of this Act to the University of Delaware ("University") be used by the University for a basketball arena. Before the University may expend the funds appropriated herein, it shall have available at least Ten Million Dollars (\$10,000,000) from non-State sources for the arena. The availability of the aforementioned non-State sources must be approved by the President of the University and the Secretary of Finance.

Section 62. Exxon Fund Match. It is the intent of the General Assembly that Two Hundred Fifty Thousand Dollars (\$250,000) appropriated to the Delaware Technical and Community College ("College") in Section 5 of this Act be used as a match for Exxon funds for the heating air-conditioning and ventilation system at the College's Stanton Campus.

Section 63. Advanced Planning Funds. It is the intent of the General Assembly that of the Nine Hundred Eighty-Four Thousand Dollars (\$984,000) appropriated in Section 1 of this Act to the Board of Education for the Sussex Elementary Consortium, that Forty Thousand Dollars (\$40,000) be used to repay the Advanced Planning Fund (10-02-006-84-00).

Section 64. Hodgson Vocational and Technical School. It is the intent of the General Assembly that the One Hundred Nine Thousand Nine Hundred Twenty-Four Dollars (\$109,924) appropriated in Section 2 of this Act and Five Hundred Ninety Thousand Seventy-Six Dollars (\$590,076) appropriated in Section 5 of this Act appropriated to the Board of Education for the Hodgson Vocational and Technical School ("School") be used to complete work allowed in Section 58 of the State's Fiscal Year 1988 Capital Budget (Volume 66, Chapter 92, Laws of Delaware). Any remaining funds may be used for renovation and repair of the existing building on the school's campus.

Section 65. Board of Education - Brandywine School District.

(a) It is the intent of the General Assembly that Two Hundred Fifty Thousand Dollars (\$250,000) appropriated in Section 5 of this Act be used by the Brandywine School District for the purpose of preparing for the relocated activities at the Edgemoor School and for other educational, recreational and cultural activities being developed for the Mount Pleasant Junior High School property.

(b) The funds appropriated herein must be matched by at least One Hundred Sixty-Six Thousand Six Hundred Sixty-Seven Dollars (\$166,667) of non-State funds. The Director of the Delaware Development Office shall verify the availability of such non-State funds, and the matching non-State funds shall be spent before any State dollars appropriated herein may be encumbered.

Section 66. Christina School District Local Project. The Christina School District, as a result of the successful passage of a local referendum held on October 7, 1986, is authorized to issue, through the State, Five Hundred Thousand Dollars (\$500,000) in bonds to construct a district maintenance facility. The repayment of these bonds is solely the responsibility of the Christina School District.

Section 67. Transit Operations. The Delaware Transportation Authority is hereby authorized to expand existing transit operations and the sum of Seven Hundred Fifty Thousand Dollars (\$750,000) is hereby appropriated for that purpose. Said transit operations may consist of expanded rail or bus service or such other services which shall serve to promote commuter transit, to relieve road congestion and/or to provide such other traffic mitigation measures as shall be determined to be in the best interest of the State. The funds authorized by this section may be used for capital or operating costs, costs of insurance or bonding and any other costs reasonably related to provide the expanded transit operations described herein. Any of the funds authorized herein and used for insurance purposes may be utilized as determined by the Delaware Transportation Authority to purchase a general liability or such other insurance policy or to participate in the State's self insurance fund to the extent necessary to provide for the potential liability exposure as shall be determined by the Delaware Insurance Determination Committee pursuant to Section 6501, Chapter 65 of the Delaware Code.

Section 68. Delaware Transportation Authority: Limitation on Damages. Amend Chapter 13, Title 2 of the Delaware Code by adding a new Section 1329 to read as follows:

"Section 1239. Any operation, service or program provided by the Delaware Transportation Authority or under its auspices not covered by a general liability policy, self insurance, or other insurance policy as shall be legally established and funded by said Authority shall be covered and protected by the doctrine of sovereign immunity of the State of Delaware which shall be applicable not only to the Authority but to each of its agencies, administrations, subsidiaries and each of their respective officers and employees; which immunity shall apply to and against any law suit or liability arising from any such operation, service or program, except as specifically excepted under this Section. No legal or equitable action seeking damages as a result of any operation, service or program described in the preceding sentence shall be permitted or damages recovered except as such activity is and shall be covered by an insurance program procured in accordance with law and for which adequate funding is available. In the event that insurance has been provided, such claim, including any award for damages or costs assessed against the Authority, its administrations, subsidiaries, officers or employees either individually or on behalf of their employer shall not exceed the amount of said insurance covering the risk or loss or the amount of Three Hundred Thousand Dollars (\$300,000) whichever amount shall be the lesser for any and all claims arising out of a single occurrence."

Section 69. Commuter Rail.

(a) In the event that the Delaware Transportation Authority ("Authority") receives a financially reasonable proposal, as shall be determined by said Authority, that a viable commuter rail operation shall be operable within the State of Delaware, the Authority is hereby authorized to expend such sums as it may legally have available for such service. It is the expressed intent of the General Assembly, as a matter of public policy, to extend immunity of the State to any and all such rail operations except as otherwise permitted under this Section. Any such waiver of immunity from lawsuit or liability whether by operation of law or contract shall be strictly limited to the terms of this Section.

(b) The Delaware Transportation Authority is expressly given authority to enter into a contract with one or more rail service operators, hereinafter referred to as "Contractors" to maintain and operate rail service between points in Pennsylvania and Delaware and to indemnify and save harmless said Contractors from any and all liability to the extent such indemnification can be covered by insurance either through a commercially procured policy or through the State's self insurance fund as shall be determined by the Authority.

Section 70. Appropriations for Minor Capital Improvements. It is the intent of the General Assembly that the sum of Three Million Five Hundred Two Thousand Two Hundred Eighty-Two Dollars (\$3,502,282) appropriated in Section 2 of this Act and Three Hundred Seventeen Thousand Seven Hundred Eighteen Dollars (\$317,718) appropriated in Section 7 of this Act to the State Board of Education be used for minor capital improvements to school buildings. This amount shall be paid by the State Board of Education to local districts in the following amounts:

School District	Maximum State Share	Local Share	Maximum Total Cost
Appoquinimink	\$ 76,696	\$ 51,131	\$ 127,827
Brandywine	364,310	242,873	607,183
Special	47,935	-0-	47,935
Christina	557,253	371,502	928,755
Special	47,669	-0-	47,669
Colonial	320,568	213,712	534,280
Special	40,147	-0-	40,147
New Castle County Vo-Tech	267,839	-0-	267,839
Red Clay	460,181	306,787	766,968
Special	61,117	-0-	61,117
Caesar Rodney	172,569	115,046	287,615
	Maximum		Maximum

<u>School District</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Capital	191,144	127,429	318,573
Kent County Vo-Tech	29,959	-0-	29,959
Lake Forest	107,258	71,505	178,763
Milford	110,252	73,501	183,753
Smyrna	89,878	59,919	149,797
Cape Henlopen Special	120,439 19,186	80,293 -0-	200,732 19,186
Delmar	23,968	15,979	39,947
Indian River Special	216,307 25,690	144,205 -0-	360,512 25,690
Laurel	63,513	42,342	105,855
Seaford	113,248	75,499	188,747
Sussex County Vo-Tech	34,753	-0-	34,753
Woodbridge	<u>58,121</u>	<u>38,747</u>	<u>96,868</u>
MINOR CAPITAL IMPROVEMENTS	\$3,620,000	\$2,030,470	\$5,650,470
STATE BOARD OF EDUCATION	\$ 115,000	\$ 76,667	\$ 191,667
VOCATIONAL EQUIPMENT	<u>\$ 85,000</u>	<u>\$ 56,667</u>	<u>\$ 141,667</u>
<u>TOTAL</u>	<u>\$3,820,000</u>	<u>\$2,163,804</u>	<u>\$5,983,804</u>

Section 71. Bond Verification. All bonds issued, or herein before or herein authorized to be issued, by the State are hereby determined to be within all debt and authorization limits of the State.

Section 72. Inconsistency. Insofar as the provisions of this Act are inconsistent with the provisions of any general, special, or local laws, or parts thereof, the provisions of this Act shall be controlling.

Section 73. Severability. If any section, part, phrase, or provision of this Act or the application thereof be held invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof.

Section 74. Effective Date. This Act shall take effect in accordance with the provisions of State law.

Approved July 12, 1988.

FISCAL YEAR 1989 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

Agency/Project	DEFS No.	New GO Bond Author- izations	Deauthor- izations	Reversion & Repro- gramming	1st State Improvement	Stripper Well	Transportation Trust Funds	General Funds	Total
BUDGET OFFICE									
Communications Equipment	89001MGE	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 600,000	\$ 600,000
Northern Data Center	89002MBC	900,000	-0-	-0-	-0-	-0-	-0-	-0-	900,000
Subtotal		\$ 900,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 600,000	\$ 1,500,000
DELAWARE DEVELOPMENT OFFICE									
Christina Gateway Improvement	82010MFO	\$ -0-	\$ -0-	\$ -0-	\$ 538,953	\$ -0-	\$ -0-	\$ 2,050,047	\$ 2,589,000
Kent County Industrial Park	87003MFO	-0-	-0-	-0-	300,000	-0-	-0-	-0-	300,000
Millard Water System Improve.	87007MFO	-0-	-0-	-0-	200,000	-0-	-0-	-0-	200,000
Middletown Industrial Park	89003MFO	-0-	-0-	-0-	100,000	-0-	-0-	-0-	100,000
Sussex Economic Development	89004MFO	-0-	-0-	-0-	300,000	-0-	-0-	-0-	300,000
Development Incentive Fund	89005MFO	-0-	-0-	-0-	500,000	-0-	-0-	-0-	500,000
Economic Development Fund	89006MGO	-0-	-0-	-0-	-0-	-0-	-0-	-0-	3,000,000
Agribusiness 81000	89007MGO	-0-	-0-	-0-	-0-	-0-	-0-	250,000	250,000
Dover Civic Center	88005MGO	-0-	-0-	-0-	-0-	-0-	-0-	1,400,000	1,400,000
Selbyville Industrial Park	89008MFO	-0-	-0-	-0-	450,000	-0-	-0-	-0-	450,000
Agribusiness Development	89009MFO	-0-	-0-	-0-	225,000	-0-	-0-	-0-	225,000
Computers Lease/Purchase	89010MGE	-0-	-0-	-0-	-0-	-0-	-0-	58,000	58,000
Hucklessin Library	89011MBC	300,000	-0-	-0-	-0-	-0-	-0-	-0-	300,000
Medical Center-Pharm. Rsrch.	89012MGO	-0-	-0-	-0-	-0-	-0-	-0-	500,000	500,000
Univ. Composites Tech. Park	88004MGO	-0-	-0-	-0-	-0-	-0-	-0-	2,000,000	2,000,000
Subtotal		\$ 300,000	\$ -0-	\$ -0-	\$ 2,613,953	\$ -0-	\$ -0-	\$ 9,258,047	\$ 12,172,000

Agency/Project	DHS No.	New CD Bond Author- izations	Reversion & Repro- gramming	1st State Improvement	Stripper Well	Transportation Trust Funds	General Funds	Total
DEPARTMENT OF STATE								
Veterans Cemetery	84005480	\$ 715,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 715,000
Buena Vista - MCIs	80049NBM	150,000*	-0-	-0-	-0-	-0-	-0-	150,000
Annual Mainten./Restoration	89013NBM	235,000*	-0-	-0-	-0-	-0-	-0-	235,000
Imaging System	89014NBE	2,300,000*	-0-	-0-	-0-	-0-	-0-	2,300,000
Fort Christina Park	89015MCO	-0-	-0-	-0-	-0-	-0-	-0-	100,000
Subtotal		\$3,400,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 100,000	\$3,500,000
DEPARTMENT OF ADMINISTRATIVE SERVICES								
Legislative Hall/Fatnall Bldg.	83013NBR	\$1,350,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,350,000
Minor Capital Improvements	82021NBM	1,715,000*	-0-	-0-	100,000	-0-	-0-	1,815,000
82021NSM								
Cooper Bldg. Renovations	87018NBR	1,364,688*	-0-	-0-	-0-	-0-	-0-	1,540,000
87018NBR			175,312	-0-	-0-	-0-	-0-	
Asbestos Abatement	86019NBM	-0-	3,000,000	-0-	-0-	-0-	-0-	3,000,000
Purchasing-New Warehouse	86017NBC	1,300,000	-0-	-0-	-0-	-0-	-0-	1,300,000
Washington Public Building	82023NBR	650,000	-0-	-0-	-0-	-0-	-0-	650,000
Del. Geological Survey Bldg.	89016NBC	1,385,000	-0-	-0-	-0-	-0-	-0-	1,385,000
Sussex Co. Family Court	85012NCE	-0-	-0-	-0-	-0-	-0-	75,000	75,000
Kent Co. Family Court	84010NCE	-0-	-0-	-0-	-0-	-0-	115,000	115,000
Subtotal*		\$ 7,764,688	\$ -0-	\$ -0-	\$ 100,000	\$ -0-	\$ 190,000	\$11,230,000

DEPARTMENT OF HEALTH & SOCIAL SERVICES

Minor Capital Improvements	83029NBM	\$2,100,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 900,000	\$3,000,000
Campus Renewal	87036NBR	1,400,000*	-0-	-0-	-0-	-0-	-0-	1,400,000
Medical Examiner-New Lab.	89017NBC	350,000	-0-	-0-	-0-	-0-	-0-	350,000
DSH Steam System	80012NBM	425,000*	-0-	-0-	-0-	-0-	-0-	425,000
DHCL-Decentralized Steam System	89018NSM	-0-	-0-	-0-	587,640	-0-	-0-	587,640
DHCL - Kitchen	88031NBM	150,000*	-0-	-0-	-0-	-0-	-0-	150,000
Williams Serv. Ctr.-Furniture	89019NCE	-0-	-0-	-0-	-0-	-0-	50,464	50,464
Subtotal		\$4,425,000	\$ -0-	\$ -0-	\$ 587,640	\$ -0-	\$ 950,464	\$5,963,104

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH & THEIR FAMILIES

Administration Offices	88034NBC	\$2,007,510	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$3,596,000
Unseal Roof Replace./Terry	87043NBM	55,000*	-0-	-0-	-0-	-0-	-0-	55,000

* 10-Year Bonds.

Agency/Project	DHS No.	New GO Bond Author- izations	Deauthor- izations	Reversion & Repor- graming	1st State Improvements	Stripper Well	Transportation Trust Funds	General Funds	Total
Roof Replace-Ferris Security Renovations-Ferris	88037NM	\$ 200,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 200,000
Woods-Haven Kruse Property	89020NR	720,000*	-0-	-0-	-0-	-0-	-0-	-0-	720,000
Subtotal	89021NG	<u>\$2,982,510</u>	<u>-0-</u>	<u>\$1,588,490</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>\$500,000</u>	<u>\$5,071,000</u>

DEPARTMENT OF CORRECTION									
MCIs and Equipment	80005NM	\$ 250,000*	\$ -0-	\$ -0-	\$ -0-	\$ 573,478	\$ -0-	\$ -0-	\$ 823,478
Perimeter Security Improve.	88048NE	370,000*	-0-	-0-	-0-	-0-	-0-	-0-	370,000
Out Yr. Funding-Homens Prison	87047NC	1,775,000	-0-	-0-	-0-	-0-	-0-	-0-	1,775,000
Herron House Renovation	89022NR	50,000*	-0-	-0-	-0-	-0-	-0-	-0-	50,000
Women's Correctional Fac.	87047NC	<u>459,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>459,000</u>
Subtotal		<u>\$2,904,000</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ 573,478</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$3,477,478</u>

DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL									
Land & Water Conserv. Fund	86050NG	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$7,000,000	\$7,000,000
Sewer Construction	84018MO	2,000,000	-0-	-0-	-0-	-0-	-0-	100,000	2,100,000
Beach Preservation General	84018MO	-0-	-0-	-0-	-0-	-0-	-0-	550,000	550,000
Fort Delaware Boat	78032NG	-0-	-0-	-0-	-0-	-0-	-0-	-0-	200,000
Conserv. Cost Share Prog.	89023NE	200,000*	-0-	-0-	-0-	-0-	-0-	315,000	315,000
Tax/Public Ditches	85033NG	-0-	-0-	-0-	-0-	-0-	-0-	450,000	450,000
PAR Bldg./Road Rehabilitation	78031NG	-0-	-0-	-0-	-0-	-0-	-0-	350,000	350,000
MCIs and Equipment	81031NG	-0-	-0-	-0-	-0-	-0-	-0-	-0-	350,000
Lab Equipment	89024NM	350,000*	-0-	-0-	-0-	-0-	-0-	100,000	100,000
Beach Renourishment	77001NG	-0-	-0-	-0-	-0-	-0-	-0-	1,300,000	1,300,000
Stripper Well Project	89025NG	-0-	-0-	-0-	-0-	-0-	-0-	-0-	10,500
Remediation Project	89026SH	-0-	-0-	-0-	-0-	-0-	-0-	50,000	50,000
Hanning Park	89027NG	-0-	-0-	-0-	-0-	-0-	-0-	355,000	355,000
USI	89028NG	-0-	-0-	-0-	-0-	-0-	-0-	1,000,000	1,000,000
Governor Bacon Improvements	89030NG	-0-	-0-	-0-	-0-	-0-	-0-	30,000	30,000
Bellevue Park	89031NG	-0-	-0-	-0-	-0-	-0-	-0-	1,000,000	1,000,000
Water Resources-Technical	89032NG	-0-	-0-	-0-	-0-	-0-	-0-	279,000	279,000
Services	89033NG	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Christina River Remediation	89032NG	-0-	-0-	-0-	-0-	-0-	-0-	30,000	30,000
Subtotal		<u>\$2,550,000</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$12,909,000</u>	<u>\$15,469,500</u>

*10-Year Bonds.

Agency/Project	DIMS No.	New GO Bond Author- izations	Deauthor- izations	Reversion & Repro- graming	1st State Improvement	Stripper Well	Transportation Trust Funds	General Funds	Total
MCIs and Equipment	85074NBM	\$ 325,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 325,000
Stripper Well Projects	89050NSM	-0-	-0-	-0-	-0-	155,132	-0-	-0-	155,132
Terry Lab	89051NCG	1,900,000	-0-	-0-	-0-	-0-	-0-	-0-	1,900,000
Stanton/HVAC	89052NCG	-0-	-0-	-0-	-0-	-0-	-0-	250,000	250,000
South/Hatch Exxon Funds	89053NCG	-0-	-0-	-0-	-0-	-0-	-0-	44,150	44,150
Wilmington/Stanton Equipment	83087NCE	-0-	-0-	-0-	-0-	-0-	-0-	300,000	300,000
Higher Education Building/ Planning	89054NCP	-0-	-0-	-0-	-0-	-0-	-0-	200,000	200,000
Subtotal		\$3,225,000	\$ -0-	\$ -0-	\$ -0-	\$ 155,132	\$ -0-	\$ 825,450	\$4,205,582
STATE BOARD OF EDUCATION									
Minor Capital Improvements	78050NBM	\$ 3,502,282*	\$ -0-	\$ 317,718	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 3,820,000
78050NBM									
Annual Maintenance Program	78051NCG	-0-	-0-	-0-	-0-	-0-	-0-	953,000	953,000
Seaford Renov. & Additions	88111NBR	930,846*	-0-	-0-	-0-	-0-	-0-	-0-	930,846
Christina Palmer/Barrett Run Land	88116NRC	2,130,000	-0-	-0-	-0-	-0-	-0-	-0-	2,130,000
88116NRC									
Donnal-Leach School	87127NBR	532,000	-0-	-0-	-0-	-0-	-0-	-0-	532,000
89055NBR		984,000	-0-	-0-	-0-	-0-	-0-	-0-	984,000
Cape Henlopen Renov. & Add.	88116NRC	45,000*	-0-	-0-	-0-	-0-	-0-	-0-	45,000
Palmer School - Lead Paint	89056NBM	75,000*	-0-	-0-	-0-	-0-	-0-	-0-	75,000
Woodbridge Windows	89057NBP	60,000*	-0-	-0-	-0-	-0-	-0-	-0-	60,000
Ennis School Pool - Planning	89058NBR	1,061,000	-0-	-0-	-0-	-0-	-0-	-0-	1,061,000
Lake Forest School District	89059NRC	660,000	-0-	-0-	-0-	-0-	-0-	-0-	660,000
Appoquinimink School District	89060NBM	600,000*	-0-	-0-	-0-	-0-	-0-	-0-	600,000
Delcastle Roof	88118NBR	109,924*	-0-	-0-	-0-	-0-	-0-	590,076	700,000
Hodgson Vo-Tech	88118NCR								
88104NCR		-0-	-0-	-0-	-0-	-0-	-0-	250,000	250,000
Brandywine School District	89061NCR	-0-	-0-	-0-	-0-	-0-	-0-	75,000	75,000
Howard Auditorium-Painting	89062NRC	55,000	-0-	-0-	-0-	-0-	-0-	-0-	55,000
Cape Henlopen-Admin. Building		\$10,745,052	\$ -0-	\$ 317,718	\$ -0-	\$ -0-	\$ -0-	\$ 1,868,076	\$12,930,846
Subtotal									
JUDICIAL									
Georgetown JP Court	89063NRC	\$ 385,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 385,000
Subtotal		\$ 385,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 385,000
GRAND TOTAL:		\$44,606,250	\$1,568,490	\$3,493,030	\$2,613,953	\$1,576,250	\$155,442,000	\$30,500,000	\$239,819,973

*10-Year Bonds.

Agcy/Project	DIMS No.	New GO Bond Author- izations	Deauthor- izations	Reversion & Repro- gramming	1st State Improvements	Stripper Mell	Transportation Trust Funds	General Funds	Total
DEPARTMENT OF PUBLIC SAFETY									
Auto Fingerprint I.O.	87065NCE	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 427,877	\$ 427,877
Helicopter Lease/Purchase	86060NCE	-0-	-0-	-0-	-0-	-0-	-0-	185,086	185,086
Wtls and Equipment	83049NBM	125,000*	-0-	-0-	-0-	-0-	-0-	-0-	125,000
Troop 4 Building	88070NBC	200,000	-0-	-0-	-0-	-0-	-0-	-0-	200,000
Subtotal		\$ 325,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 612,963	\$ 937,963
DEPARTMENT OF COMMUNITY AFFAIRS									
Architect. Barrier Removal	8207NBM	\$ 50,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 50,000
Library Shelving	89033NCE	-0-	-0-	-0-	-0-	-0-	-0-	19,800	19,800
Subtotal		\$ 50,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 19,800	\$ 69,800
DEPARTMENT OF TRANSPORTATION									
Corridor/Non Corridor (66/00)	78040MTT	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 68,950,000	\$ -0-	\$ 68,950,000
Bridge Program (65/00)	79034MTT	-0-	-0-	-0-	-0-	-0-	12,587,000	-0-	12,587,000
Paving & Rehabilitation (64/00)	78042MTT	-0-	-0-	-0-	-0-	-0-	15,000,000	-0-	15,000,000
Paving, Rehab., & Misc. Imp. (64/00)	86074MTT	-0-	-0-	-0-	-0-	-0-	17,000,000	-0-	17,000,000
Statewide Safety Prog. (63/00)	81056MTT	-0-	-0-	-0-	-0-	-0-	480,000	-0-	480,000
Traffic Cont. Devices (61/00)	78044MTT	-0-	-0-	-0-	-0-	-0-	800,000	-0-	800,000
Engineer. & Contingencies (57/00)	78049MTT	-0-	-0-	-0-	-0-	-0-	700,000	-0-	700,000
Advanced Sight-of-Way (59/00)	80055MTT	-0-	-0-	-0-	-0-	-0-	700,000	-0-	700,000
Advanced Planning (60/00)	80056MTT	-0-	-0-	-0-	-0-	-0-	300,000	-0-	300,000
Suburban Streets (56/00)	78043MTT	-0-	-0-	-0-	-0-	-0-	12,400,000	-0-	12,400,000
Dirt Road/Surface Treatment (62/00)	78048MTT	-0-	-0-	-0-	-0-	-0-	1,000,000	-0-	1,000,000
Municipal Street Aid (71/00)	89034MTT	-0-	-0-	-0-	-0-	-0-	3,000,000	-0-	3,000,000
DIA Improvements (55/06, 67/00)	89035MTT	-0-	-0-	-0-	-0-	-0-	8,525,000	-0-	8,525,000
Subtotal Program Authorization		-0-	-0-	-0-	-0-	-0-	141,442,000	-0-	141,442,000
Reserve Account	89036MTT	-0-	-0-	-0-	-0-	-0-	14,000,000	-0-	14,000,000
Stripper Mell Project	89037MSM	-0-	-0-	-0-	-0-	31,500	-0-	-0-	31,500
Subtotal		\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 31,500	\$155,442,000	\$ -0-	\$155,473,500

*10-Year Bonds.

Agency/Project	DFMS No.	New GO Bond Author- izations	Deauthor- izations	Reversion & Repre- senting	1st State Improvement	Stripper -Net-	Transportation Trust Funds	General Funds	Total
DEPARTMENT OF AGRICULTURE									
Ag. Building Expansion	88087MBC	\$1,385,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,385,000
Subtotal		\$1,385,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,385,000
NATIONAL GUARD									
USP&D Roof	89038NBM	\$ 100,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 100,000
Stripper Well Projects	89039NSM	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$118,000	\$ -0-	\$ -0-	\$118,000
Subtotal		\$ 100,000	\$ -0-	\$ -0-	\$ -0-	\$ 118,000	\$ -0-	\$ -0-	\$ 218,000
STATE FIRE PREVENTION COMMISSION									
Fire Marshal's Office Bldg.	85061MNC	\$ 620,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 620,000
Hydraulic Rescue Tools	86083MNC	\$ 685,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 685,000
Subtotal		\$ 685,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 685,000
UNIVERSITY OF DELAWARE									
Allyson Hall	88091MNC	\$1,250,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,250,000
Hasketball Arena	89040MNC	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Planning	89041MNC	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Baseball Field Improvements	89042MNC	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Irrigation Equipment	89043MNC	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Subtotal		\$1,250,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,250,000
DELAWARE STATE COLLEGE									
Minor Capital Improvements	88074MNC	\$ 400,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 400,000
Bookstore Addition	89044MNC	\$200,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$200,000
Hall Completion	89045MNC	\$150,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$150,000
Laas Hall Improvements	89046MNC	\$200,000*	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$200,000
Exterior Renov. Ed./Human. Bldg.	89047MNC	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Library Expansion	89048MNC	\$280,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$280,000
Tubman Hall	89049MNC	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Subtotal		\$1,230,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,230,000
DELAWARE TECHNICAL & COMMUNITY COLLEGE									
Trades & Industry Building	88104MNC	\$1,000,000	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$1,000,000
Instruct. Computer Data Processing	88095MNC	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Subtotal		\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-

*10-Year Bonds.

SUPPLEMENTAL LIST OF TRANSPORTATION PROJECTS
Fiscal Year 1989

I. Corridor/Non-Corridor

SR1, Lewes/Rehoboth Canal to 5 Points	4,900,000
Polly Drummond Hill Rd.	425,000
SR4, SR2 to SR7	3,000,000
Old Baltimore Pike/Newtown Rd.	15,300,000
SR896, N. of Summit Bridge to SR4	1,200,000
US13/113 Relief Route (SR1)	21,000,000
SR7, US13 to Pa. Line	8,300,000
SR141, Price's Corner (SR2) to US 202	1,400,000
Churchman's Road, SR7 to SR273	400,000
Newark, Cleveland, Del., & Main	200,000
SR48, Lancaster Pike, SR41 to SR141	1,200,000
US113A, SR 10 TO US 13	900,000
Concord Pike, I-95 to Naamans	600,000
Sussex Corridor Impr.	9,100,000
12th Street, Wilmington	350,000
Linden Hill/Millcreek	200,000
Metroform	200,000
Stein (Eskridge) Hwy.	275,000
<u>Subtotal</u>	<u>\$68,950,000</u>

II. 4 R (Resurf & Rehab)

Kirkwood Highway, SR273 to White Clay Creek Br.	\$ 500,000
SR16, US13 to US113	2,000,000
SR14, Md. to Harrington	4,000,000
US301, (N15) Mt. Pleasant to Boyd's Corner	1,530,000
US113, Milford	2,750,000
SR1, Md. to Indian Riv. Int.	1,820,000
Interstate 4R	500,000
Foult Rd., Concord Pike to Pa.	2,900,000
Misc. and Contingency	1,000,000
<u>Subtotal</u>	<u>\$17,000,000</u>

III. DTA Improvements

I-95 & 495 SB Merge Improvement	\$ 900,000
SR273 & 141 Interch Rehab	1,200,000
SR7 Interch Impr	950,000
I-95 & SR7 Interchange Reconfiguration	1,650,000
Toll Plaza	1,250,000
Bridge Rehab	300,000
Toll Booth	950,000
Admin Storage Bldg	25,000
Kent County Aeropark	100,000
Transportation Center	200,000
TRACS System	50,000
Transit Operations	750,000
Contingency	200,000
<u>Subtotal</u>	<u>\$8,525,000</u>

IV. Paving and Rehabilitation (100% State Funded)

A. Resurfacing:

MAINT. NO.	ROAD/NAME NO.	FROM	TO
N0060	RD. 6 BASIN RD. Del. 141	RD. 378 HAMBURG RD.	DEL. 273 RD. 55
N0180	RD. 18 OGLETOWN RD.	ENT. GENERAL FOODS	R&R UNDERPASS
N0330	RD. 33 NB. DUPONT HIGHWAY	R.R. OVERPASS	ENT. RAMADA INN
N0340	RD. 34D BROAD ST.	CANAL	RD. 34 N.B. U.S. 13
N034F	RD. 34F CHURCH ST.	RD. 34E MAIN ST.	0.04NE OF RD.34D BROAD ST
N0350	RD. 35 DEL. 71	RD. 16 DEL. 896	RD. 404
N0460	RD. 46 WRANGLE HILL RD.	U.S. 13 RD. 34 N.B.	RD. 378 HAMBURG RD.
N0540	RD. 54 HOWELL SCHOOL RD.	DEL. 896 RD. 387	0.03 E. OF RD. 403
N2000	RD. 200 CARPENTER RD.	RD. 207 DARLEY RD.	RD. 17 DEL. 92 NAAMANS RD
N2080	RD. 208 CHESTNUT RD.	0.21 E. OF RD. 23 DEL. 3	RD. 207 DARLEY RD
N2180	RD. 218 BELLEVUE RD.	U.S. 13 RD. 24 PHILA. PKE	RD. 50 S.B. GOV. PRINTZ
N2240	RD. 224 RAMSEY RD.	RD. 222 CREEK RD.	RD. 225 THOMPSONS BRDG RD
N2320	RD. 232 DEL. 100	RD. 225 THOMPSONS BRDG RD	RD. 221 SMITH BRIDGE RD.
N2330	RD. 233 ADAMS DAM RD.	DEL. 100 RD. 232	RD. 221 SMITH BRIDGE RD.
N2360	RD. 236 KIRK RD.	DEL. 52 RD. 9 KENNETT PKE	0.04 W. OF RD. 225
N2370	RD. 237 LNCSTR PK. DEL. 48	0.19 W. OF RD. 275	0.24 W. OF RD. 282
N2740	RD. 274 BRACKENVILLE RD.	RD. 282 MILL CREEK RD.	DEL. 41 RD. 237 LNCSTR PK
N2750	RD. 275 OLD WILM. RD.	DEL. 41 RD. 237 LNCSTR PK	VENTURE RD.
N2860	RD. 286 SOUTHWOOD RD.	RIDON RD.	RD. 294 VALLEY RD.
N2880	RD. 288 LITTLE BALTIMORE	PA. LINE	RD. 282 MILL CREEK RD.
N3140	RD. 314 POSSUM PARK RD	DEL. 2 RD. 11 W.B.	RD. 303
N3240	RD. 324 POLLY DRUMMOND RD	RD. 13 CURTIS MILL RD.	RD. 290 LANDENBURG WILM RD
N3270	RD. 327 HOG SWAMP RD.	0.26 N. OF DEAD END	70 DEGREE CURVE
N3390	RD. 339 CHURCHMANS RD	DEL. 273 RD. 3	RD. 336 DEL. 7
N3470	RD. 347 EAGLE RUN RD.	PEDESTRIAN X-ING	END
N3480	RD. 348 SALEM CHURCH RD.	0.03 N. OF RD. 56 W.B.	0.14 S. OF RD. 347
N3480	RD. 348 SALEM CHURCH RD.	RD. 336 OLD BALTIMORE PKE	0.29 S. OF RD. 56 E.B.
N3560	RD. 356 DEL. 72	RD. 11 DEL. 2	RD. 366 DEL. 4
N357B	RD. 357B	DEL. 896 RD. 387	RD. 357-A OLD COOCHES BR.
N3780	RD. 378 HAMBURG RD.	RD. 34-D	DEL. 9 RD. 46
N3800	RD. 380 FEDERAL SCHOOL LA	0.22 E. OF US 13 RD 34 NB	RD. 378
N3950	RD. 395 OLD COUNTY RD.	M.D. LINE	DEL. 896 RD. 387
N3990	RD. 399 CHESAPEAKE CTY RD	RD. 391 FRAZIER RD.	RD. 35 DEL. 72
N4000	RD. 400 PORTER RD.	DEL. 896 RD. 387	DEL. 72 RD. 356
N4020	RD. 402 WOODS RD.	RD. 54	RD. 400
N1019	RD. 1019 SOCIETY RD.	RD. 17 NAAMANS RD.	RD. 17C WHITES VILLAGE RD
K0020	RD. 2 S.B. U.S. 13	0.13 N. OF DENNY'S RD.	0.12 S. OF DENNY'S RD.
K0020	RD. 2 N.B. U.S. 13	0.12 S. OF DENNY'S RD.	0.13 N. OF DENNY'S RD.
N0220	RD. 22 U.S. 13 SB	OSBOURNE ST.	RD. 438 DEL. 299 MAIN ST.
N0220	RD. 22 S.B. U.S. 13	0.29 N. OF DRAWYER'S CRK	0.17 S. OF DRAWYER'S CRK
K0300	RD. 30	RD. 368	RD. 369
K0300	RD. 30	RD. 4 U.S. 13-A	RD. 24 U.S. 13
N0360	RD. 36	RD. 47 VANDYKE RD.	RD. 460 RATLEDGE RD.
K0370	RD. 37 BROAD ST.	RD. 445	RD. 36 DEL. 14
N0380	RD. 38 ST. ANDREWS SCH RD	RD. 1 U.S. 13	RD. 442, SILVER LAKE RD.
K0390	RD. 39 DEL. 6	RD. 44 DEL. 42	W. CLAYTON LIMITS
K0570	RD. 57 DEL. 12	RD. 272	RD. 262
C0600	RD. 60 CLARK ST.	RAILROAD AVENUE	RD. 81 DEL. AVENUE
C0650	RD. 65 MAIN ST.	MILL ST.	RD. 454 GLENWOOD AVE.
K0880	RD. 88 LEIPSIC RD.	RD. 337 PERSIMMON TREE LN	RD. 334
K1080	RD. 108	RD. 246	RD. 109
K1340	RD. 134	RD. 39 DEL. 6	RD. 65 MAIN ST.
C1580	RD. 158 FIRE SCHOOL RD.	RD. 161	RD. 104
K2410	RD. 241	RD. 244	RD. 5 U.S. 13
N4230	RD. 423 BAYVIEW RD.	RD. 22 U.S. 13	RD. 424 SILVER RUN RD.
N4290	RD. 429 ARMSTRONG CRNR RD	RD. 22 U.S. 13	RD. 435 CHOPTANK RD.
N001A	RD. 1-A	RD. 1 U.S. 13	END
N0020	RD. 2 DEL. 9	RD. 422	RD. 418 THORNTOWN RD.

N0020 RD. 2
 K019A RD. 19-A
 K0300 RD. 30
 N0470 RD. 47
 N0510 RD. 51
 K0630 RD. 63 DEL. 16
 N0630 RD. 63 SUMMIT BRIDGE RD.
 K0760 RD. 76
 K0780 RD. 78
 K0930 RD. 93
 K0960 RD. 96
 K0980 RD. 98
 K1050 RD. 105
 K1060 RD. 106
 K1110 RD. 111
 K1110 RD. 111
 K1140 RD. 114
 K1230 RD. 123
 K1230 RD. 123
 K1260 RD. 126
 K1460 RD. 146
 K1540 RD. 154
 K1550 RD. 155
 K1550 RD. 155
 K1580 RD. 158
 K1590 RD. 159
 K1600 RD. 160
 K1630 RD. 163
 K1640 RD. 164
 K1690 RD. 169
 K1710 RD. 171
 K1900 RD. 190

K190A RD. 190-A
 K1910 RD. 191
 K2020 RD. 202
 K2030 RD. 203
 K2040 RD. 204
 K2140 RD. 214
 K2190 RD. 219
 K2190 RD. 219
 K2200 RD. 220
 K2240 RD. 224
 K2310 RD. 231
 K2320 RD. 232
 K2330 RD. 233
 K2360 RD. 236
 K2390 RD. 239
 K2460 RD. 246
 K2510 RD. 251
 K2530 RD. 253
 K2560 RD. 256
 K2680 RD. 268
 K2690 RD. 269
 K2890 RD. 289
 K2930 RD. 293
 K3010 RD. 301
 K3040 RD. 304
 K3050 RD. 305
 K312A RD. 312-A
 K3140 RD. 314 WEST ST.
 K3260 RD. 326
 K3270 RD. 327
 K3310 RD. 331
 K3330 RD. 333
 K347A RD. 347-A
 K3800 RD. 380

RD. 418 THORNTOWN RD.
 RD. 123
 RD. 369
 RD. 476
 RD. 455
 RD. 112
 RD. 16 DEL. 896 U.S. 301
 RD. 64 SMYRNA LANDING
 RD. 275 CENTER ST.
 MDLN
 RD. 93
 RD. 175
 RD. 30 DEL. 5
 RD. 31
 RD. 455
 MDLN
 RD. 308
 RD. 124 BEGIN MILFORD
 RD. 19
 RD. 39 DEL. 6
 RD. 42
 RD. 2 U.S. 13
 RD. 101
 RD. 104
 RD. 51 DEL. 8
 RD. 51 DEL. 8
 RD. 158
 RD. 51
 RD. 100 DENNY'S RD.
 RD. 46 DEL. 11
 RD. 46 DEL. 11
 RD. 72 WATER STREET

RD. 190 NEW BURTON RD.
 RD. 220
 RD. 52
 RD. 202
 RD. 202
 RD. 53 DEL. 10
 RD. 220
 RD. 191
 RD. 222
 RD. 215
 RD. 230
 RD. 227
 RD. 232
 RD. 235
 RD. 108
 RD. 57 DEL. 12
 RD. 56
 RD. 56
 RD. 110
 RD. 267
 MDLN
 RD. 284
 RD. 111
 MDLN
 RD. 307 RD. 60
 RD. 60 DEL. 14
 RD. 312
 RD. 311
 END
 RD. 85
 RD. 330
 RD. 15 DEL. 9
 RD. 347 LAFFERTY LANE
 RD. 383

RD. 417 DUTCH NECK RD.
 RD. 122
 RD. 367
 MDLN RD. 25
 RD. 45
 RD. 114
 END
 RD. 485
 RD. 289
 MDLN
 RD. 95
 RD. 97
 RD. 361 LOCHMEATH WAY
 RD. 368
 RD. 59
 RD. 295
 RD. 308
 RD. 414
 RD. 124 BEGIN MILFORD
 RD. 129
 RD. 90 SUNNYSIDE RD.
 RD. 156
 RD. 104
 RD. 156
 RD. 160
 RD. 162
 RD. 100 DENNY'S RD.
 RD. 100 DENNY'S ROAD
 RD. 101
 RD. 170
 RD. 170
 RD. 73 NORTH STREET

RD. 72 WATER STREET
 RD. 219
 RD. 195 RAILROAD AVE.
 RD. 73
 RD. 73
 RD. 207
 RD. 191
 RD. 103
 RD. 50 DEL. 8
 RD. 222
 RD. 232
 RD. 52
 RD. 53 DEL. 10
 RD. 240 MAIN ST.
 RD. 244
 RD. 247
 RD. 53 DEL. 10
 RD. 53 DEL. 10
 RD. 53
 RD. 110
 RD. 268
 RD. 5 U.S. 13
 RD. 59
 RD. 112
 DEL. 14
 RD. 304
 RD. 60 DEL. 14
 RD. 315
 RD. 12 DEL. 9 DENNY ST.
 RD. 328
 RD. 15 DEL. 9
 RD. 86
 END
 RD. 385

K3810	RD. 381	RD. 380	RD. 31
K3840	RD. 384	RD. 613 SUSSEX LINE	RD. 443
K3850	RD. 385	RD. 384	RD. 34 DEL. 12
K3860	RD. 386	RD. 384	RD. 387
K3900	RD. 390 FORK LANDING RD.	RD. 35	RD. 119
K3910	RD. 391	RD. 388 DEL. 15	RD. 390 FORK LANDING RD.
K3970	RD. 397	RD. 396	RD. 398
N4120	RD. 412	RD. 412-A	RD. 34-C ST. GEORGES
K4230	RD. 423	RD. 8 U.S. 113	RD. 425
K4230	RD. 423	RD. 425	RD. 421
K4230	RD. 423	RD. 421	RD. 120
K4310	RD. 431	RD. 36 DEL. 14	RD. 429
K4350	RD. 435	RD. 6 N.B. U.S. 13	RD. 434
N4360	RD. 436	MDLN	RD. 435
K4490	RD. 449	RD. 59	RD. 271
K4550	RD. 455	RD. 60 DEL. 14	RD. 111
K4550	RD. 455	RD. 111	RD. 59
N4630	RD. 463	RD. 459	RD. 462
N4630	RD. 463	RD. 471	RD. 459
N463A	RD. 463-A	RD. 471	RD. 463
N4660	RD. 466	RD. 465	RD. 51
N4700	RD. 470 BLACKBIRD POND RD	RD. 47	RD. 471
N4850	RD. 485	RD. 486 DUCK CREEK RD.	RD. 484
N4920	RD. 492 DEAKYNEVILLE RD.	RD. 499 DEL.9 TYLRS BRG RD	RD. 491 THOROUGHFRE NK RD
S0050	RD. 5 Main Street	Church Street Rd. 583	U.S. 13 SB Rd. 4
S0160	RD. 16 DEL. 16	RD. 248 DEL. 30	RD. 22 DEL. 5
S0240	RD. 24 DEL. 24	RD. 305 JERSEY RD.	RD. 309
S0360	RD. 36 DEL. 36	RD. 612-A	RD. 224
S036A	RD. 36-A SEABURY AVE.	RD. 113 U.S. 113	RD. 213 S. WALNUT ST.
S0480	RD. 48	RD. 285	RD. 24 DEL. 24
S0480	RD. 48	RD. 326	RD. 432
S0640	RD. 64	RD. 1 N.B. U.S. 13	RD. 70
S0880	RD. 88 WHARTON ST.	RD. 249 DEL.5 CHESTNUT S	RD. 89 FRONT ST.
S275A	RD. 275-A	RD. 274	RD. 14 S.B. DEL. 1
S3820	RD. 382	RD. 392	RD. 370
S4310	RD. 431	RD. 471	RD. 329
S5350	RD. 535 MIDDLEFORD RD.	RD. 3 U.S. 13	RD. 46
S5430	RD. 543	RD. 639 VIRGINIA AVE.	RD. 534
S0140	RD. 14 N.B. DEL. 1	RD. 18 U.S. 9	RD. 16 DEL. 16
S0210	RD. 21 DEL. 20	MDLN	RD. 80
S022B	RD. 22-B	RD. 16 DEL. 16	RD. 22 DEL. 5
S0380	RD. 38	RD. 225	RD. 232
S0380	RD. 38	RD. 14 DEL. 1	RD. 39 SHORTS BEACH RD.
S0420	RD. 42	RD. 16 DEL. 16	RD. 224
S0420	RD. 42	RD. 224	RD. 594
S0480	RD. 48	RD. 285	RD. 24 DEL. 24
S0480	RD. 48	RD. 305	RD. 22 DEL. 5
S058B	RD. 58-B	RD. 58 DEL. 54	DEAD END
S0640	RD. 64	RD. 70	RD. 62
S1130	RD. 113 U.S. 113	MDLN	S. MILLSBORO LIMITS
S1980	RD. 198	RD. 14 DEL. 1	RD. 222
S2050	RD. 205	RD. 206	RD. 36 DEL. 36
S2220	RD. 222	RD. 38	RD. 38
S2270	RD. 227	RD. 228-A	RD. 230 DEL. 30
S2270	RD. 227	RD. 229	RD. 228-A
S2430	RD. 243	RD. 114	RD. 244
S2490	RD. 249	RD. 18 DEL. 18	RD. 248 DEL. 30
S2570	RD. 257	RD. 22 DEL. 5	RD. 260
S2780	RD. 278	END	RD. 277
S3300	RD. 330	RD. 26 DEL. 26	END
S3330	RD. 333	RD. 331	END
S337A	RD. 337-A	RD. 337	RD. 113 U.S. 113
S3400	RD. 340	RD. 382	RD. 26 DEL. 26
S3410	RD. 341	RD. 26 DEL. 26	RD. 343

S3500	RD. 350	RD. 26 DEL. 26	RD. 349
S3510	RD. 351	RD. 349	END
S3510	RD. 351	RD. 26 DEL. 26	RD. 349
S364A	RD. 364-A	RD. 381	RD. 364
S3650	RD. 365	RD. 84	RD. 367-B
S3650	RD. 365	RD. 368	RD. 52 DEL. 17
S3650	RD. 365	RD. 374	RD. 54
S3940	RD. 394	RD. 395	END
S4130	RD. 413	RD. 413-C	RD. 415
S4320	RD. 432	RD. 421	RD. 472
S4420	RD. 442	RD. 431	RD. 20 DEL. 20
S4520	RD. 452	RD. 1 U.S. 13	RD. 453
S4680	RD. 468	RD. 13 U.S. 13-A	RD. 2 U.S. 13
S4690	RD. 469	RD. 62	RD. 28 U.S. 9
S4770	RD. 477	RD. 62	RD. 446
S4840	RD. 484	RD. 483	RD. 46
S4850	RD. 485	RD. 487	RD. 13 U.S. 13-A
S4910	RD. 491 HIGH ST.	RD. 493	RD. 78
S4930	RD. 493	RD. 494	RD. 496
S4970	RD. 497	RD. 509	RD. 24 DEL. 24
S503B	RD. 503-B	RD. 501	RD. 13 U.S. 13-A
S5040	RD. 504	RD. 512	RD. 503
S505A	RD. 505-A	END	RD. 505
S509A	RD. 509-A	RD. 509	RD. 76 DEL. 54
S5120	RD. 512	RD. 504	RD. 502
S5180	RD. 518	RD. 62	RD. 469
S5220	RD. 522	RD. 18 DEL. 18	RD. 527
S5250	RD. 525	RD. 516	RD. 46
S5270	RD. 527	RD. 526	RD. 18 DEL. 18
S5400	RD. 540	RD. 538	RD. 79
S5440	RD. 544	RD. 544-B	RD. 13 U.S. 13-A
S5630	RD. 563	RD. 564	RD. 404 DEL. 404
S5650	RD. 565	RD. 113 U.S. 113	RD. 239
S5650	RD. 565	RD. 40	RD. 594
S5650	RD. 565	RD. 605	RD. 213
S5710	RD. 571	RD. 404 DEL. 404	KENT RD. 63 DEL. 16
S5720	RD. 572	RD. 31	MDLN
S5790	RD. 579	RD. 593	RD. 606
S5790	RD. 579	RD. 113 U.S. 113	RD. 238
S5940	RD. 594	RD. 596	RD. 602
S5940	RD. 594	RD. 224	RD. 42
S5990	RD. 599	RD. 600	RD. 600
S6130	RD. 613	RD. 36 DEL. 36	KTLN

Subtotal

\$14,825,000

B Hot Mix Asphalt Material Purchase Statewide

Subtotal

\$ 175,000

TOTAL

\$15,000,000

V. Suburban Streets Program

11th Street between Bancroft Parkway and Woodlawn Avenue	89-654	\$ 19,800
11th Street between Nottingham Road and Greenhill Avenue	89-656	15,600
11th Street between Woodlawn Avenue and Blackshire Road	89-655	9,000
Access to Paul Road	89-652	10,000
Afton - Delpenn Road from Fairhope Road to Afton Drive	89-443	15,600
Analline Village - Pierce Drive from Virginia Avenue to Park Way	89-460	11,000
Arundel - Jaffe Drive at House 2917	89-446	3,500
Beacon Hill - all streets	89-081	23,400
Becks Landing - Bradley Drive from Salem Church Road to end	89-348	32,500
Belvidere - Clyde Street from Klamensl Road to Newport Gap Pike	89-186	42,200
Belvidere - Intersection of Lloyd Street and Munson Street	89-189	7,500
Berkley Ridge-Summit Dr(Old Wilm Rd-Circl) & Berkley Dr(Summit-end)	89-402	11,700
Bestfield - Bestfield Drive at Harwood Drive	89-386	6,000
Bestfield - Harwood Drive from David Road to Bestfield Road	89-404	6,500
Bestfield - Intersection of Walnut Street and Bestfield Drive	89-350	4,000
Birchwood Park (Foxchase)-South Gerald Drive from Rt 273 to Hse 102	89-285	8,800
Birchwood Park - Intersection of Gerald Drive and Donald Drive	89-284	4,000
Birchwood Park(Foxchase)-Ralph Dr & Musket Dr (Gerald to Brownleaf)	89-286	33,800
Blades Streets-Cannon St (Road 20 to end), Fifth St(Road 13 to end)	89-239	55,900
Blue Rock Manor - Carr Avenue and Median Drive Intersection	89-466	4,000
Bon Ayre - Cider Brook Road from House 719 to Clover Drive	89-398	6,000
Bowers Beach - Bay Shore Drive on west side of street	89-458	16,000
Boxwood Addition - Read Avenue from Boxwood Road to Champlain Ave	89-405	40,300
Brandywood - Anson Road from Brandywood Drive to Weatheron Drive	89-073	58,500
Bridgeville - Neal Street from Road 583 to end	89-065	13,000
Brookmeade - Skylark Road - In front of House 2739 and across road	89-116	1,000
Brookside - Mallboro Drive, Meadow Lane, Korda Drive, McCord Drive	88-444	121,700
Brookside Park - Millbrook Road from Martell Road to Old Newark Rd.	89-449	15,600
Camden - South Street and Route 13A Intersection	89-412	19,000
Camden - South Street from Route 10 Route 13A	89-276	120,000
Catalpa Avenue from Overland Avenue to Maryland Avenue	87-376	112,700
Cedar Heights - Walnut Avenue from Cedar Avenue to Maple Avenue	89-183	18,200
Charter Oaks-Kings Grant Road from Old Lancaster Pike to Kenwick Rd	89-467	18,200
Chatham - Brantlin Road from House 1106 to House 1104	89-246	5,200
Chatham - Dardel Drive at House 1102	89-468	300
Chelsea Estates - Mark Drive from Jay Drive to Paul Road	89-383	97,500
Chelsea Estates - Morris Road from Jay Drive to Paul Road	89-382	50,700
Concord Manor - Marianna Ave. from Brookfield Ave. to Shellpot Dr.	89-013	44,200
Cool Spring Farms - East Meadowview Drive from Road 290 to end	89-108	17,000
Cooper Road	89-520	36,200
Country Side Farms - Farm House Lane from Porter Road to end	89-224	32,500
Darley Road from existing SW @ bridge to existing sw @ bridge	89-462	15,600
Deerhurst - Haverford Road from Pierce Road to Bedford Road	89-080	21,100
Deerhurst - Pierce Road from Bedford Road to Jackson Boulevard	89-068	46,800
Dellwood - Dellwood Road	89-516	22,100
Delwynn - Ruthwynn Drive from Kammerer Drive to Delwynn Drive	89-406	15,600
Devon - Cheshire Road from N Ruckfield Drive to circle	89-094	33,800
Dickerson Manor - Randall Street from Route 24 to end	89-152	6,500
Dover - Governors Avenue from Water Street to Division Street	89-260	137,000
Dry stand pipes - 6 in Sussex County @ Hudson Pond, Clendaniel Pond	89-222	18,000
Duncan Woods-Squirrel Hill Ct & Wild Cherry Ln(Duncan Rd to circle)	89-366	23,400
Dunlinden Acres - Claire Place from Evelyn Drive to circle	89-346	5,200
Dunlinden Acres - Eunice Avenue from Evelyn Drive to Katherine Dr.	89-362	53,300
Dunlinden Acres - Frances Avenue from St John Drive to Katherine Dr	89-364	31,200
Dunlinden Acres - Hutchinson Rd & Swanson Dr from Evelyn Dr to end	89-345	26,000
Dunlinden Acres - Nancy Avenue from Evelyn Drive to Katherine Drive	89-363	33,800
Dutch Acres - Tulip Drive from Road 14 to Road 14	89-410	3,500
Eastman Heights - Hammond Drive from Road 225 to Road 211	89-396	72,800
Edgewood Hills-Chestnut Avenue from Brandywine Blvd to Blue Rock Rd	89-507	8,000
Elmwood - Majestic Drive from Robert Oakes Drive to Robert Oakes Dr	89-306	27,300
Elmwood - Martin Drive from Robert Oakes Drive to Robert Oakes Dr	89-305	23,400
Elmwood - Robert Oakes Drive from Majestic Drive to Chancellor Dr	89-307	28,600
Elwin Manor - Goodwin Drive from Route 896 to Old Baltimore Pike	89-141	29,900
Emergency vehicle signal - Ellis St and Millsboro Ambulance Service	89-332	8,000
Emergency vehicle signal - Route 26 and Gumboro Fire Company	89-331	8,500
Fairfield Farms - Fairfield Drive from Woodsdale Ave to Old Mill Rd	89-279	55,000
Fairfield Farms - Oakcrest Drive from S Fairfield Dr to N Fairfield	89-344	21,500
Fairfield Farms - S Fairfield Drive from Road 357 to Woodsdale Ave.	89-429	50,000
Fitzgerald Avenue near Ellendale from Road 213 to end	89-291	\$ 18,200
Forest Hills Park streets	89-504	40,300

Foulk Woods - Deepwood Drive from Longwood Drive to Oldwood Drive	89-455	58,500
Four Seasons-E Autumn Horseshoe(Four Season Parkway to Thanksgiving	89-194	54,600
Frederica Senior Center driveway and parking lot	89-277	12,500
Galewood - Galewood Road and Galewood Court	89-448	29,900
Gateway Farms - Erickson Avenue from Hemingway Dr to Hemingway Dr	89-400	19,700
Gateway Farms -Broadhaven Road from Brackenville Rd to Waterford Rd	89-399	9,100
Graylyn Crest - Knowles Road from Marleton Drive to Floral Drive	89-438	34,100
Graylyn Crest - Longcome Drive from Floral Drive to Knowles Road	89-436	9,100
Green Acres - Fresno Road and Quincy Drive Intersection	89-441	6,000
Greenview - Greenview Drive from Route 10 to Riley Drive	89-278	33,100
Gull Enterprises - Ocean Pines Lane from Road 361A to end	89-389	28,600
Gumwood - Gumwood Drive from Shipley Road to end	89-440	15,600
Harmony Hills - Tamara Road and Tamara Circle @ House #101	89-139	3,600
Heritage Farms-Heritage Farm Drive from Emerson Drive to Whitman Dr	89-237	42,000
Highland West - Whitekirk Drive from Balmor Lane to Dunbarton Lane	89-397	20,800
Hills of Skyline - Ridge Vale Road from Crestline Drive to dead end	89-409	56,100
Holiday Hills - Coventry Drive and Nassau Drive Intersection	89-434	5,600
Holly Knoll - Holly Knoll Road from Valley Road to dead end	89-489	65,000
Holly Oak - Holly Oak Drive from Road 21 to Road 21	89-156	18,200
Holly Oak - Ridge Road from Walnut Lane to dead end	89-023	7,000
Hurley Heights - State St & Washington St (Pine St ext to Arch St)	89-170	9,100
Intersection Improv. South of pub. safety building-Rt 13 Minquadaile	89-650	100,000
Iron Gates - Gates Drive from House 16 to House 18	89-401	5,200
Keen-Wlk - Beech Tree Court from Keen-Wlk Road to end	88-405	5,200
Klair Estates - Monica Boulevard at Old Capitol Trail	89-322	26,000
Lamatan West #2 - Quartz Mill Road from Circle to PA line	89-167	44,200
Lambeth Riding - Cain Rue from Cox Road to Fraser Place	89-165	14,300
Lambeth Riding - Cox Road from North Star Road to end	89-162	27,300
Lambeth Riding - Lambeth Place from Cox Road to end	89-163	11,700
Lambeth Riding - Normans Lane from Lambeth Place to Wesley Drive	89-164	32,500
Lambeth Riding - Wesley Drive from Normans Lane to Cox Road	89-166	11,000
Lancaster Village - Ogle Avenue from House 304 to House 306	89-456	4,000
Latimer Estates - Desmond Place from Yale Road to Temple Terrace	89-354	36,400
Latimer Estates - Latimer Place from Maryland Avenue to end	89-243	28,600
Latimer Estates - Temple Terrace from Maryland Avenue to end	89-244	26,000
Latimer Estates - Yale Road from Maryland Avenue to end	89-245	29,900
Liftwood - Liftwood Drive from Weldin Road to Malden Drive	89-473	22,100
Limestone Gardens - Cratchett Road at House 2505	89-447	4,000
Limestone Road - from Hendry Drive to parking lot of Limestone Bldg	89-067	25,000
Lindamere - North, South, and Center Roads	88-111	25,000
Lindell Village-St James Church Rd from Milltown Rd to Lindell Blvd	89-290	29,900
Llangollen Estates - Llangollen Boulevard from US 13 to end	89-247	75,700
Lyndalia - Intersection of Cedar Street and Third Avenue	89-349	3,000
Manor Park - Robinson Drive from Minult Drive to Bassett Avenue	89-385	29,900
Manor Park - Sykes Road from Bassett Avenue to Bassett Avenue	89-384	37,900
Marabou Meadows - Bowfin Drive from House 12 to Puffer Drive	89-211	27,300
Marshallton Heights - Cedar Street from Prospect Av to Highland Av	89-318	19,500
Marshallton Heights - Pine Street from Prospect Ave to Highland Ave	89-317	15,600
Marshallton Heights -Elmwood Street from Prospect Av to Highland Av	89-316	11,700
Marshallton Green - Chalet Drive from Jackson Avenue to circle	89-359	44,200
McDaniel Heights-Sharpless Drive from Woodrow Avenue to Florence Av	89-230	42,900
Meadowbrook Acres - Berg Alley from Lambert Drive to Stevenson Dr.	89-416	2,700
Meadowbrook Acres - Crew Circle from Lambert Drive to Stevenson Dr.	89-418	7,900
Meadowbrook Acres - Flint Drive from Stevenson Drive to Grays Lane	89-423	6,300
Meadowbrook Acres - Grays Lane from Flint Drive to dead end	89-420	7,900
Meadowbrook Acres - Lambert Drive from Road 368 to dead end	89-427	20,500
Meadowbrook Acres - Moores Drive from Flint Drive to dead end	89-422	6,500
Meadowbrook Acres - Pepper Drive from Lambert Drive to Stevenson Dr	89-419	2,800
Meadowbrook Acres - Riley Drive from Moores Drive to Grays Lane	89-421	2,100
Meadowbrook Acres - Stevenson Drive from Road 368N to Crew Circle	89-417	20,700
Meadowbrook Acres-E Draper Circle from N Draper Cir to S Draper Cir	89-426	2,300
Meadowbrook Acres-N Draper Circle from Stevenson Dr to E Draper Cir	89-425	4,400
Meadowbrook Acres-S Draper Circle from Stevenson Dr to E Draper Cir	89-424	4,400
Meeting House Hill - McMecham Court, Quarry Lane, Tavern Keep	89-289	40,300
Messick Development-Nat Turner St,Booker T Wash St,Jones Dogwood St	89-076	48,100
Midway Development - Truitt Avenue, Paynter Lane, Martin Lane	89-479	33,800
Milford - Brady Drive	89-199	20,000
Milford - Church Street extension - West side	89-202	45,960
Milford - NE 4th Street from East Street to Pierce Street	89-200	\$ 15,100
Milford - North Street and Church Street	89-196	35,980
Milford - Park Avenue from N. Walnut Street to N. Washington Street	89-197	6,000
Milford - Park Avenue from N. Washington Street to NE Front Street	89-198	27,800

Milford - West Street from 4th Street to 5th Street	89-201	9,000
Mill Pond Acres- Red Mill Dr(Devon-end),Pembroke,Devon(point-rt 10)	89-480	79,300
Milton - Chestnut Street (Road 249) from Manship St. to stream	89-112	1,000
Milton -Chestnut St. (Rd. 249) from S. Milton limits to Atlantic St	89-113	91,000
Newark - Apple Road from Sunset Road to Elkton Road	89-487	17,000
Newark - Dallam Road from Old Oak Road to Bent Lane	89-484	150,000
Newark - Delaware Avenue from Elkton Road to S Chapel Street	89-502	12,000
Newark - Main Street from Library to RR crossing	89-450	6,000
Newark - Manuel Street from Kellis Avenue to E Park Place	89-486	19,700
Newkirk Estates-Longview Dr(Darwin Dr-end) & Flora Cir(Longview Cr)	89-235	17,300
Newport Gap Pike - from House 1706 (new sidewalk) to good sidewalk	89-227	6,500
North Star - Planet, Galaxy and Comet Drives	89-004	1,000
Northminster - Stonecrop Drive at House 104	89-092	20,000
Old Capitol Trail and Telegraph Road - intersection drainage	89-143	1,000
Penn Manor(Yorktown) -Penn Manor Dr. (Landenburg Rd to new hot-mix)	89-151	36,400
Penn Manor(Yorktown)-Harris Circle(Country Flower to Penn Manor Dr)	89-150	26,000
Pennwood - Frederick Drive from Elizabeth Avenue to dead end	89-352	27,000
Perth - all streets	89-122	50,700
Phillips Heights - Phillips Avenue	89-517	37,700
Piermont Woods - East Hanna Drive from Hanna Drive to circle	89-282	5,000
Piermont Woods - West Hanna Drive from East Hanna Drive to Hanna Dr	89-281	5,000
Piermont Woods -Hanna Drive from Old Baltimore Pike to E/W Hanna Dr	89-280	9,100
Pleron Farm - behind homes on Pleron Court and Pleron Drive	89-078	30,000
Port Penn - Market Street from Congress Street to Liberty Street	89-337	53,000
Porter Square - South Bridge Road from Dover Court to E. Weald Ave.	89-223	29,900
Pusey Development-Jackson Ave from Vanburen to Rd 24 & all Vanburen	89-153	14,300
Radnor Green - Newcomb Court from Honeywell Drive to circle	89-518	15,600
Radnor Green - Woodgreen Road from Honeywell Drive to Glenrock Dr.	89-444	19,500
Rambleton Acres - Balbach Avenue from Rambo Terrace to Holden Drive	89-368	24,700
Rambleton Acres - Holden Drive from Prangs Lane to McGaughy Drive	89-373	48,100
Rambleton Acres - Raintree Drive from Rambo Terrace to end	89-370	8,600
Rambleton Acres - Rambleton Drive from Rambo Terrace to Terra Drive	89-372	9,100
Rambleton Acres - Rambo Drive from Holden Drive to Rambo Terrace	89-374	16,900
Rambleton Acres - Rambo Terrace from end to end	89-369	18,200
Rambleton Acres - Stevens Avenue from Holden Drive to end	89-375	29,900
Rambleton Acres - Terra Drive from Raintree Drive to Balbach Drive	89-371	13,000
Red Mill Road @ Old Mill Manor	89-490	19,500
Red Mill Road sidewalk from Darwin Dr south to Old Red Mill Rd ent.	89-413	16,000
Rehoboth Manor-Washington & Lincoln Streets from Jefferson St end	89-228	27,300
Ridge Road from Virginia Avenue to existing catchbasin	89-178	16,900
Road 13 - by Laurel School entrance	89-233	81,700
Road 156 at Road 154 intersection	89-430	25,000
Road 341 - Intersection of Road 327	89-521	17,000
Road 342 - from Route 8 to Road 66	89-240	58,800
Road 431 from Road 24 to Road 472	88-089	133,400
Road 466 (Deer Run) from Road 51 to Road 465	88-339	112,200
Road 5 (Main Street-Bridgeville) from Road 4 to S Bridgeville limit	89-263	60,000
Road 502 from Road to N. Second Street	89-157	94,900
Road 530 - Old Meadow Road from Road 46 to dead end	89-136	134,000
Road 81 from Road 76 to Delmar town limits	89-158	12,000
Road name signs - at about 21 locations	89-132	12,000
Route 113 at Route 54 - Selbyville - traffic signal	89-357	39,000
Route 13 at Greenwood Fire Station - traffic signal	89-356	4,700
Route 18 - Road 529 intersection improvement	89-074	40,500
Route 4 from Route 72 towards Marrows Road to station 378	89-515	40,000
Route 6 Intersection Smyrna from US 13 to Wendy's	88-098	109,000
Safety hydrant on Route 9, near Port Penn	89-651	20,500
Scotfield - Broadfield Drive from Scottfield Drive to Penfield Dr.	89-040	50,000
Sharpley Road from Route 202 to Mt Lebanon Road	89-407	23,400
Shelly Farms - Lyrlic Drive from Old Country Road to Tennyson Drive	89-288	39,000
Sherwood Green - Durboraw Road from Marsh Road to circle	89-435	15,600
Shipley Road - from Washington St Extension to Ridgewood Entrance	89-086	65,000
Skyline Crest - Amber Court and Bexley Court (Skyline Dr to Circle)	89-236	58,900
Smith Lane at south end of street	89-336	13,000
Street landscaping	89-657	2,000
Surrey Park - Hitching Post Drive from Saddler Lane to Sorrel Drive	89-095	67,600
Surrey Park- Hitching Post Drive from Coachmen Drive to Saddlers Ln	89-079	\$ 46,800
Sussex Estates - Edgewood Drive from Road 467 to end	89-159	15,600
Sycamore Gardens - Hudson Drive from Brewster Drive to McCann Road	89-234	40,700
The Island - Riverside Drive Extension from Riverside Drive to end	89-102	26,000
The Woods - E Seneca Drive from Iroquois Court to Gooding Drive	89-414	4,500
The Woods - Iroquois Court from Churchmans Road to circle	89-415	44,200

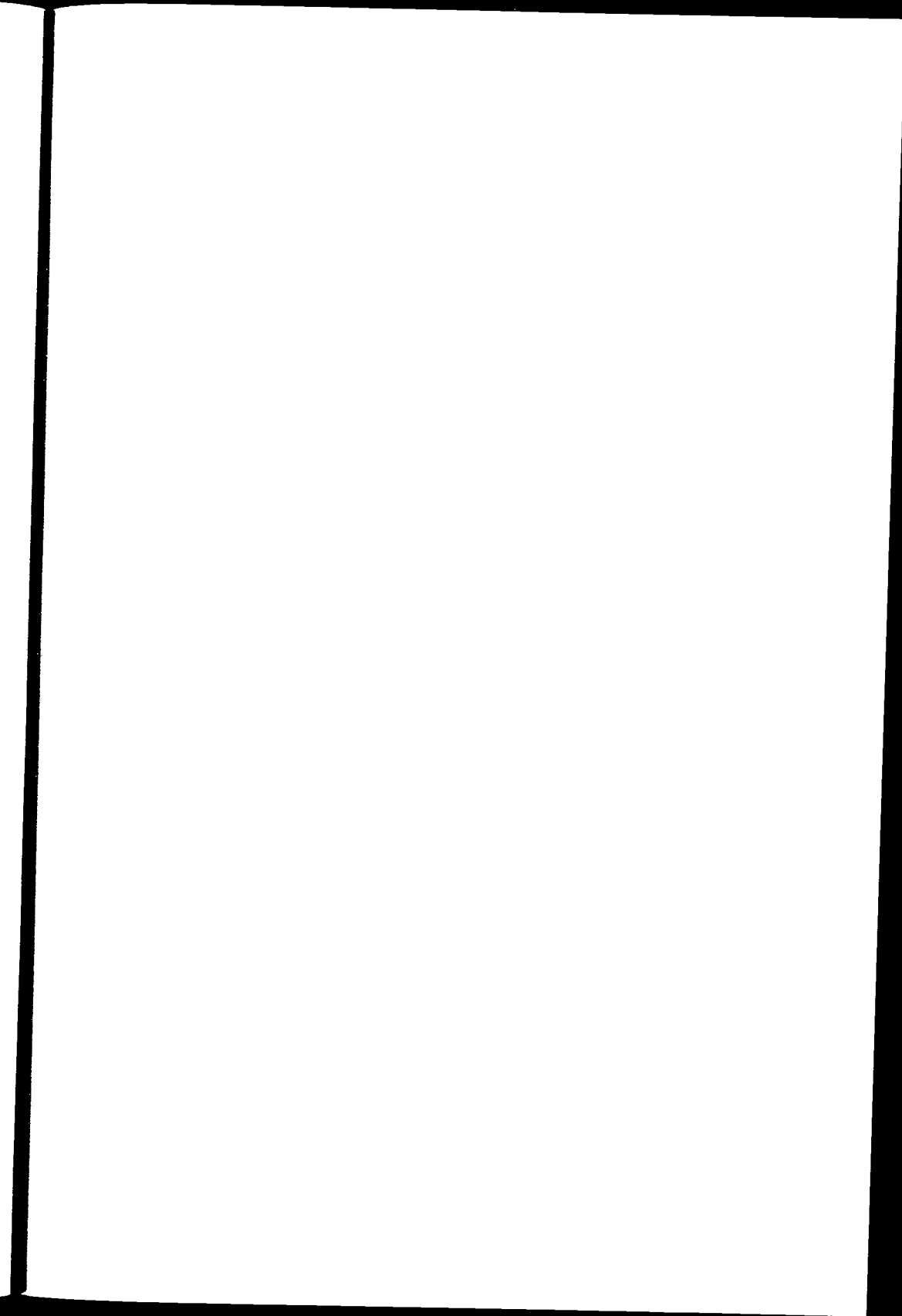
Tip Top Farm - Virginia Avenue from Wedgewood Road to dead end	89-273	90,000
Traffic - Elsmere fire signal	89-220	5,500
Traffic - Route 4 in front of Bobscott Building	89-232	750
Traffic emergency vehicle signs - Odessa	89-181	9,500
Traffic sign - historical location sign	89-432	1,400
Traffic signal installation - road 4 and Old North Road (Road 193)	89-261	45,000
Traffic signal modification - Millcreek Road and McKennans Church Rd	89-208	2,800
Traffic signal - Limestone Road at Stoney Batter Road and Skyline Dr.	89-431	3,000
Tru Vale Acres - 1st, 2nd, 3rd, 4th, 5th and South Streets	89-477	89,700
Tybrook - Angel Drive from Woodview Drive to Faulkland Road	89-511	15,600
Tybrook - Faulkland Frontage Road from Frann Drive to end	89-508	31,200
Tybrook - Frann Drive from Faulkland road to Woodview Drive	89-512	15,600
Tybrook - Tigani Drive from Angel Drive to Frann Drive	89-509	20,800
Tybrook - Woodview Drive from Faulkland road to Centreville Road	89-510	33,800
Valley Road - from Valley Run Road to Hemlock Circle	89-069	29,900
Valley Run (Timberwood) - Basswood Lane from Valley Road to circle	89-057	5,000
Valley Run (Timberwood) - Birch Lane from Valley Road to circle	89-058	5,000
Valley Run (Timberwood) - Hemlock Lane from Valley Road to circle	89-056	5,000
Valley Run - Valley Run Drive from Carpenter Station Road to end	89-442	45,500
Valley Run - Valley road from Birch Lane to Hemlock Lane	89-519	26,000
Victor Hurley Estates - Pine Cove Drive from Road 535 to Road 535	89-169	28,600
Wedgewood (Eagle Glen) - Donwood from Wedgefield Dr. to end	89-191	27,300
Wedgewood (Eagle Glen) - Whitehaven Dr. from Donwood to House 25	89-190	26,000
Wedgewood (Eagle Glen) - Windburne Dr from Wedgefield Dr to Applby Rd	89-192	50,700
Wellington Woods - Three Rivers Drive from Wellington Rd Woods to end	89-347	9,000
West Haven - Vining Lane from House 32 to House 34	89-018	13,000
Westview - Cleveland Avenue from Route 141 to Delaware Avenue	89-376	67,600
Wexford - Jade Drive from Grubb Road to Ruby Drive	89-188	40,300
Willow Run - E Willow Run Drive from Faulkland Rd to Gilpin Avenue	89-403	46,800
Windy Bush - Stimson Place from Windybush Road to Tudor Place	89-433	15,600
Windy Hills - South Dikwn Drive	89-653	12,000
Woodland Heights - Juniper St (Poplar-Penn) & Penn St (Rd 78A-Rd 78)	89-154	14,300
Woodville Manor Street from Road 368 to dead end	89-353	11,000
Wynnwood - Patwynn Drive - Houses 2322, 2221, 2223	89-411	6,000

Dover - West Street @ South end from Queen Street to North Street	89-274	41,000
Forest Hills Park streets	88-437	17,500
Forest Hills Park streets	88-438	17,500
Four Seasons - W Autumn Horseshoe (Four Season Parkway to Thanksgiving)	89-195	24,500
Harrington - Clark Street at railroad crossing	89-310	30,000
Kirkwood Gardens - structures on Hammond Place and Ferrand Place	89-513	1,000
Marshallton Heights - Delaware St (Highland to end) Overlook Av, Crest	89-315	66,100
Pennwood - Stuart Drive from Elizabeth Avenue to dead end	89-351	78,000
Perry Park - Washington Avenue, Talley Place, Perry Place	89-326	3,400
Riblett Lane - from dead end of existing paving to end of road	89-030	1,000
Road 387 from MD line to Road 58 (Route 54)	89-176	72,400
Road 460 from Road 14 to Road 46 - Ratledge Road	87-093	52,400
Road 54A (Frankford) from Route 113 to Road 53 (Main Street)	89-110	25,000
Road 90 (Sunny Side Road) - from Belmont Avenue to Railroad tracks	89-168	100,500
Robscott Manor - Cordrey Road from Bobby Drive to Gili Drive	89-226	3,200
Snow Flake Drive from Four Seasons to Pencader Village	89-457	2,000
Traffic signal & Intersection modifica - Skyline Dr & New Linden Hill	87-295	2,100
Traffic signal preemption devices - Kent County	89-488	30,500
Westgate Farms - Westgate Drive from Lancaster Pike to Loveville Rd	89-387	59,000

1st Representative District	89-701	\$ 200,000
4th Representative District	89-704	24,200
5th Representative District	89-705	199,000
6th Representative District	89-706	14,800
7th Representative District	89-707	98,400
8th Representative District	89-708	200,000
9th Representative District	89-709	35,800

12th Representative District	89-712	100
13th Representative District	89-713	140,350
14th Representative District	89-714	100
16th Representative District	89-716	165,000
17th Representative District	89-717	71,900
20th Representative District	89-720	65,000
21st Representative District	89-721	1,000
23rd Representative District	89-723	18,700
24th Representative District	89-724	143,000
25th Representative District	89-725	22,950
26th Representative District	89-726	65,700
27th Representative District	89-727	3,850
29th Representative District	89-729	97,500
30th Representative District	89-730	200,000
33rd Representative District	89-733	50,890
35th Representative District	89-735	145,400
36th Representative District	89-736	16,100
39th Representative District	89-739	110,900
41st Representative District	89-741	80,100
1st Senatorial District	89-801	88,600
2nd Senatorial District	89-802	130,000
3rd Senatorial District	89-803	199,000
4th Senatorial District	89-804	168,000
7th Senatorial District	89-807	250
8th Senatorial District	89-808	13,250
9th Senatorial District	89-809	65,200
12th Senatorial District	89-812	148,300
13th Senatorial District	89-813	63,650
14th Senatorial District	89-814	80,650
15th Senatorial District	89-815	51,500
16th Senatorial District	89-816	11,650
17th Senatorial District	89-817	200,000
18th Senatorial District	89-818	125,420
20th Senatorial District	89-820	83,300
21st Senatorial District	89-821	15,000
Appleby Road	89-973	1,000
Arbour Park - Arbour Drive from Lark Drive to Lark Drive	89-912	10,500
Arbour Park - Lark Drive from Oriole Drive to Arbour Drive	89-913	3,000
81nns - Kenyon Lane from Chrysler Avenue to Lehigh Road	89-910	19,600
Blackshire Road - Hawaset Park - Wilmington	89-957	23,000
Bridge 684 - South Heald Street Bridge	89-952	25,000
Browntown Industrial truck route	89-940	2,000
Cleland Heights - Clayton and Coyne	89-904	69,500
Cleland Heights - Latimer and Temple	89-903	12,500
Concord Avenue - McDaniel Heights from Orchard to Shellpot Drive	89-922	15,000
Coverdale Road - Hawaset Park - Wilmington	89-958	23,000
Darley Road - from Naamans Drive to Dyer Drive	89-936	1,500
Delwynn Drive	89-924	1,000
Dupont Manor	89-943	1,000
E. Richardson Drive - parallel to South Stadium Drive	89-925	15,000
Eagle Glen - Wedgefield Drive	89-901	4,600
Eagle Glen - public ditch	89-902	14,500
East Edgewater Way	89-918	5,000
Fairfield - Hanover Place from N Country Club Dr. to Cambridge Dr.	89-909	24,700
Four-way red light at Intersection of 298 and 22	89-954	40,000
Hamilton Park - North Street	89-962	65,000
Hendry Drive and Limestone road	89-968	1,000
I-95 barrier planting	89-927	9,100
Jefferson Farms	89-929	1,000
Jerrell Farms and Northstar connection	89-964	1,000
Kimberton at Marrows Road	89-975	1,000
Kings Highway - Loockerman Street to Division Street (88-402)	89-942	1,000
Klair Estates - Verona Drive	89-900	13,500
Lums Pond entrance road	89-953	\$ 10,000
Miscellaneous Wilmington Streets - 3rd Representative District	89-961	130,000
Northminster - planning	89-907	20,000
Nottingham Drive - Hawaset Park - MacDonough Road to 7th Street	89-959	23,000
Nottingham Green - Colgate Lane from Radcliff Drive to Vassar Drive	89-911	17,200
Old Hamburg Road - Route 7	89-955	500
Perry Park - Washington Avenue	89-908	20,000
Pierson Farms	89-906	30,000
Road 431 from Road 322 to Road 329	89-965	7,200

Route 13 and Road 30	89-939	15,500
Route 47 to Route 30	89-938	50,000
Route 52 - Centreville	89-948	21,000
Route 9 soil and water project	89-915	1,000
S College Avenue at Hullihen Circle	89-928	15,000
Saturn Drive	89-946	5,000
Southwood Road	89-966	1,000
State Street north of Loockerman	89-941	20,000
Stonehaven - Shipley Road and Rockwood Road	89-951	20,000
Street landscaping - Wilmington - 3rd Representative District	89-963	5,000
Summer Park Crescent	89-920	11,300
Tanya Drive from Kammerer to Delwynn Drive	89-923	7,500
Town of New Castle	89-914	50,000
Traffic control signal - Pennsylvania Avenue @ Goodstay Center	89-956	45,000
West Edgewater Way	89-919	65,000
Woodcreek and Limestone Road	89-967	<u>1,000</u>
Subtotal		<u>\$12,400,000</u>



CHAPTER 361

FORMERLY

HOUSE BILL NO. 565

AN ACT TO AMEND CHAPTER 158, VOLUME 36, LAWS OF DELAWARE, ENTITLED "AN ACT CHANGING THE NAME OF 'THE TOWN OF DOVER' TO 'THE CITY OF DOVER' AND ESTABLISHING A CHARTER THEREFOR" AS AMENDED BY CHAPTER 275, VOLUME 46, CHAPTER 471, VOLUME 50; AND CHAPTER 5, VOLUME 64, LAWS OF DELAWARE, RELATING TO THE POWER OF THE CITY OF DOVER TO IMPOSE AND COLLECT A REALTY TRANSFER TAX.

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

Section 1. Amend Section 3, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 275, Volume 46; Chapter 471, Volume 50; and Chapter 5, Volume 64, Laws of Delaware, by adding a new paragraph at the end of said Section 3 which shall read as follows:

"Notwithstanding any statute to the contrary, the City of Dover shall have the power by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by Council, upon the transfer of real property within the City not to exceed one percent (1%) of the value of the real property as represented by the document transferring the property. The provisions of Section 5401 and Section 5403 of Chapter 54, Title 30 of the Delaware Code shall apply with respect to any realty transfer tax imposed by the City of Dover pursuant to the authority granted herein. The Council of the City of Dover may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the authority conferred herein. If the taxing power and authority granted herein shall be exercised by way of a stamp affixed to a document, the Recorder of Deeds in and for Kent County shall not receive for record documents subject to said tax unless stamps provided by the City of Dover are affixed thereto showing payment of the tax."

Approved July 12, 1988.

CHAPTER 362

FORMERLY

SENATE BILL NO. 494

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO THE PERSONAL EXEMPTIONS WITH RESPECT TO THE PERSONAL INCOME TAX.

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

Section 1. Amend §1110, Title 30, Delaware Code, by adding at the end of said Section a sentence to read as follows:

"Resident persons age 60 or over shall be allowed one additional personal exemption of \$1,250."

Section 2. This Act shall be effective for tax years commencing after December 31, 1988.

Approved July 13, 1988.

CHAPTER 363

FORMERLY

SENATE BILL NO. 500

AN ACT TO AMEND CHAPTER 39 OF TITLE 14 AND CHAPTERS 55 AND 56, TITLE 29, DELAWARE CODE, TO PROVIDE POST-RETIREMENT INCREASES TO PENSIONERS WHO RETIRED ON OR BEFORE JULY 1, 1987.

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

Section 1. Amend §5532, Chapter 55, Title 29, Delaware Code, by adding a new subsection (h) to read as follows:

"(h) Any monthly service or disability pension which became effective on or before July 1, 1987 and is payable on the date this subsection is enacted into law and any survivor pension based on a former service or disability pension that was effective on or prior to July 1, 1987 and is payable on the date this subsection is enacted into law shall be increased effective July 1, 1988, by 1% plus .08 of 1% for each full month of retirement preceding January 1, 1982. These increases shall continue to be paid through June 30, 1990, and every fiscal year thereafter provided that funds are appropriated in accordance with §5544 (j) of this Chapter."

Section 2. Amend §3909, Chapter 39, Title 14 of the Delaware Code, by adding thereto a new subsection to be designated as subsection (e) to read as follows:

"(e) Any pension under this Chapter that is payable on the date this subsection is enacted into law shall be increased effective July 1, 1988, by \$105 a month."

Section 3. Amend §5544, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (j) to read as follows:

"(j)(1) The State's obligation to the State Employees' Pension Trust Fund and the State Judiciary Retirement Fund to implement the provisions of §5532(h) of this Chapter shall be the payment required to amortize the unfunded accrued liability over two years from July 1, 1988.

(2) The State's obligation to the Special Pension Fund authorized by Volume 61, Chapter 455, Laws of Delaware, to implement the provisions of §5532(h) of this Chapter in fiscal year 1989 shall be the lump sum actuarial liability of the benefits granted."

Section 4. This Act shall become effective on July 1, 1988, provided that there are sufficient funds appropriated in the Fiscal Year 1989 Budget Appropriation Act.

Approved July 13, 1988.

CHAPTER 364

FORMERLY

SENATE BILL NO. 479

AN ACT TO AMEND CHAPTER 63, TITLE 7, DELAWARE CODE RELATING TO HAZARDOUS WASTE.

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

Section 1. Amend Section 6301, Title 7, Delaware Code by striking subsection 6301(a)(2) in its entirety and substituting in lieu thereof the following:

"(2) The public health and safety and the environment are threatened where hazardous wastes are not managed in an environmentally sound manner and where there are no commercial hazardous waste management facilities available;"

Section 2. Amend Section 6302, Title 7, Delaware Code by striking subsection 6302(13) and substituting in lieu thereof the following:

"(13) Storage means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous wastes. This definition does not apply to wastes accumulated at transfer facilities in compliance with Section 6306 of this chapter for periods of up to 10 days."

Section 3. Amend Section 6305, Title 7, Delaware Code by striking subsections (2), (3) and (4) thereof in their entirety and substituting in lieu thereof the following:

"(2) Regulations for the transport, storage, treatment and disposal of hazardous waste, including regulations regarding contingency plans for effective action to minimize unanticipated damage from the transport, treatment, storage or disposal of such hazardous waste and regulations prescribing conditions and time periods upon which generators may accumulate hazardous wastes on site without a permit and such other regulations as are necessary to assure that substances identified or listed under paragraph (1) of this subsection which pass through a sewer system to a publicly-owned treatment works are adequately controlled to protect human health and the environment;"

(3) Regulations setting forth requirements for approval or permit applications and specifying the terms and conditions, including duration and schedules of compliance, under which the Department shall issue, modify, review, suspend, revoke or deny such approvals or permits as may be required by this chapter and regulations providing that permits issued after November 8, 1984, or regulations which, in the case of interim status facilities under Section 6307(g) of this title, require corrective action both on site and beyond the facility boundary, if necessary to protect human health and the environment, for releases of hazardous waste or constituents from any solid waste management unit at a facility seeking a permit under this chapter, regardless of when the waste was placed in the unit. Such permits shall contain schedules of compliance for corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing the corrective action; and, in addition, regulations relating to qualifying for and termination of interim status under Section 6207(g) of this title;"

(4) Regulations establishing standards and procedures for the safe operation and maintenance of hazardous waste transfer, treatment, storage and disposal facilities or sites, including requirements for closing, long-term care and termination of transfer, treatment, storage and disposal facilities or sites and regulations regarding the prohibition of disposal of nonhazardous liquids in hazardous waste disposal facilities except upon such terms and conditions as the Secretary may prescribe. The Secretary may, where appropriate, establish separate standards for new and existing sites. Requirements may be adopted under this paragraph applicable to facilities and sites closed prior to July 11, 1980, which requirements shall be applicable to former and present owners and operators, as may be deemed appropriate."

Section 4. Amend Section 6306, Title 7, Delaware Code by striking subsection 6306(g) in its entirety and substituting in lieu thereof the following:

"(g) No person transporting hazardous waste shall operate or utilize a hazardous waste transfer facility for the accumulation of in-transport hazardous waste except with written approval of the Secretary. No written approval shall be given to a transfer facility pursuant to this section unless the owner or operator submits with the application an application fee, as established by the Department, and demonstrates to

the Secretary that the facility is in compliance with the following sections or subparts of the State of Delaware Regulations Governing Hazardous Waste:

- (1) Section 264.16 Personnel Training
- (2) Part 264, Subpart C Preparedness and Prevention
- (3) Part 264, Subpart D Contingency Plans and Emergency Procedures
- (4) Part 264, Subpart I Use and Management of Containers
- (5) Section 264.112 Closure Plan; Amendment of Plan

In addition, the Secretary may adopt such other regulations affecting transfer facilities as he deems necessary to achieve the policies and purposes of this Chapter. This subsection shall not apply to transfer facilities located on the premises where such hazardous waste is generated.

Section 5. Amend Section 6306, Title 7, Delaware Code by adding new subsections (H), (I), and (J) as follows:

"(H) Any hazardous waste transfer facility that ceases to maintain approval status shall within 30 days implement the approved closure plan. For the purposes of this subsection approval status shall be administratively extended if timely application has been made and timely processing has not occurred through no fault of the applicant.

(I) Transfer of ownership of hazardous waste transfer facilities shall be consistent with the conditions of Section 122.40 of the Delaware Regulations Governing Hazardous Waste.

(J) The owner or operator of a hazardous waste transfer facility shall submit on a quarterly basis copies of all hazardous waste manifests for all waste that was accumulated for any length of time at the facility. The owner shall be assessed an annual fee, as established by the Department, for all waste accumulated at the facility that are not subject to the assessment provisions of Section 6319 of this Chapter. The timing of assessment, payment and penalties shall be consistent with the requirements of Section 6319."

Section 6. Amend Section 6309, Title 7, Delaware Code by striking subsections 6309 (a)(1), (2) and (3) and substituting in lieu thereof the following:

"(a) (1) Whenever on the basis of any information the Secretary determines that any person is in violation of any requirement of this chapter, any condition or limitation in a transfer facility approval or permit or variance issued thereunder, or any rule or regulation, the Secretary shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the 30th day after the Secretary's notification, the Secretary may issue an order requiring compliance within a specified time period.

(2) If such violator fails to take corrective action within the time specified in the order, he shall be liable for a civil penalty of not more than \$25,000 for each day of continued noncompliance and the Secretary may suspend or revoke any transfer facility approval or permit issued to the violator.

(3) Any order or any suspension or revocation of a transfer facility approval or permit shall become final unless, no later than 30 days after the order or notice of the suspension or revocation is served, the person or persons named therein request a public hearing. Upon such request, the Secretary shall conduct a public hearing in accordance with Section 6312 of this title. In connection with any proceeding under this paragraph the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents, and may promulgate rules for discovery procedures."

Section 7. Amend Section 6309, Title 7, Delaware Code by striking subsections 6309 (b) and substituting in lieu thereof the following:

"(b) In lieu of the compliance order procedures in subsection (a) of this section, any person who violates a provision of this chapter, any condition or limitation in a transfer facility approval or permit issued pursuant to this chapter, any variance condition or limitation, any rule or regulation, or any order of the Secretary shall be liable for a civil penalty of not less than \$1,000 nor more than \$25,000 for each day of

violation. The Superior Court shall have jurisdiction of offenses under this subsection."

Section 8. Amend Section 6309, Title 7, Delaware Code by striking subsections 6309 (f) and (g) and substituting in lieu thereof the following:

"(f) Any person who intentionally or knowingly violates a provision of this chapter, any condition or limitation in a transfer facility approval or permit issued pursuant to this chapter, any variance, condition or limitation, any rule or regulation, or any order of the Secretary, shall, in addition to or in lieu of any other remedy set forth herein, be subject, upon conviction, to a fine of not less than \$2,500 nor more than \$25,000 for each day of such violation, or shall be subject to imprisonment not to exceed 1 year, or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine not more than \$50,000 per day of violation, or by imprisonment for not more than 2 years, or by both. The Superior Court shall have jurisdiction of offenses under this subsection.

(g) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, manifest, label or other document filed or required to be maintained under this chapter, or under any transfer facility approval or permit, regulation or order issued under this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction be punished by a fine of not less than \$500 nor more than \$25,000 or by imprisonment for not more than 1 year or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than 2 years, or by both. The Superior Court shall have jurisdiction of offenses under this subsection."

Section 9. Amend Section 6312, Title 7, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"Public Hearings shall be held on any application for or draft of, any permit or transfer facility approval, or modification thereof, or any regulation, variance request, permit revocation or appeal to the Environmental Appeals Board in accordance with Sections 6004 and 6006 of this title, except where the Secretary has adopted additional notice and hearing requirements by regulation."

Section 10. Amend Section 6314, Title 7, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"Variances and temporary emergency variances may be granted by the Secretary from any regulation, transfer facility approval or permit condition adopted pursuant to this chapter in accordance with Sections 6011 and 6012 of this title, except that no temporary emergency variance or variance shall be granted which would be inconsistent with the requirements of subsection (b) or (c) of Section 3006 of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580 (or regulations promulgated thereunder) requiring equivalence or substantial equivalence of state programs for authorization or interim authorization whichever the case may be."

Section 11. Amend Section 6316, Title 7, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"(a) The Department may cooperate with and receive moneys from the federal government, and any state or local government, or other appropriate source in carrying out its duties under this chapter.

(b) Any charges encountered by the Department as a direct result of the public notice and hearing requirements of this chapter and the regulations established thereunder are directly billable to the person conducting or applying to conduct a hazardous waste management activity."

Approved July 13, 1988.

CHAPTER 365

FORMERLY

HOUSE BILL NO. 504

AN ACT TO AMEND CHAPTER 158, VOLUME 36, LAWS OF DELAWARE, ENTITLED "AN ACT CHANGING THE NAME OF 'THE TOWN OF DOVER' TO THE 'CITY OF DOVER' AND ESTABLISHING A CHARTER THEREFOR" AS AMENDED BY CHAPTER 283, VOLUME 46; CHAPTER 219, VOLUME 47; CHAPTER 314, VOLUME 47; CHAPTER 93, VOLUME 51; CHAPTER 98, VOLUME 59; CHAPTER 456, VOLUME 60; CHAPTER 147, VOLUME 61; CHAPTER 100, VOLUME 62; CHAPTER 5, VOLUME 64; AND CHAPTER 479, VOLUME 65, LAWS OF DELAWARE, RELATING TO ELECTIONS, DUTIES OF THE MAYOR AND VICE-MAYOR, CREATING THE OFFICE OF COUNCIL PRESIDENT, AND CHANGING VOTER REGISTRATION REQUIREMENTS.

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

Section 1. Amend Section 5, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 219, Volume 47; Chapter 147, Volume 61; Chapter 5, Volume 64; and Chapter 479, Volume 65, Laws of Delaware, by striking the existing Section 5 in its entirety and substituting in lieu thereof a new Section 5 to read as follows:

"Section 5. Council to be Legislative Body; Size; Districts; Terms of Mayor and Councilmen; Qualifications.

The Council shall be the legislative body of the City and composed of eight members nominated and elected as hereinafter provided until the second Monday of May 1989 at which time and thereafter Council shall be composed of nine members as hereinafter provided.

In order that the members of Council shall be distributed over the City, the City shall be divided into districts. For the April 1988 regular municipal election, the City shall remain divided into four election districts previously established by Council. For the April 1989 regular municipal election and for each election thereafter, the City shall be divided into four election districts, the district boundaries of which shall be established by Council so that the districts are nearly equal in population as shown by the 1980 Federal decennial census. The district boundaries established for the April 1989 regular municipal election shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time Council shall redistrict the City so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election, which procedure shall be followed by Council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

The term of the Mayor elected at the April 1988 regular municipal election shall be for a term of two years from the second Monday of May 1988 until the second Monday of May 1990 or until his successor has been duly elected and qualified. Thereafter, commencing with the regular municipal election to be held in April of 1990 and thereafter, the term of Mayor shall be for a period of two years commencing on the second Monday in May following his election and continuing for a term of two years until the second Monday in May or until his successor has been duly elected and qualified.

The term of the Councilmen shall be for two years. In the April 1988 regular municipal election, four Councilmen shall be elected by at-large voting with one Councilman coming from each of the four election districts then in existence. These four Councilmen shall take office on the second Monday of May of 1988 and their term shall expire on the second Monday of May 1990. In the regular municipal election held in April of 1989 after Council has divided the City into four election districts, five Councilmen shall be elected, four of whom shall be elected by district voting from each of the districts as designated by Council and one of whom shall be elected by at-large voting by all voters of the City, the term of these five Councilmen to commence on the second Monday of May of 1989 and terminate on the second Monday of May of 1991 with their successors being elected in the regular municipal election held in April of 1991 and each two years thereafter. At the regular municipal election held in April of 1990, four Councilmen shall be elected by district voting from each of the four districts as designated by Council, which Councilmen shall serve a term commencing the second Monday of May 1990 and terminating the second Monday of May 1992. Commencing with the regular

municipal election to be held in April of 1991, as herein provided, and each two years thereafter, five Councilmen shall be elected, four by district voting being from the districts and one at-large as stated herein. In the regular municipal election held in April of 1992 and every two years thereafter, four Councilmen shall be elected by district voting from each of the districts of the City.

In order to be eligible to be elected as Mayor or as a member of Council, the person must as of the date of the election be: (1) a citizen of the United States and of the State of Delaware; (2) a resident of the City and having continuously resided therein or in an area annexed to the City during the two years next preceding the day of the election; (3) be a resident of the election district from which he is seeking election, unless he is seeking election as an at-large Councilman or Mayor; (4) twenty-one (21) years of age; and (5) nominated therefore, as hereinafter provided.

If a Councilman files and runs for Mayor, whether or not he is elected to said office, the term as Councilman shall automatically expire on the second Monday of May on the year of the election; and if he has a year remaining on his term, then his office as Councilman shall be filled at the same annual election in which he has filed to run for the office of Mayor."

Section 2. Amend Section 6, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 147, Volume 61, Laws of Delaware, by striking the existing Section 6 in its entirety and substituting in lieu thereof a new Section 6 to read as follows:

"Section 6. Municipal Election Dates.

Regular municipal elections shall be held each year on the third Monday in April and shall be known as the regular municipal election. All other municipal elections that may be held shall be known as special municipal elections. At the regular municipal election to be held on the third Monday in April of 1988, four Councilmen shall be elected, one from each of the four election districts by at-large voting in the same manner as heretofore and a Mayor shall be elected by the voters of the City as heretofore. In the regular municipal election to be held on the third Monday in April of 1989 and every two years thereafter, five Councilmen shall be elected for a term of two years, four of whom shall be elected by district voting from each of the election districts and one of whom shall be elected at large by the voters of the City. At the regular municipal election to be held on the third Monday in April of 1990 and every two years thereafter, four Councilmen shall be elected by district voting, one being from each of the election districts and a Mayor shall be elected by the voters of the City for a term of two years. Every two years thereafter a Mayor shall be elected in the same manner."

Section 3. Amend Section 7, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 98, Volume 59; and Chapter 147, Volume 61, Laws of Delaware, by striking the existing first six paragraphs of said Section 7 in their entirety, thereby permitting the seventh paragraph together with the form of the nominating petition of said Section 7 to exist, and substituting in lieu thereof five new paragraphs to read as follows:

"Section 7. The mode of nomination of candidates for the Council and for Mayor shall be by petition, signed by not less than ten (10) nor more than twenty-five (25) electors of the City, filed with the Clerk of Council on or before 4:00 p.m. on the second Friday of February of each year for candidates for Council and on or before 4:00 p.m. on the last working day in January for candidates for Mayor in the years when a Mayor is to be elected. Should the second Friday of February fall on a legal holiday, the filing date shall be 4:00 p.m. on the next working day thereafter which is not a legal holiday.

Whenever a petition nominating a person for the office of Mayor or Councilman shall have been filed as above prescribed, the name of such person shall be printed on the ballot for the regular municipal election as a candidate for the office for which he was nominated, provided he possesses the qualifications prescribed by this Charter for a candidate for such office.

No nominating petition shall designate more than one person to be voted for as a member of Council or as Mayor.

The signers of a nominating petition for a member of the Council must be electors of the City residing in the City election district in which the nominee resides; but the signers to the nominating petition for the Mayor and for the at-large Councilman may be City electors residing in the City at-large.

There must be attached to each nominating petition an affidavit of the circulator thereof, stating the number of signers and that each signature appended thereto was made in his presence, and is the genuine signature of the person whose name it purports to be, and that all of said signers are entitled to vote at the regular municipal election referred to; and, in the case of a petition nominating a candidate for Councilman running from a particular district and to be elected by district voting, that the circulator of the petition verily believes that each signer of said petition is a resident of the same City election district in which the nominee resides."

Section 4. Amend Section 7, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 98, Volume 59; and Chapter 147, Volume 61, Laws of Delaware, by striking the period "." following the phrase "referred to in said paper." in the existing form of the nominating petition in the seventh paragraph of said Section 7, and substituting in lieu thereof a semicolon ";", and phrase to read as follows:

"and, in case the petition is nominating a candidate for Councilman to be elected from a specific district by district voting, that each signer of said petition is a resident of the same City election district in which the nominee resides."

Section 5. Amend Section 8, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 98, Volume 59; Chapter 456, Volume 60; and Chapter 147, Volume 61, Laws of Delaware, by striking the existing Section 8 in its entirety and substituting in lieu thereof a new Section 8 to read as follows:

"Section 8. Time and Place of Elections; Election Board; Counting of Votes; Determination of Winners; Tie Votes; Persons Eligible to Vote; Voter Registration; Official Ballots and Voting Machines; Absentee Ballots.

The regular municipal election shall be held on the third Monday of April in the year 1988 and each year thereafter. At each such regular municipal election, the polls shall be opened at 11:00 a.m. and closed at 8:00 p.m. The Council may designate the places of election and make all necessary rules and regulations not inconsistent with this Charter or with other laws of the State of Delaware for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud.

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

When the polls are closed, the election board shall publicly count the votes and shall certify the results of the election to each of the persons elected and to the Council. The candidate for the office of Mayor who receives the highest number of votes cast for that office shall be declared to be elected Mayor; the candidate for the office of at-large Councilman who receives the highest number of votes cast for that office shall be declared to be elected at-large Councilman; and the candidates for the offices of Councilmen from each district who receive the highest number of votes cast by voters who reside in that district and cast votes for Councilmen of that district shall be declared to be elected to that office. In the event of a tie vote for any office, a special election for said office(s) only shall be held within thirty (30) days and the registration books shall remain closed until the outcome of the special election is determined.

Every resident of the City of Dover who shall have reached the age of eighteen (18) years by the time of the election and who is properly registered to vote shall be entitled to vote at the regular or special municipal elections. For the regular municipal election to be held in April of 1988, the voter must be registered in accordance with the existing City of Dover voter registration requirements in effect for previous elections. For the regular municipal election to be held in April of 1989 and for each year thereafter, the voter will be considered properly registered to vote if he is properly registered to vote for State elections in accordance with Title 15 of the Delaware Code as amended.

The Council shall provide for the use of voting machines in all regular and special municipal elections in conformity with Title 15 of the Delaware Code by ordinance duly adopted by Council. Voting machines shall be used in accordance with Title 15 of the Delaware Code and by ordinance duly adopted by Council. Voting machines shall be used in accordance with Title 15 of the Delaware Code and by ordinance adopted by Council. The names of the candidates for each office shall be listed in alphabetical order on the voting machines under the name of the office to which they seek election. The voters shall designate their choice of candidates in accordance with the regular method of operation of voting machines. The Council may provide sample ballots plainly marked as such and printed on paper of any color except white to be distributed to any voter or candidate who requests them prior to or during the election.

Any qualified voter, duly registered, who shall be unable to appear to cast his ballot at any election either because of being in the public service of the United States or of this State, or because he will be unavoidably absent from the City on the day of the election, or because of his sickness or physical disability may cast a ballot at such election by absentee ballot to be counted in the total of such election. The Council may provide the rules and regulations for such absentee voting by ordinance for all elections."

Section 6. Amend Section 9, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 147, Volume 61, Laws of Delaware, by striking the existing Section 9 in its entirety and substituting in lieu thereof a new Section 9 to read as follows:

"Section 9. At 7:30 p.m. on the second Monday in May in 1988 and each year thereafter, following a regular municipal election, the Mayor and Council shall meet at the usual place for holding Council meetings and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity. Such meeting shall be called or known as the annual meeting. Thereafter, the Council shall hold regular meetings at such times as may be prescribed by ordinance, but not less frequently than once each month. Special meetings may be called and held as prescribed by ordinance. All meetings of the Council shall be open to the public except scheduled executive sessions.

At the annual meeting held on the second Monday in May in 1990, and each year thereafter, the members of Council shall elect one of their members to serve as Council President, such term to be in effect until the next regularly scheduled annual meeting or until a successor is elected. The Council president shall serve as Vice-Mayor. Council president shall preside over regular and special Council meetings.

The Mayor shall preside over the annual meeting and quarterly town meetings, and at the annual meeting present a State of the City message and offer Mayoral appointments for Council confirmation. The Mayor, upon recommendation from the Council President, will present Council's appointments for Council approval."

Section 7. Amend Section 10, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 456, Volume 60, Laws of Delaware, by striking the existing Section 10 in its entirety and substituting in lieu thereof a new Section 10 to read as follows:

"Section 10. Meeting of Mayor and Council - Procedure.

Five (5) of the members elected to the Council shall constitute a quorum to do business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

No ordinance, resolution, motion or order shall be valid unless it shall have (1) the affirmative vote of a majority of the members elected to the Council, and (2) the written approval of the Mayor, or the Vice-Mayor in those cases where the Vice-Mayor is authorized to act as Mayor as provided in Section 15 hereof, provided that in the absence of such approval by the Mayor, or the Vice-Mayor as the case may be, the Council may, after not less than seven (7) days nor more than thirty-five (35) days after the prior vote, pass or adopt the said ordinance, resolution, motion or order which did not receive the approval of the Mayor, or the Vice Mayor, by the affirmative vote of two-thirds of the members elected to Council.

Whenever the Council shall adopt an ordinance, resolution, motion or order, it shall be the duty of the Mayor, or the Vice-Mayor, to signify his approval or disapproval thereof in writing to the Clerk of the Council within seven (7) days thereafter. The Clerk of the Council shall forthwith notify the members of the Council of such approval or disapproval.

Motions to adjourn meetings of Council and orders to compel the attendance of absent members shall not require the approval of the Mayor or Vice-Mayor.

A Councilman may abstain from voting on a matter that he feels would involve the consideration of his own official conduct, on a matter in which he has a financial interest, in a matter in which he has a conflict of interest or in accordance with a policy adopted by Council.

The yeas and nays shall be taken upon the passage of every ordinance and resolution and entered together with the text of the ordinance or resolution upon the journal of the proceedings of the Council. The journal shall be deemed conclusive evidence of the facts stated therein except in the case of fraud."

Section 8. Amend Section 14, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 456, Volume 60, Laws of Delaware, by striking the existing Section 14 in its entirety and substituting in lieu thereof a new Section 14 to read as follows:

"Section 14. Duties of Mayor.

The Mayor shall be the executive and chief official of the City. He shall have the powers and perform the duties conferred and imposed by this Charter and ordinances of the City. Prior to the second Monday in May of 1990, he shall preside at all meetings of the Council, but after the second Monday in May of 1990, the Council President shall preside at all meetings of the Council with the exception of the annual meeting and quarterly town meetings which shall be presided over by the Mayor. The Mayor shall have no vote on Council matters of any nature whatsoever. The Mayor is an ex-officio member of all committees, but shall have no vote."

Section 9. Amend Section 15, Chapter 158, Volume 36, Laws of Delaware, by striking the existing Section 15 in its entirety and substituting in lieu thereof a new Section 15 to read as follows:

"Section 15. Vice-Mayor, Duties of.

At the annual meeting to be held on the second Monday in May of 1988 and 1989, the Council shall elect one of their number to the office of Vice-Mayor. Commencing with the annual meeting to be held on the second Monday in May of 1990 and each year thereafter, Council shall elect one of their number as Council President who shall also serve as Vice-Mayor. During a vacancy in the office of Mayor or during the absence or disability of the Mayor, the Vice-Mayor shall have all the powers and duties of the Mayor, except as hereinafter provided. The Council President and Vice-Mayor shall retain his right to vote as Councilman at all times although he may be acting as the Mayor, unless the Mayor's absence appears to be indefinite or extended, in which case Council shall pass a resolution appointing the Vice-Mayor as Mayor until the Mayor's position is either filled in accordance with Section 13 hereof or the Mayor returns to his duties, which resolution shall provide that the Vice-Mayor shall have the right to approve or disapprove Council action in accordance with Section 10 hereof, in which case the Vice-Mayor shall lose his vote as Councilman until further action is taken by Council."

Section 10. Amend Section 47, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 283, Volume 46; Chapter 314, Volume 47; Chapter 93, Volume 51; Chapter 100, Volume 62; and Chapter 5, Volume 64, Laws of Delaware, by striking the word "Mayor" as it appears in the first sentence of the fifth paragraph and substituting in lieu thereof the words "Council President".

Section 11. Amend Section 57, Chapter 158, Volume 36, Laws of Delaware, by striking the existing first paragraph of said Section 57 in its entirety and substituting in lieu thereof a new first paragraph of Section 57 to read as follows:

"The Mayor and members of Council at the time of approval of this act to revise the Charter shall retain their elected terms of office until re-elected or failure to be re-elected under the provisions and terms established herein."

Section 12. Amend Section 61, Chapter 158, Volume 36, Laws of Delaware, by striking the existing Section 61 in its entirety and substituting in lieu thereof a new Section 61 to read as follows:

"Section 61. Severability.

If any part of this act to amend the 1929 Charter of the City of Dover, or of the unamended portions of the original Charter, are held to be unconstitutional, such holding shall not be deemed to invalidate the remaining portions of this Act or the Charter it amends."

Approved July 12, 1988.

CHAPTER 366

FORMERLY

SENATE BILL NO. 483

AN ACT TO AMEND PART III, CHAPTER 41, TITLE 21, DELAWARE CODE, RELATING TO THE PROHIBITION OF CONSUMING ALCOHOL WHILE OPERATING A MOTOR VEHICLE.

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

Section 1. Amend Part III, Chapter 41, Title 21, Delaware Code, by adding thereto a new Section 4177G to read as follows:

"§4177G. Drinking while driving prohibited.

(a) No person shall consume an alcoholic beverage while driving a motor vehicle upon the highways of this State. "Consume," as used in this subsection, shall mean the ingestion of a substance containing alcohol while in the act of operating a motor vehicle in the presence of, or in the view of, a police officer.

(b) Whoever violates this section shall be fined for the first offense not less than \$25.00 nor more than \$200.00. For each subsequent like offense occurring within one year of the previous offense, the person shall be fined not less than \$50.00 nor more than \$400."

Approved July 12, 1988.

CHAPTER 367

FORMERLY

SENATE BILL NO. 416
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 48, TITLE 29, DELAWARE CODE, PERTAINING TO THE STATE LOTTERY.

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

Section 1. Strike Section 4815, Title 29, Delaware Code, in its entirety and substitute in lieu thereof the following:

"§4815. State Lottery Fund.

All moneys received from the sale of lottery tickets shall be accounted for to the State Treasurer and all net moneys shall be placed into a special account known as the State Lottery Fund. From the Fund, the Director shall first pay for the operation and administration of the lottery as authorized in this subchapter and thereafter shall pay as prizes not less than 45% on the average of the total amount of tickets which have been sold and are scheduled for sale throughout the games, which percentage shall include prizes already awarded or to be awarded. The total of payments for operations and administration of the lottery shall not exceed 20% of the gross amount received from the sale of tickets. The remaining moneys shall accumulate in the State Lottery Fund for the payments of operations and administration costs and on a monthly basis, or more frequently if required by the Director, there shall be placed into the General Fund of the State a payment of earnings provided that no less than 30% of the total revenues accruing from the sale of tickets or shares shall be so dedicated. In the event that the percentage allocated for operations (including prize payments) generates a surplus, said surplus shall be allowed to accumulate to an amount not to exceed \$1,000,000. On a quarterly basis, the Director shall report to the Secretary of Finance any surplus in excess of \$1,000,000 and remit to the General Fund of the State the entire amount of those surplus funds in excess of \$1,000,000."

Section 2. Amend Subsection (b) of Section 4810, Title 29, Delaware Code, by striking the following words: "or the Division of Central Data Processing".

Section 3. Amend Chapter 48, Title 29 of the Delaware Code by adding thereto a new section to read as follows:

"§4818. Disclosure of certain information of a prize winner.

The name and address of any prize winner under this Chapter shall not be disclosed to the public by the State Lottery Office unless permission is given by the prize winner."

Section 4. This Act shall be effective July 1, 1988.

Approved July 14, 1988.

CHAPTER 368

FORMERLY

SENATE BILL NO. 407

AN ACT TO AMEND CHAPTER 23, TITLE 12, OF THE DELAWARE CODE RELATING TO THE FILING OF DEATH CERTIFICATES.

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

Section 1. Amend Chapter 23, Title 12 of the Delaware Code by adding thereto a new §2309 to read as follows:

"§2309. Recordation of Death Certificates. In all cases where there is an interest in real property owned by the decedent at the time of death a certified copy of the death certificate of the decedent shall be filed in the office of the Register of Wills in and for the county wherein the interest in the real property is situated."

Approved July 14, 1988.

CHAPTER 369

FORMERLY

SENATE BILL NO. 160
AS AMENDED BY SENATE AMENDMENT NOS. 1, 2, 3 AND 4

AN ACT TO AMEND CHAPTER 5, TITLE 11, DELAWARE CODE, AND CHAPTER 9, TITLE 28, DELAWARE CODE, RELATING TO CRUELTY TO ANIMALS AND COCK-FIGHTING.

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 §904, Title 28, Delaware Code, by striking said section in its entirety.

Section 2. Amend Subsection VII, Chapter 5, Title 11, Delaware Code, by redesignating §1326 as §1327 and inserting a new §1326 to read as follows:

"§1326. Animals; Fighting and Baiting Prohibited

(a) A person who owns, possesses, keeps, or uses any bull, bear, dog, cock, or other animal, or fowl, for the purpose of fighting or baiting; or a person who is party to or who causes any such fighting or baiting of any bear, dog, cock, or other animal, or fowl; or a person who shall rent or otherwise obtain the use of a building, shed, room, yard, ground, or premises for the purpose of fighting or baiting, any animal or fowl, or shall knowingly suffer or permit the use of any building, shed, room, yard, ground, or premises belonging to him or under his control, for any of the purposes described in this section, shall be guilty of a Class A Misdemeanor punishable by a fine of not more than \$1,000, or imprisonment for not more than 2 years or both.

(b) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for any exhibition prohibited by this section, knowing that such exhibition is taking place or about to take place is guilty of a Class C Misdemeanor punishable by a fine of not more than \$500, or imprisonment for not more than 3 months or both.

(c) All animals, equipment, devices, and money involved in a violation of this section shall be forfeited to the State. Animals so forfeited shall be disposed of in a humane manner.

(d) No prosecution for any offense under this section shall be commenced after one year from the commission of such offense."

Approved July 14, 1988.

CHAPTER 370

FORMERLY

SENATE BILL NO. 490

AN ACT TO AMEND CHAPTER 55, TITLE 29, DELAWARE CODE, RELATING TO VESTING FOR STATE EMPLOYEE PENSIONS.

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

Section 1. Amend §5501(b)(6) by striking the phrase "10 years" as it appears therein and substituting in lieu thereof the phrase "5 years".

Section 2. Amend §5523(a) by striking the phrase "10 years" as it appears therein and substituting in lieu thereof the phrase "5 years".

Section 3. This Act shall become effective June 30, 1988.

Approved July 14, 1988

CHAPTER 371

FORMERLY

SENATE BILL NO. 476

AN ACT TO AMEND CHAPTER 74, TITLE 29, OF THE DELAWARE CODE RELATING TO BONDS OF THE STATE.

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

WHEREAS, State of Delaware bond issues have not been readily available to the general public; and

WHEREAS, many Delawareans for whom Delaware bonds could have been a desirable investment were not able to invest in Delaware bond issues because of the large denominations in which such bonds were marketed; and

WHEREAS, capital appreciation bonds can be a useful vehicle for long term savings, such as for the higher education expenses of Delawareans; and

WHEREAS, the State bond issuing officers lacked the necessary authority to bring about small denomination capital appreciation bond issues;

NOW, THEREFORE, it is declared to be the purpose of this bill to grant the authority to the bond issuing officers to enable them to arrange with the appropriate institutions to provide bond issues that are both more accessible to more Delawareans and in the capital appreciation bond format suitable to savings for long term expenses such as higher education.

Section 1. Amend §7406, Chapter 74, Title 29 of the Delaware Code by striking said section in its entirety and substitute in lieu thereof a new §7406 to read as follows:

"§7406. Terms, forms and contents of bonds; installment payments.

(a) the resolution of the issuing officers authorizing the issuance of bonds may include provisions for the date or dates of such bonds; the maturity of such bonds, which shall not exceed 20 years from their date; provisions for serial, term, or "capital appreciation" bonds; sinking fund or reserve fund requirements, if any; due dates of the interest thereon; the form of bonds (including whether bonds shall be certificated or uncertificated); the denominations and designation of bonds; registration, conversion and transfer privileges; the terms of redemption with or without premium; the date and manner of sale of bonds, (which may be a private, negotiated sale only if any of the bonds of a series of bonds or all the bonds to be sold are capital appreciation bonds); provisions for the consolidation of bonds authorized to finance all or a portion of the costs of projects authorized in one or more authorization acts with bonds authorized by one or more authorization acts; limitations with respect to the interest rate or rates on bonds; provisions for receipt and deposit or investment of the good faith deposit pending delivery of bonds and such other terms and conditions of bonds and of the issuance and sale thereof as the issuing officers may determine to be in the best interests of the State.

(b) Notwithstanding the foregoing provisions of this section or any other law to the contrary, the issuing officers shall be required to provide in the resolution authorizing the issuance of general obligation bonds of the State (other than capital appreciation bonds as defined in Section 7425 of this Chapter):

(1) For the payment of bonds in annual installments, the first of which shall be not more than one year from the date of such bonds; and

(2) That no annual installment, except in the case of refunding of the bonds, shall be more than any prior installment of those bonds."

Section 2. Amend Chapter 74, Title 29 of the Delaware Code by adding thereto a new §7425 to read as follows:

"§7425. Capital Appreciation Bonds. The term "capital appreciation bonds" means any bond or bonds sold at a price substantially less than the principal amount thereof and on which compounded interest is payable at maturity, as conclusively determined by the issuing officers, but only if such bond or bonds are designated as capital appreciations by the issuing officers in the resolution authorizing the issuance of bonds. For purposes of Sections 7422 and 7423 of this Chapter, the aggregate principal amount of any capital appreciation bonds shall be the aggregate of the initial offering prices at

which such bonds are offered for sale to the public, whether in a private or negotiated sale or in a public or competitive sale, or sold to the initial purchaser thereof in a private placement, without, in every case, reduction to reflect underwriters' discount or placement agents' fees or other similar fees."

Section 3. The Secretary of Finance shall report to the General Assembly on an annual basis regarding the amount of capital appreciation bonds issued, the interest and other costs associated with such issuance and other related matters as appropriate.

Approved July 14, 1988.

CHAPTER 372

FORMERLY

SENATE BILL NO. 447

AN ACT TO AMEND CHAPTER 2, TITLE 12 OF THE DELAWARE CODE RELATING TO THE DEVOLUTION OF PROPERTY AND THE ADMINISTRATION OF DECEDENTS' ESTATES.

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

Section 1. Amend Chapter 2, Title 12 of the Delaware Code by adding thereto a new Section 214 to read as follows:

"§214. Devolution of Property; Administration of Decedents' Estates

Solely for the purposes of determining the rights of any person to property of a decedent, it shall be presumed that tangible personal property acquired (a) by a decedent through gift or inheritance, or (b) solely with the funds of the decedent, or (c) acquired by the decedent before marriage to his or her surviving spouse, is the sole property of the decedent notwithstanding the such property consists of household goods or that any such property was subject to joint possession and use by a decedent and his or her surviving spouse."

Section 2. The Act shall become effective August 1, 1988 and shall apply to the estates of decedents dying on or after said date.

Approved July 14, 1988

CHAPTER 373

FORMERLY

SENATE BILL NO. 448

AN ACT TO AMEND CHAPTER 13 OF TITLE 12, DELAWARE CODE TO CLARIFY THE TIME PERIOD IN WHICH BOND MUST BE POSTED IN CONNECTION WITH A CAVEAT AGAINST ALLOWANCE OF AN INSTRUMENT AS A WILL.

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

Section 1. Amend §1308(a), Chapter 13, Title 12, Delaware Code, by striking the first sentence in its entirety beginning with the words "a caveat" and ending with the words "been filed" and substituting in lieu thereof a new sentence to read as follows:

"(a) A caveat against the allowance of an instrument as a will shall be received by the Court of Chancery at any time before its proof; but unless the caveator or caveators shall, within 10 days after the signing of an order by a member of the Court of Chancery setting bond, give bond to the State, jointly, and severally if more than one caveator, with such sureties and in such sum as the Court determines, conditional for the payment of any and all costs occasioned by such caveat which may be decreed against such caveator or caveators, such caveat shall be considered as abandoned and shall be dismissed and proceedings may be had in all respects as though no such caveat had been filed."

Approved July 14, 1988.

CHAPTER 374

FORMERLY

SENATE BILL NO. 445

AN ACT TO AMEND CHAPTER 21, TITLE 12, AND CHAPTER 81, TITLE 10, OF THE DELAWARE CODE RELATING TO CLAIMS AGAINST ESTATES.

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

Section 1. Amend §2102, Chapter 21, Title 12, by striking subsections (a) and (e) thereof and substituting in lieu thereof the following:

"(a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort or other legal basis, except debts of which notice is presumed pursuant to §2103 of this Title, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative and the heirs and devisees of the decedent unless presented as provided in §2104 of this Title within eight months of the decedent's death whether or not the notice referred to in §2101 of this Title has been given.

(e) No claim for a deficiency or otherwise, based on a bond which has been secured by a mortgage on real estate, may be presented against a decedent's estate, the personal representative and the heirs and devisees of a decedent after the expiration of eight months from the date of the decedent's death.

The failure to present a claim on a bond secured by a mortgage on real estate, in accordance with the foregoing provisions, shall not invalidate the bond so as to prevent the foreclosure of the mortgage on real estate at any time thereafter, but no claim may be asserted against the decedent's estate on or by reason of the bond."

Section 2. Amend §2101, Chapter 21, Title 12, by striking subsection (a) thereof and substituting in lieu thereof the following:

"(a) The Register of Wills shall give notice as provided in this Section of the granting of letters. Said notice shall contain the date of grant of letters, the date of the decedent's death and the name and address of the personal representative and of the personal representative's counsel, if any."

Section 3. Amend §8113, Chapter 81, Title 10, by striking §8113 in its entirety and replacing it as follows:

"In all actions or claims against an executor or administrator of a decedent's estate, if the time within which the action could have been brought had not expired in the lifetime of the decedent, then the period of limitations provided for in this Chapter shall be extended for a period of 6 months from the date of the decedent's death. If the claim was filed within the proper time with the executor or administrator the defense of the statute of limitations shall not avail to such executor or administrator if he subsequently rejects the claim and action is commenced thereon within 3 months after the executor or administrator has notified the claimant of such rejection as provided by §2102 of Title 12."

Section 4. This Act shall be effective with respect to the decedents dying on or after the date of enactment.

Approved July 14, 1988.

CHAPTER 375

FORMERLY

SENATE BILL NO. 328

AN ACT TO AMEND CHAPTER 5, TITLE 10 OF THE DELAWARE CODE RELATING TO THE SUPERIOR COURT.

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

Section 1. Amend §509, Chapter 5, Title 10, of the Delaware Code by striking the figure "8" and substituting in lieu thereof the figure "10".

Approved July 14, 1988.

CHAPTER 376

FORMERLY

SENATE BILL NO. 78

AN ACT TO AMEND CHAPTER 35, TITLE 12, DELAWARE CODE, RELATING TO THE ADMINISTRATION OF ESTATES AND TRUSTS.

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

Section 1. Amend §3544, Chapter 35, Title 12, Delaware Code, by striking said §3544 in its entirety and inserting in lieu thereof a new §3544 to read as follows:

"§3544. Successor Trustee

Unless provided otherwise by the terms of the governing instrument or by order of Court, in the absence of actual knowledge of a breach of trust, or information concerning a possible breach of trust that would cause a reasonable person to inquire, a successor trustee appointed in accordance with the terms of the governing instrument or by the Court is under no duty to examine the accounts and records of its predecessor trustee or to inquire into the acts or omissions of its predecessor, is not liable for any failure to seek redress for any act or omission of any predecessor trustee, shall have responsibility only for property which is actually delivered to it by its predecessor, and shall have all of the powers and discretions conferred in the governing instrument upon the original trustee."

Approved July 14, 1988.

CHAPTER 377

FORMERLY

SENATE BILL NO. 493

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO THE PERSONAL INCOME TAX.

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

Section 1. Amend §1162, Chapter 11, Title 30, Delaware Code, by designating existing §1162 as subsection (a) of said section and adding thereto a new subsection (b) to read as follows:

"(b) When the federal income tax liability of husband and wife is determined on a joint federal income tax return and they elect to file separate returns under this Chapter, then Internal Revenue Code §469(1)(5)(A) shall apply and §469(1)(5)(B) shall not apply to the separate returns."

Approved July 14, 1988.

CHAPTER 378

FORMERLY

HOUSE BILL NO. 634

AN ACT TO AMEND CHAPTER 11, TITLE 5 OF THE DELAWARE CODE RELATING TO MODIFYING CURRENT PROVISIONS FOR THE FILING AND PAYMENT OF ESTIMATED BANK FRANCHISE TAX.

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

Section 1. Amend Section 1103(a), Title 5, Delaware Code by deleting the phrase "the 10th day of March" and inserting in lieu thereof the phrase "the 15th day of February".

Section 2. Amend Section 1104(a), Title 5, Delaware Code by deleting the word "June" and inserting in lieu thereof the word "March".

Section 3. Amend Section 1104, Title 5, Delaware Code by deleting Subsection (b) and inserting in lieu thereof new Subsection (b) to read as follows:

"(b) The estimated tax liability as calculated per Section 1104 (a) shall be due and payable in installments of 25% of the estimated tax liability on June 1, September 1 and December 1 of the current taxable year with the balance to be paid on March 1 of the succeeding year."

Approved July 14, 1988.

CHAPTER 379

FORMERLY

HOUSE BILL NO. 686

AN ACT TO AMEND CHAPTER 11, TITLE 12 OF THE DELAWARE CODE RELATING TO ESCHEATS.

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

Section 1. Amend §1170, Chapter 11, Title 12 of the Delaware Code by striking the phrase "7 years" wherever it appears in paragraph (a) (1); subparagraphs a, b, and c of paragraph (a) (1); paragraph (a) (2); and paragraph (a) (5) of said section and substitute in lieu thereof the phrase "5 years".

Section 2. Amend §1181, Chapter 11, Title 12 of the Delaware Code by striking the phrase "7 years" as it appears in said section and substitute in lieu thereof the phrase "5 years".

Section 3. Amend §1198, Chapter 11, Title 12 of the Delaware Code by striking the phrase "7 years" as it appears in subsection (8) of said section and substitute in lieu thereof the phrase "5 years".

Section 4. Amend §1198, Chapter 11, Title 12 of the Delaware Code by striking the phrase "7 years" as it appears in subsection (10) of said section and substitute in lieu thereof the phrase "5 years".

Section 5. Amend §1197, Chapter 11, Title 12 of the Delaware Code by striking the phrase "7 years" as it appears therein and insert in lieu thereof the phrase "5 years".

Section 6. Amend §1199, Chapter 11, Title 12 of the Delaware Code by striking the phrase "June 30" as it appears in subsection (a) of said section and substitute in lieu thereof the phrase "March 1".

Section 7. Sections 1, 2, 3, 4, and 5 of this Act shall be effective on the date of their enactment into law and shall be effective with regard to property whose period of abandonment or dormancy at that time equals or exceeds the periods provided by this Act. Section 6 of this Act shall be effective for reporting and payment or delivery of assets deemed abandoned as of December 31, 1989.

Approved July 14, 1988.

CHAPTER 380

FORMERLY

HOUSE BILL NO. 516

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION AND WAGES.

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

Section 1. Amend Section 3302(18), Chapter 33, Title 19, Delaware Code by adding a new subsection (E) to read as follows:

"(E) Any attendance bonus paid during or incident to any period of unemployment."

Approved July 14, 1988.

CHAPTER 381

FORMERLY

HOUSE BILL NO. 691

AN ACT TO AMEND CHAPTERS 23, 25, 27, 29 AND 43, TITLE 30 OF THE DELAWARE CODE RELATING TO BUSINESS AND OCCUPATIONAL GROSS RECEIPTS TAXES.

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

Section. Amend §2502 (c), Chapter 25, Title 30 of the Delaware Code by striking the symbol and figure "\$6,000" as they appear in paragraph (1) thereof and substitute in lieu thereof the symbol and figure "\$12,000".

Section 2. Amend §2903 (c), Chapter 29, Title 30 of the Delaware Code by striking the symbol and figure "\$6,000" as they appear in paragraph (1) thereof and substitute in lieu thereof the symbol and figure "\$13,000".

Section 3. Amend §2904 (c), Chapter 29, Title 30 of the Delaware Code by striking the symbol and figure "\$6,000" as they appear in paragraph (1) thereof and substitute in lieu thereof the symbol and figure "\$13,000".

Section 4. Amend §2905 (b), Chapter 29, Title 30 of the Delaware Code by striking the symbol and figure "\$25,000" as it appears in paragraph (1) thereof and substitute in lieu thereof the symbol and figure "\$35,000".

Section 5. Amend §2906 (c), Chapter 29, Title 30 of the Delaware Code by striking the symbol and figure "\$25,000" as they appear in paragraph (1) thereof and substitute in lieu thereof the symbol and figure "\$35,000".

Section 6. Amend §2907 (c), Chapter 29, Title 30 of the Delaware Code by striking the symbol and figure "\$6,000" as they appear in paragraph (1) thereof and substitute in lieu thereof the symbol and figure "\$13,000".

Section 7. Amend §4305 (b), Chapter 43, Title 30 of the Delaware Code by striking the symbol and figure "\$18,000" as they appear therein and substitute in lieu thereof the symbol and figure "\$39,000".

Section 8. Amend §2902 (c), Chapter 29, Title 30 of the Delaware Code by striking the symbol and figure "\$10,000" as they appear in paragraph (1) of said subsection and substitute in lieu thereof the symbol and figure "\$20,000".

Section 9. Amend §2702 (b), Chapter 27, Title 30 of the Delaware Code by striking the symbol and figure "\$500,000" as they appear in paragraph (1) of said subsection and substitute in lieu thereof the symbol and figure "\$600,000".

Section 10. Amend §2301 (d), Chapter 23, Title 30 of the Delaware Code by striking said subsection in its entirety and substitute in lieu thereof the following:

"(d)(1) In addition to the license fee required by subsections (a) and (b) of this section, every person shall also pay a license fee at the rate of 4/10 of 1 percent of the aggregate gross receipts paid to such person attributable to activities licensable under this chapter, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of \$15,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only one monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) for any month in the calendar quarter do not exceed \$30,000, the return and payment of the additional license fee imposed for such month shall be due on or before the twentieth day of the first month following the close of the quarter.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, if the taxable gross receipts prescribed by paragraph (1) for any calendar quarter do not exceed \$15,000, the return and payment of the additional license fee imposed for such quarter

shall be filed on or before the 20th day of the first month following the close of a period for which tax is due and payable, or if that does not occur, on the twentieth day of the first month following the close of the fourth calendar quarter of the calendar year."

Section 11. This Act shall be effective for gross receipts received on or after January 1, 1989.

Approved July 14, 1988.

CHAPTER 382

FORMERLY

HOUSE BILL NO. 685

AN ACT TO AMEND CHAPTERS 7 and 19, TITLE 18, AND CHAPTER 23, TITLE 19 OF THE DELAWARE CODE RELATING TO THE INSURANCE PREMIUMS TAX AND RELATED TAXES ON SELF-INSURERS AND TO DISTRIBUTIONS FROM SUCH TAXES.

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

Section 1. Amend §702 (a), Chapter 7, Title 18 of the Delaware Code by striking the phrase "(for the period July 1 through December 31 immediately preceding) and on or before September 1 (for the period January 1 through June 30 immediately preceding)" as it appears therein and substitute in lieu thereof the phrase "each year".

Section 2. Amend §702, Chapter 7, Title 18 of the Delaware Code by striking subsection (d) of said Section in its entirety and substitute in lieu thereof a new subsection (d) to read as follows:

"(d) The taxes imposed under this Section, Sections 703 and 707 of this Chapter, Section 1917 of Chapter 19, and Section 6914 of Chapter 69 of this Title shall be payable as follows:

Twenty-five percent of the estimated tax liability for the current year shall be paid on each April 1, June 15, September 15 of the current taxable year and the remaining balance to be paid on March 1 of the following year."

Section 3. Amend §702 (c), Chapter 7, Title 18 of the Delaware Code by striking said subsection in its entirety and substitute in lieu thereof a new subsection (c) to read as follows:

"(c) There shall be paid a tax at the rate of 1 3/4% on net premiums as shown on reports required to be filed under subsection (a) of this Section."

Section 4. Amend §702, Chapter 7, Title 18 of the Delaware Code by adding thereto a new subsection (f) to read as follows:

"(f) In the case of any underpayment of installment of estimated tax required by this Section, there shall be added to the tax for the taxable year an amount determined at the rate of 1 1/2% per month, or fraction thereof, upon the amount of the underpayment for the period of the underpayment. The period of underpayment shall run from the date the tentative tax or installment was required to be paid to the first day of the fourth month following the close of the taxable year, or the date on which paid, whichever is earlier.

For purposes of this subsection, the amount of the underpayment shall be the excess of.

(1) The amount of the estimated tax installment which would be required to be made if the estimated tax were equal to 80 percent of the tax shown on the report required under subsection (a) of this Section, over

(2) The amount, if any, of the estimated tax installments paid on or before the last date prescribed for payment."

Section 5. Amend §707, Chapter 7, Title 18 of the Delaware Code, by striking the phrase "the 1st of March of each year" as it appears in subsection (a) of said Section and substitute in lieu thereof the phrase "at the same time as the premium tax and estimated payments as provided in section 702 of this Title".

Section 6. Amend §1917, Chapter 19, Title 18 of the Delaware Code by striking the phrase "On or before the first day of March of each year" and substitute in lieu thereof the phrase "At or before the time specified in §702 of this Title for payment of premium tax and estimated payments".

Section 7. Amend §703, Chapter 7, Title 18 of the Delaware Code by striking the phrase "at the same time as the premium tax" as it appears therein and substitute in lieu thereof the phrase "at the same time as the premium tax and estimated payments".

Section 8. Amend §2391, Chapter 23, Title 19 of the Delaware Code by adding thereto a new subsection (e) to read as follows:

"(e) The taxes imposed under this Section shall be payable as follows:

Twenty-five percent of the estimated tax liability for the current year shall be paid on each April 1, and June 15, September 15 of the current taxable year and the remaining balance on March 1 of the following year."

Section 9. Amend §2391, Chapter 23, Title 19 of the Delaware Code by adding thereto a new subsection (f) to read as follows:

"(f) In the case of any underpayment of installment of estimated tax required by this Section, there shall be added to the tax for the taxable year an amount determined at the rate of 1 1/2% per month, or fraction thereof, upon the amount of the underpayment for the period of the underpayment. The period of underpayment shall run from the date the tentative tax or installment was required to be paid to the first day of the fourth month following the close of the taxable year, or the date on which paid, whichever is earlier.

For purposes of this subsection, the amount of the underpayment shall be the excess of:

(1) The amount of the estimated tax installment which would be required to be made if the estimated tax were equal to 80 percent of the tax shown on the report required under subsection (a) of this Section, over

(2) The amount, if any, of the estimated tax installment paid on or before the last date prescribed for payment."

Section 10. Amend §705, Chapter 7, Title 18 of the Delaware Code by redesignating subsections (c), (d), and (e) thereof respectively as subsections (d), (e), and (f) of said Section.

Section 11. Amend §705, Chapter 7, Title 18 of the Delaware Code by adding thereto a new subsection (c) of said Section to read as follows:

"(c) On or before September 15 of each year, The Insurance Commissioner shall ascertain and report to the State Treasurer, based on information contained in statements filed pursuant to this Section, the amount which equals 3/4% of the amount reflected in such statements as to the total premium obtained during the preceding calendar year for writing in Delaware the types of coverage stated in subsection (a) of this Section, and the State Treasurer shall pay such amount to the Treasurer of the City of Wilmington and to the fire companies registering as provided in subsection (d) of this Section, in the proportions stated in subsection (e) of this Section. Such payment shall be made by the State Treasurer from a special fund created for this purpose on or before the thirty-first day of October of each year. Payments to the special fund shall be made out of fees and taxes deposited with the State Treasurer by the Insurance Commissioner, not including those funds per section 707 of this Title."

Section 12. Amend §705 (b), Chapter 7, Title 18 of the Delaware Code by striking the phrase "three and three-quarters percent (3 3/4%)" and substitute in lieu thereof the phrase "three and three-quarters percent (3 3/4%) reduced by payments made pursuant to subsection (c) of this Section during the preceding year".

Section 13. Amend §705 (b), Chapter 7, Title 18 of the Delaware Code by striking the phrases "subsection (c)" and "subsection (d)" as they appear therein and substitute in lieu thereof respectively the phrases "subsection (d)" and "subsection (e)".

Section 14. Amend §705 (e), Chapter 7, Title 18 of the Delaware Code by striking said subsection in its entirety and substitute in lieu thereof the following:

"(e) The Insurance Commissioner shall ascertain the proportions of the sums described in subsections (b) and (c) of this section and the actual amount thereby due to the Treasurer of the City of Wilmington and to the other fire departments registering with the Insurance Commissioner pursuant to subsection (d) and the State Treasurer shall then make payments in such amounts, which funds shall be used for assisting and maintaining the fire department or companies of this State. The payments to the City of Wilmington shall be used only for its firemen's Pension Fund of the Bureau of Fire in the City of Wilmington."

Section 15. Amend §708, Chapter 7, Title 18 of the Delaware Code by adding thereto the following sentence: "Distribution under this Section shall take place twice annually, on or before June 30 and December 31."

Section 16. This Act shall be effective for tax years commencing after December 31, 1988. Sections 11, 12, 13, 14 and 15 shall be effective for distributions to be made from taxes, including estimated installments, received after December 31, 1988.

Approved July 14, 1988.

CHAPTER 383

FORMERLY

HOUSE BILL NO. 476 AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 5, TITLE 11, DELAWARE CODE RELATING TO VIDEO PRIVACY PROTECTION.

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

Section 1. Amend Chapter 5, Title 11, Delaware Code by adding a new §925 to read as follows:

"§925. VIDEO PRIVACY PROTECTION.

(a) A videotape distributor may not wrongfully disclose an individual or summary listing of any videotapes purchased or rented by a protected individual from the videotape distributor.

(b) In this section the following words or terms have the meanings indicated:

(1) 'Protected Individual' means:

- a. The individual described by any information the wrongful disclosure of which is prohibited under this section; or
- b. An agent of that individual.

(2) 'Publication' means distribution to a person other than the protected individual.

(3) 'Videotape Distributor' means a person who sells or rents videotapes.

(4) a. 'Wrongful Disclosure' means any publication that occurs in circumstances in which a protected individual who rents or purchases a videotape has a reasonable expectation of privacy.

b. 'Wrongful Disclosure' does not include:

1. Any disclosure made incident to the normal course of the business of renting or selling videotapes to a person whom the protected individual authorizes, prior to distribution, to receive the information;

2. Any disclosure made under summons or subpoena to appropriately authorized law enforcement personnel; or

3. Any disclosure made to a collection agency or person designated by the videotape distributor for the purpose of collecting an unreturned videotape or an amount equal to the value of the unreturned videotape.

4. Any disclosure of names and addresses only for commercial mailing list purposes.

(c) A person convicted of violating this section shall be subject to a fine of not more than \$500.00 for each violation, or imprisonment for not more than 6 months for all violations, or both."

Approved July 14, 1988.

CHAPTER 384

FORMERLY

HOUSE BILL NO. 163
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO STOPPING, STANDING OR PARKING.

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

Section 1. Amend Subsection (a), Section 4179, Subchapter X, Chapter 41, Title 21, Delaware Code by striking the words "in any of the following places:" and substituting in lieu thereof the words "including all State owned and/or State leased property; in any of the following places:" and by adding new subsections (19) and (20) to read as follows:

"(19) In any area owned by, leased by or under the control of the State, when such area has been designated by the Secretary of Administrative Services as a reserved parking space for members of the General Assembly, their staff, State-owned vehicles, specific State offices or State employees. Such parking spaces will be conspicuously marked as such.

(2) In any areas which in any manner restricts access to or ingress or egress from the areas defined in subsection (19) of this Section."

Approved July 14, 1988.

CHAPTER 385

FORMERLY

HOUSE BILL NO. 437
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9, CHAPTER 81, SECTION 8103 OF THE DELAWARE CODE, AS AMENDED, BY STRIKING CORPORATIONS CREATED FOR CHARITABLE PURPOSES FROM EXEMPTION FROM MUNICIPAL REAL PROPERTY TAXATION.

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

Section 1. Amend Title 9, Chapter 81, Section 8103 of the Delaware Code, by striking the following phrase as it appears therein: "or any corporation created for charitable purposes and not held by way of investment".

Section 2. Amend Title 9, Chapter 81, §8103 of the Delaware Code, by adding a new sentence to the end of said section to read as follows:

"Corporations created for charitable purposes and not held by way of investment that are in existence at the time of the effective date of this Act, together with existing and future charitable affiliates of such corporations that are also not held by way of investment, shall not be liable to taxation and assessment for public purposes by any county, municipality, or other political subdivision of this State."

Approved July 14, 1988.

CHAPTER 386

FORMERLY

HOUSE BILL NO. 538
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 20, TITLE 13, DELAWARE CODE RELATING TO THE COMPOSITION OF THE FAMILY LAW COMMISSION.

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

Section 1. Amend §2002, Chapter 20, Title 13, Delaware Code by striking said §2002 in its entirety and substituting in lieu thereof the following:

"§2002. Composition

The Commission shall consist of 14 citizens of the State and shall have at least 2 members from Sussex County and at least 2 members from Kent County. At least 2 of the members of the Commission shall be attorneys licensed to practice law in Delaware, at least one member shall be a judge of the Family Court of the State; two members shall be members of the House of Representatives, with one from each of the two major political parties represented in the House; two members shall be members of the Senate, with one from each of the two major political parties represented in the Senate; at least one member shall be a pediatrician licensed to practice in this State, at least one member shall be a board certified family-practice physician licensed to practice in this State, and at least 1 member shall be a psychologist licensed in this State specializing in the psychology of children when appointed."

Section 2. Amend §2003, Chapter 20, Title 13, Delaware Code by striking the figure "11" as it appears in subsection (3) thereof and substituting in lieu thereof the figure "14".

Approved July 14, 1988.

CHAPTER 387

FORMERLY

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

AN ACT TO AMEND SECTION 6919, CHAPTER 69, TITLE 29, DELAWARE CODE, RELATING TO RETAINAGES UNDER PUBLIC WORKS CONTRACTS.

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

Section 1. Amend Section 6919 (b), Chapter 69, Title 29 of the Delaware Code by inserting a new paragraph (3) to read as follows:

(3) Notwithstanding the provisions of this section for good cause shown, and if it deems such action to be in the best interest of the State, any agency or political subdivision of the State may deny the contractor party to any public works contract permission to substitute securities for moneys being held as retainages, as provided for in this chapter. This action shall be taken only after written notice is given to the contractor and a hearing is held by the agency or political subdivision, showing cause for such action. Denial of such substitution shall be for a stated period of time, not to exceed a period of three years, and shall continue until the end of the stated time period or until the contractor has successfully completed all outstanding public works contracts without forfeiting any part of the retainage held by the agency or political subdivision, whichever occurs first."

Approved July 14, 1988

CHAPTER 388

FORMERLY

HOUSE BILL NO. 414

AN ACT TO AMEND CHAPTER 55, TITLE 18, DELAWARE CODE RELATING TO BENEFITS PROVIDED BY MUTUAL BENEFIT ASSOCIATIONS.

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

Section 1. Amend §5518, Chapter 55, Title 18 Delaware Code by striking the amount "\$100" as it appears therein and substituting in lieu thereof the amount "\$250".

Approved July 14, 1988.

CHAPTER 389

FORMERLY

HOUSE BILL NO. 518

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION AND DISQUALIFICATION FOR BENEFITS.

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

Section 1. Amend Section 3315(1), Chapter 33, Title 19, Delaware Code by adding a second and third paragraph to read as follows:

"An individual who, pursuant to an option provided under a collective bargaining agreement or written employer plan which permits the waiver of the right to retain employment when there is a temporary layoff due to lack of work, has elected to be separated for a temporary period not to exceed 30 calendar days and the employer has consented thereto will not be considered to have left work voluntarily without good cause attributable to such work.

The second paragraph of this subsection shall be applicable for the two year period July 1, 1988 through June 30, 1990. At the end of two years, the provisions of said paragraph shall be subject to review by the Unemployment Compensation Advisory Council to ascertain its impact on Delaware's Unemployment Insurance Trust Fund."

Approved July 14, 1988.

CHAPTER 390

FORMERLY

HOUSE BILL NO. 515
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION AND DEFINITIONS FOR EMPLOYMENT.

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

Section 1. Amend Section 3302 (10), Chapter 33, Title 19, Delaware Code by adding the following:

"(N) Service performed as a direct seller as defined in Section 3508 of the Internal Revenue Code of 1954 as amended."

Approved July 14, 1988.

CHAPTER 391

FORMERLY

HOUSE BILL NO. 635

AN ACT TO AMEND VOLUME 61, PART 1, CHAPTER 220, LAWS OF DELAWARE, RELATING TO THE LEASING OF THE WILMINGTON ARMORY TO ST. ANTHONY'S SENIOR AND COMMUNITY CENTER, INC., A NON-PROFIT CORPORATION.

WHEREAS, the General Assembly upon the recommendation of the Department of Administrative Services by an Act effective February 10, 1978, approved the leasing of the Wilmington Armory to St. Anthony's Senior and Community Center Inc., a non-profit corporation for a period of ninety-nine years, for a nominal consideration, upon condition that the Armory be used as a senior citizen and community center and housing for the elderly project and upon the following conditions as set forth in Section 2, Chapter 220, Volume 61, Part 1, Laws of Delaware:

- "(1) The term of the lease shall be for a period of ninety-nine (99) years; and
- (2) Tenant shall use the leased premises solely as a senior citizen and community center and housing for the elderly project, and when it is no longer used for such purpose or purposes, the lease shall terminate, become null and void and possession of said leased premises shall be delivered and turned over to the State of Delaware; and
- (3) Tenant, during the entire period that the lease is in force and effect shall be responsible for all maintenance expenses, repair expenses, insurance expenses and any and all other expenses related to the operation of the leased premises and the State shall not have any responsibility in connection therewith; and
- (4) Tenant, during the entire period that the lease is in force and effect may sublease a portion of the leased premises to any non-profit organization or non-profit corporation which provides non-profit below cost basis rental housing and related facilities and services for the elderly; Provided that Tenant shall not receive compensation for the subleasing of a portion of said property, and provided further that Tenant shall not sublease any portion of said property without first obtaining the written approval of the Department of Administrative Services; and
- (5) Tenant, during the entire period that the lease is in force and effect shall have the right to make alterations and/or modifications and/or improvements to the leased premises at its own expense provided that no such alterations and/or modifications and/or improvements shall be made unless the same shall be approved in writing by the Department of Administrative Services; and
- (6) The lease shall contain such other provisions or conditions as the Department of Administrative Services shall deem necessary to protect the interest of the State in the leased premises by Tenant."

WHEREAS, the State of Delaware through the Department of Administrative Services executed a written lease agreement on the 16th day of June, 1978 with St. Anthony's Senior and Community Center Inc. for the term and upon the conditions hereinabove recited;

WHEREAS, St. Anthony's Senior and Community Center Inc. pursuant to the provisions of Paragraph (4) of Section 2, Chapter 220, Volume 61, Part 1, Laws of Delaware entered into a sublease with St. Anthony's Housing for the Elderly Corporation, a non-profit corporation, in accordance with the conditions of said Paragraph (4) as hereinabove recited;

WHEREAS, St. Anthony's Housing for the Elderly has constructed and operates a housing for the elderly project known as the Antonlan on a portion of the premises sublet, a project consisting of 136 units, opened in 1980, with development costs of approximately \$5,000,000. financed with a mortgage loan from the Delaware State Housing Authority, and with tenant assistance through Housing Assistance Payments under Section 8 of the U.S. Housing Act of 1937, as amended;

WHEREAS, St. Anthony's Senior and Community Center Inc. has been engaged in the renovation and reconstruction of the remaining portion of the Old Wilmington Armory for use as a senior citizen's center and community center since 1980 utilizing volunteer labor and donations of equipment valued in excess of \$200,000 and Community Development Block Grants totaling \$262,000 to create a new second floor, to complete the installation of steel and concrete floors, a new roof, site work, and installation of water and gas services, and the replacement of 81 out-dated and inefficient steel window frames;

WHEREAS, the completion of the reconstruction, estimated to cost approximately \$1.5 Million, will provide an opportunity for the relocation to the Armory site by St. Anthony's Community Center Inc., a non-profit corporation, of its Senior Center, the expansion of its services to the elderly, and other community uses;

WHEREAS, the payment of operational expenses of the completed facility will require its utilization for a broad range of community services including its utilization by St. Anthony's Community Center Inc., which in addition to the Senior Center, currently operates a day care center, an after-school program, a nutrition program, and a weatherization and retrofit program; its utilization by St. Anthony's Housing Management Corporation, a non-profit corporation which manages the Antonian and a Section 8 scattered site housing program of 35 units; and will also require the utilization of the facility by other organizations and entities rendering human services designed to meet the physical, economic, social, medical or psychological needs of the elderly, families, children, and youth of the community;

WHEREAS, it is deemed advisable to clarify the potential uses of the Armory as a community center and to allow for its utilization by organizations or entities rendering human services to the community through subleases approved by the Department of Administrative Services.

NOW, THEREFORE:

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

Section 1. Amend paragraphs (5) and (6) of Section 2, Chapter 220, Volume 61, Part 1, Laws of Delaware, by renumbering said paragraphs (6) and (7).

Section 2. Amend Section 2, Chapter 220, Volume 61, Part 1, Laws of Delaware, by adding a new paragraph (5) to read as follows:

"(5) Tenant, during the entire period that the lease is in force and effect may sublease a portion of the leased premises to any non-profit corporation or non-profit organization which provides human services designed to meet the physical, economic, social, medical or psychological needs of the elderly, families, children and youth of the community through programs, including, but not limited to the operation and administration of senior centers, nutrition programs, weatherization and retrofit programs, day care centers, after-school programs, and other human services; any such non-profit corporation or non-profit organization may further sublet all or any portion of the leased premises to any organization or entity rendering such services; Provided that Tenant shall not sublease nor shall any sub-tenant sublease any portion of said property without first obtaining the written approval of the Department of Administrative Services."

Approved July 14, 1988.

CHAPTER 392

FORMERLY

HOUSE BILL NO. 519
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION AND SEASONAL EMPLOYMENT AND BENEFIT REQUIREMENTS.

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

Section 1. Amend Title 19, Delaware Code by adding therein a new Section 3316 to read as follows:

"§3316. Seasonal Employment; benefit requirements.

(a) In the case of a claimant whose base period earnings represent 75 percent or more earnings received for seasonal employment, benefits shall be payable in any benefit year in any given calendar month only if the claimant had been employed in the corresponding month of the claim base period.

(b) As used in this section, 'seasonal employment' means employment in a seasonal industry by an individual who has been engaged in such industry during the claim base period and who, during the portion or portions of the year when such industry was not in operation, was not engaged in any other work. No occupation or industry shall be deemed to provide seasonal employment that is not part of the first processing of agricultural products and/or seafood products.

(c) For the purposes of this section, a week shall be considered to fall within a month if 4 or more days of the week fall within such month. The limitations of this section shall not apply to the payment of benefits for partial employment."

Approved July 14, 1988.

CHAPTER 393

FORMERLY

HOUSE BILL NO. 526

AN ACT TO AMEND CHAPTER 95, TITLE 10, DELAWARE CODE, RELATING TO THE JUSTICE OF THE PEACE COURT ATTACHMENT STATUTE.

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

Section 1. Amend Section 9583, Chapter 95, Title 10, Delaware Code by striking the period "." at the end thereof and substitute in lieu thereof the following:

" , provided, however, that no such writ of attachment shall issue unless the affidavit provides specific facts demonstrating the validity of the debt and for believing that the debtor has absconded or is about to remove himself or his effects out of the State, with intent to defraud his creditors, or intentionally concealed himself so that process of summons cannot be served on him, or is a nonresident of the State; provided further, that the plaintiff provide, at the time of filing, a cash bond in the amount of \$100 conditioned that if the suit shall not be prosecuted with effect, or if the judgment rendered therein shall be in favor of a defendant, the plaintiff will pay any and all costs which may be awarded to a defendant, together with any and all damages, not exceeding the amount of the bond, which a defendant in the suit may have sustained by reason of such attachment, the remainder, if any, to be returned to the plaintiff when judgment is rendered."

Section 2. Amend Section 9584, Title 10, Delaware Code by striking Section 9584 in its entirety and substituting in lieu thereof a new Section 9584 to read as follows:

"§9584. Form of writ; form of Garnishee's Notice of Service.

(a) The form of a writ of attachment shall be as follows:
 ' _____ County, ss. The State of Delaware,
 To any Constable, greetings:

We command you to attach the goods and chattels, rights and credits of _____, the debtor, in order to make good to _____ the plaintiff, a cause of action wherein the sum of \$ _____ is demanded, and that you serve any garnishee of the said debtor found in your bailiwick with 2 copies of this writ, 2 copies of the Affidavit for Attachment filed by the plaintiff and a Garnishee Notice of Service form; and you have then there this warrant, with your doings hereon duly certified.

To GARNISHEE: You are hereby ordered under penalty of contempt to hand-deliver forthwith to _____, the debtor, a copy of this writ and a copy of the Affidavit for Attachment; and to return a completed copy of the Garnishee Notice of Service form to the Court as soon as service upon the said debtor is effectuated; and to withhold 15% of the said debtor's net earnings from his/her next regularly scheduled paycheck only and to hold same until released by order of the Court.

To DEBTOR: 15% of your net wages from your next scheduled paycheck have been attached for the reasons set forth in the Affidavit for Attachment. The withholding of your wages shall be released by the Court if you: (a) Appear at the Court at any time, Monday through Friday, from 8 AM to 4 PM, before final judgment and enter your appearance acknowledging that you will answer the plaintiff's demand and satisfy any judgment rendered against you in such suit or (b) Appear at the Court at any time, Monday through Friday, from 8 AM to 4 PM, and contest the attachment, in which event the Court will conduct an immediate ex parte postdeprivation hearing on the seizure of your wages and shall dissolve the attachment if the Court determines that there no longer exists a factual basis demonstrating the need for the writ; or (c) Appear for trial which is scheduled for the _____ day of _____, 19____, at _____ AM/PM at Court No. _____, located at _____.

You are further advised that failure to appear for trial will result in a default judgment being entered against you.

Witness my hand and seal this _____ day of _____, 19____.

Justice of the Peace'

(b) The form of the Garnishee's Notice of Service shall be as follows:

'Garnishee's Notice of Service

To: Clerk of the Court, Justice of the Peace
Court No. _____

Please be advised that I _____, garnishee in Civil Action No. _____, wherein _____ is plaintiff and _____ is the debtor, do hereby certify that a copy of the Writ of Attachment and a copy of the Affidavit for Attachment were served upon the debtor at _____ AM/PM on the _____ day of _____, 19____. I further certify that 15% of the debtor's next scheduled paycheck will be attached and held by the garnishee until released by the Court.

For Garnishee:

Complete below only if applicable

Please be advised that I _____, garnishee in civil action no. _____, wherein _____ is the plaintiff and _____ is the debtor, do hereby certify this _____ day of _____, 19____, that the said debtor is not an employee of the garnishee and that, therefore, garnishee requests that he be released from his obligations under the Writ of Attachment and is willing to appear to deny that there is anything of the debtor's in my hands or possession if summoned by the Court for this or other purpose.

For Garnishee:

Section 3. Amend Section 9586, Chapter 95, Title 10, Delaware Code by adding thereto a new Subsection (d) to read as follows:

"(d) If the justice has not received from the garnishee a copy of the Garnishee's Notice of Service form within 10 days after receipt thereof by the garnishee, the justice shall issue process to compel the appearance of the said garnishee."

Section 4. Amend Section 9589, Chapter 95, Title 10, Delaware Code, by striking the said Section 9589 in its entirety and substituting in lieu thereof a new Section 9589 to read as follows:

"§9589. Dissolution of Attachment.

(a) If the original debtor appears at the Court at any time, Monday through Friday, from 8 AM to 4 PM, before final judgment and enters his appearance acknowledging that he will answer the plaintiff's demand and satisfy any judgment rendered against him in such suit, the attachment shall be dissolved, and the cause proceed as in other cases.

(b) If the original debtor appears at the Court at any time, Monday through Friday, from 8 AM to 4 PM, before final judgment and contests the attachment, the justice shall immediately conduct an ex parte postdeprivation hearing on the seizure of his wages and if the justice then determines that there no longer exists a factual basis demonstrating the need for the writ, the attachment shall be dissolved, and the cause proceed as in other cases.

(c) If the original debtor appears for trial, the attachment shall be dissolved, and the cause proceed as in other cases.

(d) In cases not falling within subsections (a), (b) or (c) above, the attachment shall, in any event, be dissolved, and the cause proceed as in other cases, 30 days from the date on which the writ of attachment issued."

Approved July 14, 1988.

CHAPTER 394

FORMERLY

HOUSE BILL NO. 581
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6, CHAPTER 27 OF THE DELAWARE CODE RELATING TO EXCULPATORY CLAUSES IN CERTAIN CONTRACTS.

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

Section 1. Amend Chapter 27, Title 6 of the Delaware Code by striking from subsection (a) of §2704 the phrase "architects, engineers, surveyors, owners" and substituting in lieu thereof the phrase "the promisee or indemnitee".

Section 2. Further amend Chapter 27, Title 6 of the Delaware Code by striking from subsection (a) of §2704 the phrase "caused by or resulting or arising from or out of the negligence of such architect, engineer, surveyor, owner or others than the promisor or indemnitor, or their" and substituting in lieu thereof the phrase "caused partially or solely by, or resulting partially or solely from, or arising partially or solely out of the negligence of such promisee or indemnitee or others than the promisor or indemnitor, or its subcontractors,".

Section 3. Further amend Chapter 27, Title 6 of the Delaware Code by striking from subsection (a) of §2704 the phrase "or without limiting the generality of the foregoing, caused by or resulting or arising from or out of defects in maps, plans, designs, specifications prepared, acquired or used by such architect, engineer, surveyor, owner or others than the promisor or indemnitor, or their agents, servants or employees,".

Section 4. Further amend Chapter 27, Title 6 of the Delaware Code by striking the period ending subsection (a) of §2704, and substituting in lieu thereof the following:

" , even where such covenant, promise, agreement or understanding is crystal clear and unambiguous in obligating the promisor or indemnitor to indemnify or hold harmless the promisee or indemnitee from liability resulting from such promisee's or indemnitee's own negligence".

Section 5. Further amend Chapter 27, Title 6 of the Delaware Code by adding to subsection (a) of §2704 a second sentence as follows:

"This section shall apply to all phases of the preconstruction, construction, repairs and maintenance described in this subsection, and nothing in this section shall be construed to limit its application to preconstruction professionals such as designers, planners and architects; provided, however, that this section shall not apply to any obligation owed to the Department of Transportation pursuant to a contract awarded under Title 17 or Chapter 69 of Title 29 of the Delaware Code."

Section 6. This Act shall apply to all contracts or agreements entered into after the date of its enactment into law.

Approved July 14, 1988.

CHAPTER 395

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 222

AN ACT TO AMEND TITLE 6, DELAWARE CODE TO PROVIDE SAFEGUARDS FOR HEALTH SPA MEMBERS.

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

Section 1. Amend Title 6, Delaware Code by adding a new Chapter thereto which shall read as follows:

"Chapter 42. Health Spa Regulation.

§4201. Statement of Purpose.

The purpose of this Chapter is to safeguard the public interest against fraud, deceit and financial hardship, and to foster and encourage competition, fair dealing and prosperity in the field of health spa services by prohibiting false and misleading advertising, and dishonest, deceptive and unscrupulous practices by which the public has been injured in connection with contracts for health spa services. This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

§4202. Definitions.

As used in this Chapter:

'Business day' means any day except a Sunday or legal holiday.

'Buyer' means a natural person who enters into a health spa contract.

'Contract price' means the sum of the initiation fee, if any, and all fees except interest required by the health spa contract.

'Director' means the Director of the Division of Consumer Affairs, or a member of his staff to whom the Director may delegate his duties under this Chapter.

'Health spa' includes any person, firm, corporation, organization, club or association engaged in the sale of memberships in a program of physical exercise, physical fitness, weight control, or figure reduction, which offers the use of one or more of the following: a whirlpool, weight lifting room, steam room, exercising room, or exercising or weight loss device. The term 'health spa' shall not include the following:

(1) bona fide nonprofit organizations, including, but not limited to, the Young Men's Christian Association, Young Women's Christian Association, or similar organizations whose functions as health spas are only incidental to their overall functions and purposes;

(2) any private club owned and operated by its members;

(3) any organization primarily operated for the purpose of teaching a particular form of self-defense such as judo or karate;

(4) any facility owned or operated by the United States;

(5) any facility owned or operated by the State of Delaware or any of its political subdivisions, and

(6) any nonprofit public or private school, college or university.

'Health spa contract' means a written agreement whereby the buyer of health spa services purchases or becomes obligated to purchase, health spa services to be rendered over a period longer than three months, and the seller of health spa services receives payment to cover a period more than three months.

'Health spa services' means and includes services, privileges, or rights offered for sale or provided by a health spa.

'Initiation fee' means a nonrecurring fee charged at or near the beginning of a health spa membership, and includes all fees or charges not a part of the monthly fee.

'Pre-opening contract' means a health spa contract for services or the use of facilities made prior to the day on which the service or facilities of the health spa are fully open and available for regular use by the members.

§4203. Registration.

(a) It shall be unlawful for any health spa to offer, advertise, or execute or cause to be executed by the buyer any health spa contract in this State unless the health spa at the time of the offer, advertisement, sale or execution of a health spa contract has been properly registered with the Director.

(b) Prior to advertising or selling pre-opening contracts, every health spa shall register with the Director and shall notify the Director of the proposed location of the health spa for which pre-opening contracts will be solicited.

(1) The registration shall include the address, ownership, directors, corporate officers, and parent corporation, if any, date of first sales and date of first opening of the health spa;

(2) The registration shall be renewed annually; and

(3) Each separate location where health spa services are offered shall be considered a separate health spa and shall file a separate registration even though the separate locations are owned or operated by the same owner, unless the spa offers all members fully interchangeable, comparable services at a separate location within a fifteen mile radius.

(c) A bond or letter of credit in the amount of \$50,000 shall be posted by each health spa prior to advertising or selling pre-opening contracts. The bond with corporate surety from a company authorized to transact business in the State of Delaware or the letter of credit from a bank insured by the Federal Deposit Insurance Corporation shall be filed and maintained with the Director. After a health spa has opened its facilities and been in operation for ninety days, the health spa may make application to the Director to cancel or terminate the bond or letter of credit. Unless the health spa has been cited for a violation of this Chapter pursuant to the authority granted to the Director by 29 Delaware Code 8612 or to the Attorney General by Section 4218 of this Chapter, the Director shall give his consent to terminate the bond or letter of credit within thirty days after receiving the health spa's application.

(d) Upon its application to terminate the bond or letter of credit, the health spa shall pay all fees in accordance with the schedule set forth by Section 4204 of the Chapter.

(e) The bond or letter of credit required by this Section shall be in favor of the State for the benefit of:

(1) any buyer injured by having paid money for a health spa contract in a facility which fails to open within nine months after the date upon which the buyer and the health spa entered into a contract or which substantially fails to provide the services described in the health spa contract;

(2) any buyer injured as a result of a violation of this Chapter.

§4204. Health Spa Guaranty Fund.

(a) The Director of the Division of Consumer Affairs shall establish and maintain the Health Spa Guaranty Fund in accordance with the Provisions of this section.

(b) Upon registering with the Director pursuant to Section 4203 and upon renewing its registration annually, each health spa shall pay to the State a fee in the amount indicated below:

Number of unexpired contracts
exceeding three months

Amount of annual fee

199 or less	\$1000
200 to 499	\$2000
500 to 999	\$4000
1000 or more	\$8000

The number of unexpired contracts exceeding three months shall be calculated separately for each location where health spa services are offered, unless the spa offers all members fully interchangeable, comparable services at a separate location within a fifteen mile radius.

The amount of the fee shall be reviewed annually by the Director, and the health spa shall provide such information as the Director may request in order to ascertain the number of unexpired contracts exceeding three months.

(c) Payments received under subsection (b) of this section shall be credited by the State Treasurer to the Health Spa Guaranty Fund and money in the fund may be invested or reinvested in the same manner as funds of the State employees' retirement system, and the interest arising from such investments shall be credited to the Guaranty Fund.

(d) Any buyer having a claim against a health spa may apply to the Director for payment of such claim from the Guaranty Fund, if the claim arises from a failure of the health spa to:

- (1) comply with its contract obligations; or
- (2) comply with any provision of this Chapter; or

(3) remain open for the duration of its contracts or provide alternative facilities within fifteen miles of the location designated in the health spa contract, if the health spa goes out of business or relocates.

(e) The Director shall provide forms for applications by buyers for payment from the Guaranty Fund. The application shall include the name and address of the health spa, the beginning and ending date of the contract, the price of the contract, the date of the closing of the health spa, the amount and the basis of the claim and a copy of the contract. No application for a payment from the Guaranty Fund shall be accepted by the Director more than six months after the date of the closing of the location of the health spa where the buyer entered into the contract.

(f) The Director shall proceed upon such application and if necessary hold a hearing to decide the merits of an application. The Director shall notify the health spa that a claim has been filed by a buyer and the health spa may request a hearing on the merits of the claim. The Director shall hold a hearing if one is requested by the health spa. The decision of the Director shall be final with respect to the application. The Director may hear applications of all buyers submitting claims against a single health spa in one proceeding.

(g) The Director shall issue an order requiring payment from the Guaranty Fund of any sum he finds to be payable upon such application. The total compensation payable from the Guaranty Fund on the closing of any one health spa location shall not exceed one hundred thousand dollars.

(h) If the Director pays any amount as a result of a claim against a health spa pursuant to an order under subsection (g) of this section, the health spa's registration shall be suspended and it shall not be eligible to register until it has repaid such amount in full, plus interest at a rate to be determined by the Director.

(i) If the Director pays any amount as a result of a claim against a health spa pursuant to an order under subsection (g) of this section, the Director shall determine if the health spa is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the claim on such fund. If the Director discovers any such assets, he may request that the Attorney General take any action necessary for the realization thereof for the reimbursement of the Guaranty Fund.

(j) If the money deposited in the Guaranty Fund is insufficient to satisfy any duly authorized claim or portion thereof, the Director shall, when sufficient money has been deposited in the fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed.

(k) When the Director has caused any sum to be paid from the Guaranty Fund to a buyer who has entered into a health spa contract, the Director shall be subrogated to all of the rights of the buyer up to the amount paid, and the buyer shall assign all of his right, title, and interest in the claim up to such amount to the Director, and any amount and interest recovered by the Director on the claim shall be deposited to the Guaranty Fund, except as provided in subsection (c) of this section.

(1) If on December 31 of any year the balance of money in the Health Spa Guaranty Fund exceeds \$250,000, the Director shall waive fee payments to the fund for the following year for each health spa which has registered and paid fees for three or more consecutive years. If at the end of any fiscal year the balance of money in the Health Spa Guaranty Fund exceeds \$350,000, the excess shall be withdrawn and deposited into the General Fund.

§4205. Right of cancellation.

(a) Every health spa contract for the sale of future health spa services which are paid for in advance or for which the buyer agrees to pay in future installments shall be in writing and shall contain the following contractual provisions:

(1) A provision for the penalty-free cancellation of the contract within three business days of its making and a provision for a refund following such cancellation of all moneys paid under the contract upon written notice by the buyer.

(2) A provision for the cancellation of the contract if the health spa relocates or goes out of business and fails to provide alternative facilities within fifteen miles of the location designated in the health spa contract, obligating the health spa to refund to the buyer funds paid or accepted in payment of the contract in an amount computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term.

(3) A provision that to cancel a contract in accordance with subsection (2) of this Section, the buyer shall notify the health spa of cancellation in writing, by certified mail, return receipt requested, to the address specified in the health spa contract; that all moneys to be refunded upon cancellation of the health spa contract shall be paid within thirty days of receipt of the notice of cancellation; and that if the customer has executed any credit or lien agreement with the health spa to pay for all or part of health spa services, any such negotiable instrument executed by the buyer shall also be returned within thirty days after such cancellation.

§4206. Notice to buyer.

(a) A copy of the signed health spa contract shall be delivered to the buyer at the time the contract is executed. All health spa contracts must:

(1) be in writing, be signed by the buyer, must designate the date on which the buyer actually signed the contract, must describe the services to be provided to the buyer, and shall contain the following written notice in at least ten point boldface type:

"YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS CONTRACT.

IF YOU WISH TO CANCEL THIS CONTRACT, YOU MAY DO SO WITHOUT ANY PENALTY OR OBLIGATION TO CANCEL THIS CONTRACT MAIL BY CERTIFIED OR REGISTERED MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CONTRACT OR ANY OTHER WRITTEN NOTICE TO _____ AT _____

NOT LATER THAN MIDNIGHT OF _____

YOU MAY ALSO CANCEL THIS CONTRACT IF THIS SPA MOVES OR GOES OUT OF BUSINESS AND FAILS TO PROVIDE EQUAL FACILITIES WITHIN FIFTEEN MILES OF THE LOCATION DESIGNATED IN THIS CONTRACT. IF YOU CANCEL, THE HEALTH SPA MAY RETAIN OR COLLECT A PORTION OF THE CONTRACT PRICE EQUAL TO THE PROPORTIONATE VALUE OF THE SERVICES OR USE OF FACILITIES YOU HAVE ALREADY RECEIVED."

§4207. Duration of contract.

No health spa contract shall have a duration for a period longer than thirty-six months. However, the computation of the maximum duration permissible shall exclude any period of time (not to exceed six months) offered by a health spa as a bonus incentive

at a price which, by comparison with comparable contracts offered by the same health spa, clearly demonstrates that the bonus incentive is not being paid for by the purchaser.

§4208. Renewals.

If the original health spa contract complies with this Chapter, or was entered into prior to the effective date of this Chapter, the exercise of options to renew health spa contracts at a prorated price less than the original contract price may be accomplished by a separate written agreement devised by the health spa without regard to the provisions of Sections 4205 and 4206; provided however, that all regulatory provisions of this Act including, without limitation, refund and fee provisions, shall continue to apply. Notwithstanding the foregoing, any member of a health spa may demand to execute a renewal contract in compliance with the provisions of this Act.

§4209. Initiation fees limited.

No health spa shall charge any initiation fee in connection with a health spa contract of less than twelve months' duration. For all health spa contracts of three months or less duration, all rights of renewal which extend the membership beyond the first three months shall be offered and sold at a contract price per month for each renewal period not greater than the contract price per month for the initial membership period.

§4210. Provisions not exclusive.

The provisions of this Chapter are not exclusive and do not relieve the parties or the contracts subject thereto from compliance with all other applicable provisions of law.

§4211. Fraud rendering contract void.

Any health spa contract entered into by the buyer upon any false or misleading information, representation, notice or advertisement of the health spa or the health spa's agents shall be void and unenforceable.

§4212. Noncomplying contract voidable.

Any health spa contract which does not comply with the applicable provisions of this Chapter shall be voidable at the option of the buyer.

§4213. Waiver of provisions void and unenforceable.

Any waiver by the buyer of the provisions of this Chapter shall be deemed contrary to public policy and shall be void and unenforceable.

§4214. Notice of preservation of buyer's rights.

All health spa contract and any promissory note executed by the buyer in connection therewith shall contain the following provision on the face thereof in at least ten-point, boldface type:

NOTICE

ANY HOLDER OF THIS CONTRACT OR NOTE IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

§4215. Prohibition against assignment of health spa contract cutting off buyer's right of action or defense against seller; conditions.

Whether or not the health spa has complied with the notice requirements of Section 4206, any right of action or defense arising out of a health spa contract which the buyer has against the health spa, and which would be cut off by assignment, shall not be cut off by assignment of the contract to any third party holder, whether or not the holder acquires the contract in good faith and for value.

§4216. Change in ownership of health spa.

For purposes of this Chapter, a health spa shall be considered a new health spa and subject to the requirements of Sections 4203 and 4204 at the time the health spa changes ownership.

§4217. Deceptive acts prohibited.

(a) It is hereby declared to be an unfair and deceptive trade practice and unlawful for a health spa to:

(1) Misrepresent directly or indirectly in its advertising, promotional materials, or in any manner the size, location, facilities or equipment of its studio, or place of business or the number of qualifications of its personnel;

(2) Make any representation calculated to mislead or deceive buyers as to the health spa's affiliation with other health related industries.

(3) Misrepresent the location or locations at which its services will be offered;

§4218. Production of records.

Every health spa, upon the written request of the Director, shall make available to the Director its pre-opening bank account records and all membership contracts for inspection and copying, to enable the Director reasonably to determine compliance with this Chapter.

§4219. Private right of action.

(a) Any buyer damaged by a violation of this Chapter may bring an action for recovery of damages. If damages are awarded to the aggrieved party, such damages shall be triple the amount of the actual damages proved plus reasonable attorney fees.

(b) Nothing in this Chapter shall be construed so as to nullify or impair any right or rights which a buyer may have at common law, by statute, or otherwise.

§4220. Violations.

In addition to the remedies herein before provided, the Attorney General may bring an action to restrain violations of this Chapter in the Court of Chancery and for such other relief as may be appropriate. The provisions of this Chapter are not exclusive and do not relieve the health spa or its assignees or the contracts subject to this Chapter from compliance with all other applicable provisions of law.

§4221. Limitations.

Contracts executed prior to January 1, 1986 and whose original terms are still enforceable as of the effective date of this Chapter are excluded from all cancellation, refund and fee provisions of this Chapter.

§4222. Enforcement.

A violation of this Chapter shall be within the scope of the enforcement duties and powers of the Division of Consumer Affairs, as described in 29 Delaware Code, Section 8612.

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 3. This Act shall take effect on January 1, 1989.

Approved July 14, 1988.

CHAPTER 396

FORMERLY

HOUSE BILL NO. 553
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 3, TITLE 25, DELAWARE CODE RELATING TO TITLES AND CONVEYANCES.

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

Section 1. Amend §313, Chapter 3, Title 25, Delaware Code by striking said section in its entirety and substitute in lieu thereof the following:

"§313. Contract for Sale of Unimproved Real Estate; Notice to Buyer of Public Sewerage and Water Facilities.

Every contract for the sale of unimproved real estate located in the State shall have the following notice provision appear conspicuously therein:

'NOTICE TO BUYER: If the property being purchased hereunder is an unimproved parcel of land, buyer should consult with the appropriate public authorities to ascertain whether central sewerage and water facilities are available, or, if not, whether the property will be approved by appropriate public authorities for the installation of a well and private sewerage disposal system. If central sewerage and water facilities are not available, then this Contract is contingent upon: 1) a satisfactory site evaluation that will allow the installation of an approved on site disposal system, in accordance with the regulations promulgated by the Department of Natural Resources & Environmental Control, that is acceptable to the buyer; 2) the availability of a water supply; and 3) the lot conforming with the local zoning ordinance; or this Contract shall become null and void and all deposits shall be returned to the buyer. The (buyer/sellers/ authorized agent) _____ shall request the site evaluation on or before (date) _____. (Buyer/Seller) _____ shall pay all costs of complying with these provisions. The buyer and seller may modify these provisions or the buyer may waive these provisions of the Contract by attaching an addendum signed by the seller and the buyer.'

Section 2. This Act shall become effective 90 days after its enactment into law.

Approved July 14, 1988.

CHAPTER 397

FORMERLY

HOUSE BILL NO. 690

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE STATE BOARD OF HEALTH.

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

Section 1. Amend subsection (3), Section 122, Chapter 1, Title 16, Delaware Code by adding a new paragraph "q" to read as follows:

"q Establish standards for quality assurance in the operation of prescribed pediatric extended care facilities, and to grant permits for the operation of such facilities to persons, associations or organizations which have been approved in accordance with Chapter 93 of this title and which pay the appropriate permit fee established by the Board. The amount to be charged for the fee imposed under this subsection shall approximate and reasonably reflect the costs necessary to defray the expenses of the Board "

Approved July 14, 1988

CHAPTER 398

FORMERLY

HOUSE BILL NO. 552
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO KIDNAPPING.

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

Section 1. Amend Section 783, Chapter 5, Title 11 of the Delaware Code by adding a new subsection thereto which shall read as follows:

"(6) To take or entice any child less than 16 years of age from the custody of his parent, guardian or lawful custodian;"

Section 2. Amend Section 783A, Chapter 5, Title 11 of the Delaware Code by adding a new subsection thereto which shall read as follows:

"(6) To take or entice any child less than 16 years of age from the custody of his parent, guardian or lawful custodian;"

Approved July 14, 1988.

CHAPTER 399

FORMERLY

HOUSE BILL NO. 478
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 19, TITLE 14, DELAWARE CODE RELATING TO LOCAL SCHOOL TAXES.

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

Section 1. Amend §1918, Title 14, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"(a) Warrants or drafts on the said fund shall be drawn by the school board of the district and applied only for the purpose for which the levy is made.

(b) The district shall prepare at the close of each fiscal year, in a manner suitable for review by the public, a financial statement consisting of a copy of its final adopted annual local funds budget for the fiscal year just ended and a listing of its actual expenditures by budget category of such local funds for the fiscal year just ended. This financial statement shall have been examined and approved by the Board prior to its publication. Copies (at least one) of the financial statement shall be placed on file for review by the public with each school in the district, the district's central administration building and each public library in the district within thirty days of the end of the fiscal year. Copies shall also be filed with the Superintendent of Public Instruction, the Budget Director and the Controller General. The district shall publish notice stating that the financial statement has been made available for public review and identifying locations where the statement may be reviewed, in a local newspaper of general circulation within thirty days of the date the financial statement is placed on file.

(c) This Act shall apply for fiscal years beginning on or after its effective date."

Approved July 15, 1988.

CHAPTER 400

FORMERLY

HOUSE BILL NO. 666
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 20, TITLE 24 OF THE DELAWARE CODE RELATING TO OCCUPATIONAL THERAPY.

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

Section 1. Amend §2005, Chapter 20, Title 24 of the Delaware Code by adding the following sentence at the end of subsection (e): "In addition Board Members may receive mileage."

Section 2. Amend §2006, Chapter 20, Title 24 of the Delaware Code by striking the figure "1" as the same appears in subsection (a), and substituting the figure "2" in lieu thereof.

Section 3. Amend §2012(a), Chapter 20, Title 24, of the Delaware Code by striking the words "of the sum of \$100." and by substituting in lieu thereof the following:

"of a fee which shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board."

Section 4. Amend Chapter 20, Title 24 of the Delaware Code by adding thereto a new section, designated as §2018, which new section shall read as follows:

"§2018. Temporary License.

(a) Upon submission to the Board of a written application on forms provided by it, the Board may issue a temporary license to an applicant who has applied for licensure under this title and who is, in the judgment of the Board, eligible to take the examination provided for in §2009 of this title. In case of occupational therapists or occupational therapy assistants, such temporary licensure may be available to an applicant only with respect to his or her first application for licensure; and the applicant may only use the temporary licensure while under the direct supervision of a licensed occupational therapist. In all cases, such temporary license shall expire automatically in the event the applicant fails the examination; and, upon such expiration, the temporary license shall be surrendered to the Board. A temporary license may be renewed only once.

(b) Upon payment to the Board of a fee and the submission of a written application on forms provided by it, the Board, in its discretion, may issue a temporary license to practice occupational therapy in this State, to an applicant who has passed the examination approved by the American Occupational Therapy Association and who provides evidence to the Board that such applicant is in this State on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment relating to occupational therapy practice. Such temporary license shall expire at the end of 1 year from the date of its issuance; provided however, that it may be renewed by the Board for a period of 1 additional year. Upon expiration of the temporary license without renewal, the temporary license shall be surrendered to the Board."

Section 5. All certified occupational therapy assistants and registered occupational therapists now practicing in this State as of the effective date of this Act will be licensed upon filing the application and paying the appropriate fees for such license.

Approved July 15, 1988.

CHAPTER 401

FORMERLY

HOUSE BILL NO. 612
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18, DELAWARE CODE, TO ESTABLISH THE DELAWARE INSURANCE AUTHORITY, AND AUTHORIZING THE AUTHORITY TO ISSUE REVENUE BONDS NOT PLEDGING THE FULL FAITH AND CREDIT OF THE STATE OF DELAWARE AND TO PLEDGE ANY ASSETS OF THE AUTHORITY AS COLLATERAL SECURITY THEREFOR; AND AUTHORIZING THE FORMATION OF JOINT INSURANCE FUNDS AND AN EXCESS INSURANCE POOL, AND GRANTING TO ALL DELAWARE COUNTIES, MUNICIPALITIES, SCHOOL DISTRICTS, PARKING AUTHORITIES AND OTHER INSTRUMENTALITIES AND POLITICAL SUBDIVISIONS OF THE STATE OF DELAWARE THE POWER TO ENTER INTO LONG-TERM CONTRACTS WITH ANY JOINT INSURANCE FUND OR EXCESS INSURANCE POOL CREATED HEREBY".

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 Title 18, Delaware Code by adding a new Chapter to read as follows:

"CHAPTER 4. THE DELAWARE INSURANCE AUTHORITY

Section 401. Findings; Declaration of Policy

(a) It is determined and declared as a matter of legislative finding that:

(1) Delaware counties, municipalities, school districts, parking authorities and other instrumentalities and political subdivisions of the State of Delaware are finding liability and other insurance prohibitively expensive or impossible to obtain at any price.

(2) Certain private occupational groups and types of enterprise are suffering from the same prohibitive cost or unavailability of liability and other insurance.

(3) The uneconomic price or unavailability of insurance coverages for public and private risks exposes public bodies and private persons to catastrophic loss to the extent that the ability of governmental units to render services and the ability of private persons to function is severely impaired, to the grave detriment of the safety, economic stability and utility of public bodies and private persons.

(4) The problems arising from the conditions found above may be alleviated by the adoption of self-insurance Joint Insurance Funds and an Excess Insurance Pool, but any Joint Insurance Fund or Excess Insurance Pool requires capitalization, which the Authority may provide.

(b) It is further determined and declared that in order to aid in remedying such conditions and to implement the purposes of this chapter, there shall be created an Authority which shall be a body politic and corporate having the powers, duties and functions provided in this subchapter; that the creation of the Authority and the powers conferred upon such Authority under this chapter and the expenditure of monies pursuant to this chapter constitute a valid public purpose, and an essential governmental function, and the performance of a valid public function; that the enactment of the provisions hereinafter set forth is in the public interest and for the public benefit and welfare and is hereby so declared to be as a matter of express legislative determination.

Section 402. Definitions.

(a) The following words, terms and phrases, when used in this Act, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) "Actuary" means a member of the American Academy of Actuaries who meets the qualification standards of the Academy."

(2) "Authority" means the Delaware Insurance Authority created by this subchapter.

(3) "Capital Fund" means the capital fund of the Authority for the purpose of covering certain losses of Joint Insurance Funds.

(4) "Excess Insurance Pool" or "Pool" means a fund established by the universe of Joint Insurance Funds which pledge fixed amounts annually to the establishment of said fund, which is dedicated to providing excess insurance to its members.

(5) "Insurance Commissioner" means the Delaware Insurance Commissioner as provided for in 18 Del. C. Chapter 3.

(6) "Joint Insurance Fund" or "Fund" means a fund established by a group of persons who pledge fixed amounts annually to the establishment of a fund dedicated to providing certain insurance coverage to its members.

(7) "Public Entity" means a county, incorporated municipality, school district, parking authority or other instrumentality or political subdivision of the State of Delaware, excluding the State of Delaware itself."

Section 403. Delaware Insurance Authority -- Established; Organization.

(a) There is hereby established a body corporate and politic, with corporate succession, to be known as "The Delaware Insurance Authority." The Authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the Authority of the powers conferred in this chapter shall be deemed and held to be an essential governmental function of the State.

(b) The Authority shall consist of the Insurance Commissioner and six other members. The Insurance Commissioner shall hold office for the term for which elected and thereafter as provided by Article XV, Section 5 of the Constitution of the State of Delaware, unless earlier removed from office for reasonable cause as provided by Article III, Section 13 of the Constitution of the State of Delaware. Should a vacancy in the office of Insurance Commissioner occur, then the duties of the Insurance Commissioner hereunder shall be performed by the Deputy Commissioner established by 18 Del. C. §309. Until the full membership of the Authority has been filled or in the event a vacancy occurs in the membership of the Authority, a majority of members duly qualified shall exercise all powers of the Authority.

(c) The remaining six members of the Authority shall be selected as follows:

- (1) Three members shall be appointed by the Governor.
- (2) One member shall be appointed by the President Pro Tempore of the Senate.
- (3) One member shall be appointed by the Speaker of the House of Representatives.
- (4) One member shall be appointed by the Insurance Commissioner.

(5) All members selected pursuant to this subsection (c) shall become members of the Authority upon certification by the appointing officials empowered in subsection (c) (1), (2), (3) and (4) of this Section and shall serve a term of four years from the date of appointment unless sooner terminated as a member of the Authority for cause. Except that the members initially appointed pursuant to Subsections (2) and (3) hereof and one of the members initially appointed pursuant to Subsection (1) hereof shall serve an initial term of two years. At the end of each member's four-year term or in the event of death, disability or removal of a member, his or her successor shall be selected in the same manner as his or her predecessor. Authority members may succeed themselves.

(d) The Insurance Commissioner shall be the Chairman of the Authority. Subject to its annual budget as approved by the Governor and the General Assembly, the Authority shall employ such persons as it shall determine are necessary to fulfill the powers granted to the Authority in this chapter. The Chairman shall appoint an employee of the Insurance Department to serve as non-voting Secretary-Treasurer of the Authority, who shall serve at the pleasure of the Chairman. The Secretary-Treasurer shall have such duties as may be assigned by the Chairman, including serving as financial control person and being liaison person with members of the Authority, and the Department of Insurance.

(e) Notwithstanding any other law, neither the Insurance Commissioner nor any officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his service as an officer of the Authority.

(f) The Authority may be dissolved by act of the General Assembly on condition that the Authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the Authority, all property, funds and assets thereof shall be vested in the State.

(g) The Authority shall prepare an annual budget for each fiscal year of the Authority (the "annual budget") and shall submit the annual budget to the Budget Director and General Assembly. The annual budget need not include amounts representing expenditures for debt service on bonds.

(h) The Authority shall cause an audit of its books and accounts to be made annually by a certified public accountant licensed to practice in the State. In addition, the Authority shall make an annual report of its activities to the Governor which shall set forth a complete operating and financial statement covering the Authority's operations during the year and shall include the report of the certified public accountant who makes the audit of the Authority's books and accounts. The Authority shall furnish a copy of the annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the Auditor of Accounts and the Controller General. The Auditor of Accounts may also audit the books and accounts of the Authority and the Funds in accordance with applicable law.

(i) No member, officer, employee or agent of the Authority shall be interested, either directly or indirectly, in any project or in any contract, sale, purchase, lease or transfer of real or personal property to which the Authority is a party. The existence of any such interest shall not affect the validity of bonds issued pursuant to this subchapter.

(j) Any net earnings of the Authority (beyond those necessary for retirement of any indebtedness or to implement the public purposes of this subchapter) shall not inure to the benefit of any person other than the State.

(k) The Authority shall hire or contract with service providers for a period not longer than 5 years. The service providers shall administer: claims against any Fund, Reinsurance, Accounting, Data Processing, Risk Management and General Fund Operations.

(l) The Authority shall contract with an Actuary for a period not exceeding five years. The Actuary shall study, develop and propose, from time to time, to the Authority and the funds, rates and pricing for initial and later assessments of the members of each Fund, to develop and propose surplus fund bond sizing, and to review on no less than an annual basis the claims reserves of all Funds, to provide the Authority with actuarial advice and counsel as to reserve adequacy and other rate and claims statistical information as required by the Authority.

(m) The Authority shall contract with a general counsel for a period not to exceed five years. General counsel shall be admitted to practice before the Supreme Court of Delaware. General counsel shall provide general legal advice and counsel to the Authority on such matters as may be required by Authority.

(n) The Authority shall promulgate rules and regulations for each Fund.

Section 404. Joint Insurance Funds for Public Entities.

(a) There is hereby established authority to form a Public Entity Joint Insurance Fund for Public Entities in the State.

(b) Public entities which are located in contiguous States and which currently share an insurance program with a public entity located within Delaware may be eligible for membership in the appropriate Joint Insurance Fund if it meets the membership requirements imposed upon Delaware entities.

(c) The governing body of any public entity may by resolution or ordinance, as appropriate, agree to join together with any other public entity or entities, subject to the restrictions of subsection (a) of this Section, to establish a Joint Insurance Fund for the purpose of insuring liability, and worker's compensation as provided in this Act and may appropriate such moneys as are required therefor.

(d) Upon the establishment of a Public Entity Joint Insurance Fund, the Governor and the Insurance Commissioner shall each appoint two members to the Board of Directors of the Public Entity Joint Insurance Fund, to serve for a term of four years. The Insurance Commissioner shall serve as the fifth member.

(e) (1) The directors of a Joint Insurance Fund shall have the powers and authority granted to them by regulation of the Insurance Department.

(2) The directors may invest the funds, including workers' compensation funds, as authorized under the provisions of regulations of the Insurance Department, utilizing prudent casualty and surety company investment practices.

(3) The board of directors of any Joint Insurance Fund established pursuant to the provisions of this Section shall be subject to and operate in compliance with the provisions of regulations of the Insurance Department.

(f) The Insurance Commissioner shall prepare and after approval, by resolution, of the governing body of each participating public entity, shall adopt bylaws for the Joint Insurance Fund. The bylaws shall include but not be limited to:

(1) Procedures for the organization and administration of the Joint Insurance Fund and the Fund board of directors of the Fund. The procedures may include the designation of one member public entity to serve as the lead agency to be responsible for the custody and maintenance of the assets of the Fund and such other duties as may be assigned by the directors of the Fund;

(2) Procedures for the assessment of members for their contributions to the Fund and for the collection of contributions in default;

(3) Procedures for the maintenance and administration of appropriate reserves in accordance with sound actuarial principles;

(4) Procedures for the purchase of commercial direct insurance or excess insurance;

(5) Contingency plans for paying losses in the event that the Fund is exhausted;

(6) Procedures governing loss adjustment and legal fees;

(7) Procedures for the joining of the Fund by a non-member public entity;

(8) Procedures for the withdrawal from the Fund by a public entity;

(9) Procedures for the expulsion of a member public entity;

(10) Procedures for the termination and liquidation of the Joint Insurance Fund and the payment of its outstanding obligations; and

(11) Such other procedures and plans as the Insurance Commissioner may require by rule or regulation.

(g) The directors shall prepare, or cause to be prepared, a plan of risk management for the Joint Insurance Fund. The plan shall include but not be limited to:

(1) The perils or liability to be insured against;

(2) Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or excess insurance;

(3) Procedures governing loss adjustment;

(4) Procedures for establishing case reserves;

(5) The method of assessing contributions to be paid by each member of the Fund;

(6) Coverage to be purchased from a commercial insurer;

(7) The amount of risk to be retained by the Fund;

(8) Excess insurance to be purchased; and

(9) Such other procedures and information as the Insurance Commissioner may require by rule or regulation.

(h) No Joint Insurance Fund shall begin providing insurance coverage to its member public entities until its bylaws and plan of risk management have been approved as hereinafter provided.

(1) The directors of each Joint Insurance Fund shall concurrently file with the Insurance Commissioner for his approval a copy of the Fund's bylaws adopted pursuant to subsection (f) of this Section and a copy of the fund's plan of risk management prepared pursuant to subsection (g) of this Section.

(2) Within 30 working days of receipt, the Insurance Commissioner shall either approve or disapprove the bylaws or plan of risk management of any Joint Insurance Fund. If the Insurance Commissioner shall fail to either approve or disapprove the bylaws or plan of risk management within said 30 working day period, the bylaws or plan of risk management shall be deemed approved. If any bylaws or plan of risk management shall be disapproved, the Insurance Commissioner shall set forth in writing the reasons for disapproval. Upon receipt of the notice of disapproval, the directors of the affected Joint Insurance Fund may request a public hearing. The public hearing shall be convened by the Insurance Commissioner in a timely manner. Within twenty (20) calendar days after the public hearing, the Insurance Commissioner shall reaffirm, reverse or partially reverse his disapproval in writing. The action of the Commissioner shall be final and shall not be appealable.

(i) Upon the approval of its bylaws and plan of risk management pursuant to the provisions of subsection (h) of this Section, a Joint Insurance Fund may provide insurance coverage to its member public entities by self-insurance, the purchase of commercial insurance or excess insurance, or any combination thereof.

(j) The directors may, from time to time, amend the bylaws and plan of risk management of the Fund; provided, however, that no such amendment shall take effect until approved as hereinafter provided:

(1) The directors shall file with the Insurance Commissioner for his approval a copy of any amendment to the bylaws of the Fund upon approval, by resolution, of the governing body of each member public entity, or any amendment to the plan of risk management upon adoption by the directors.

(2) Within 30 working days of receipt, the Insurance Commissioner shall either approve or disapprove any amendment to the bylaws or plan of risk management. If the Insurance Commissioner shall fail to either approve or disapprove the amendment within that 30 working day period, the amendment shall be deemed approved. If any amendment shall be disapproved, the Insurance Commissioner shall set forth in writing the reasons for disapproval. Upon receipt of the notice of disapproval, the directors of the affected Joint Insurance Fund may request a public hearing. The public hearing shall be convened by the Insurance Commissioner in a timely manner. Within twenty (20) calendar days after the public hearing, the Insurance Commissioner shall reaffirm, reverse or partially reverse his disapproval in writing. The action of the Commissioner shall be final and shall not be appealable.

(k) The Insurance Commissioner is hereby authorized to suspend or terminate the authority of any Joint Insurance Fund, or to assume control of the Fund, or to direct or take any action he may deem necessary for good cause, to enable a Fund to meet its obligations and cover its expected losses or to liquidate, rehabilitate or otherwise modify its affairs. Such action shall be taken by the Insurance Commissioner in the event of:

(1) A failure to comply with the rules and regulations promulgated by the Insurance Commissioner or with any of the provisions of this Section;

(2) A failure to comply with a lawful order of the Insurance Commissioner; or

(3) A determination of the financial condition of the Fund to the extent that it causes an adverse effect on the ability of the Joint Insurance Fund to pay expected losses.

(4) A failure to join the Excess Insurance Pool established in accordance with Section 406 of this Act or to agree to be bound by and comply with the Excess Insurance Pool's bylaws or plan of risk management.

(l) The Insurance Commissioner may, in his discretion, require the directors of any Fund to file copies of any agreement or contracts entered into by the directors of the Fund, or any other pertinent documents as he may deem necessary.

(m) The Fund directors shall cause an annual audit to be conducted by an independent certified public accountant and an opinion on reserves for incurred losses and loss adjustment expenses to be signed by an actuary, in accordance with the rules

and regulations promulgated by the Insurance Commissioner pursuant to subsection (q) of this Section. Copies of every audit and opinion shall be submitted to the Insurance Commissioner within 30 working days of its completion.

(n) The Insurance Commissioner may conduct such examinations of any Joint Insurance Fund as he deems necessary. The expense of any such examination shall be borne by the affected Fund.

(o) Any public entity electing to join a Joint Insurance Fund pursuant to this chapter is hereby granted the power, to enter into contracts of any duration obliging the entity to make periodic payments to the Joint Insurance Fund, without the need for annual appropriations. The power hereby conferred shall be exercised by the adoption of a resolution of the legislative or governing body of the public entity conforming to the requirements for other resolutions adopted by the governing or legislative body of the public entity. The contracts herein provided shall not be counted against any charter or other limitation on general obligation debt of the public entity.

(p) Within 60 days after the effective date of this Section, the Insurance Commissioner shall promulgate rules and regulations to effectuate the purposes of this Section. Such rules and regulations shall include, but not be limited to, establishment, operation, modification and dissolution of Joint Insurance Funds established pursuant to provisions of this Section.

Section 405. Joint Insurance Funds for Private Persons.

(a) Individuals, general or limited partnerships, and corporations having a facility located within local units of government which have joined The Delaware Public Entity Joint Insurance Fund under provisions of Section 404 of this Act by appropriate legal action agree to join together to establish a Joint Insurance Fund for the purpose of insuring liability, and workers' compensation as provided in this Act, and may contribute such moneys as are required therefore, but the members of any such Fund must share a natural affinity as demonstrated in a definition approved by the Insurance Commissioner. Only one joint insurance fund may exist for any approved defined affinity group.

(b) Upon the establishment of a Joint Insurance Fund, the Governor and the Insurance Commissioner shall each appoint two members to the Board of Directors of the Joint Insurance Fund, to serve for a term of four years. The Insurance Commissioner shall serve as the fifth member.

(c) (1) The directors of a Joint Insurance Fund shall have the powers and authority granted to them by regulation of the Insurance Department.

(2) The directors may invest any and all moneys of the Fund from whatever source derived as authorized by regulations of the Insurance Department, utilizing prudent casualty and surety company investment practices.

(3) The board of directors or the executive committee, as the case may be, of any Joint Insurance Fund established pursuant to the provisions of this Section shall be subject to and operate in compliance with the provisions of regulations of the Insurance Department.

(d) The Insurance Commissioner shall prepare and after approval of each participating entity, shall adopt bylaws for the Joint Insurance Fund. The bylaws shall include but not be limited to:

(1) Procedures for the organization and administration of the Joint Insurance Fund and the Fund board of directors.

(2) Procedures for the assessment of members for their contributions to the Fund and for the collection of contributions in default;

(3) Procedures for the maintenance and administration of appropriate reserves in accordance with sound actuarial principles,

(4) Procedures for the purchase of commercial direct insurance or excess insurance,

(5) Contingency plans for paying losses in the event that the Fund is exhausted,

(6) Procedures governing loss adjustment and legal fees;

- (7) Procedures for the joining of the Fund by a non-member entity;
 - (8) Procedures for the withdrawal from the Fund by an entity;
 - (9) Procedures for the expulsion of a member entity;
 - (10) Procedures for the termination and liquidation of the Joint Insurance Fund and the payment of its outstanding obligations; and
 - (11) Such other procedures and plans as the Insurance Commissioner may require by rule or regulation.
- (e) The directors shall prepare, or cause to be prepared, a plan of risk management for the Joint Insurance Fund. The plan shall include but not be limited to:
- (1) The perils or liability to be insured against;
 - (2) Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or excess insurance;
 - (3) Procedures governing loss adjustment;
 - (4) Procedures for establishing case reserves;
 - (5) The method of assessing contributions to be paid by each member of the Fund;
 - (6) Coverage to be purchased from a commercial insurer;
 - (7) The amount of risk to be retained by the Fund;
 - (8) Excess insurance to be purchased; and
 - (9) Such other procedures and information as the Insurance Commissioner may require by rule or regulation.
- (f) No Joint Insurance Fund shall begin providing insurance coverage to its member entities until its bylaws and plan of risk management have been approved as hereinafter provided:
- (1) The directors of each Joint Insurance Fund shall concurrently file with the Insurance Commissioner for his approval a copy of the Fund's bylaws adopted pursuant to subsection (d) of this Section and a copy of the fund's plan of risk management prepared pursuant to Subsection (e) of this Section.
 - (2) Within 30 working days of receipt, the Insurance Commissioner shall either approve or disapprove the bylaws or plan of risk management of any Joint Insurance Fund. If the Insurance Commissioner shall fail to either approve or disapprove the bylaws or plan of risk management within said 30 working day period, the bylaws or plan of risk management shall be deemed approved. If any bylaws or plan of risk management shall be disapproved, the Insurance Commissioner shall set forth in writing the reasons for disapproval. Upon receipt of the notice of disapproval, the directors of the affected Joint Insurance Fund may request a public hearing. The public hearing shall be convened by the Insurance Commissioner in a timely manner. Within twenty (20) calendar days after the public hearing, the Insurance Commissioner shall reaffirm, reverse or partially reverse his disapproval in writing. The action of the Commissioner shall be final and shall not be appealable.
 - (g) Upon the approval of its bylaws and plan of risk management pursuant to the provisions of subsection (f) of this Section, a Joint Insurance Fund may provide insurance coverage to its member entities by self-insurance, the purchase of commercial insurance or excess insurance, or any combination thereof.
 - (h) The directors may, from time to time, amend the bylaws and plan of risk management of the Fund, provided, however, that no such amendment shall take effect until approved as hereinafter provided:
 - (1) The directors shall file with the Insurance Commissioner for his approval a copy of any amendment to the bylaws of the Fund upon approval, by resolution, of the governing body of each member entity, or any amendment to the plan of risk management upon adoption by the directors.

(2) Within 30 working days or receipt, the Insurance Commissioner shall either approve or disapprove any amendment to the bylaws or plan of risk management. If the Insurance Commissioner shall fail to either approve or disapprove the amendment within that 30 working day period, the amendment shall be deemed approved. If any amendment shall be disapproved, the Insurance Commissioner shall set forth in writing the reasons for disapproval. Upon receipt of the notice of disapproval, the directors of the affected Joint Insurance Fund may request a public hearing. The public hearing shall be convened by the Insurance Commissioner in a timely manner. Within twenty (20) calendar days after the public hearing, the Insurance Commissioner shall reaffirm, reverse or partially reverse his disapproval in writing. The action of the Commissioner shall be final and shall not be appealable.

(1) The Insurance Commissioner is hereby authorized to suspend or terminate the authority of any Joint Insurance Fund, or to assume control of the Fund, or to direct or take any action he may deem necessary for good cause, to enable a Fund to meet its obligations and cover its expected losses or to liquidate, rehabilitate or otherwise modify its affairs. Such action shall be taken by the Insurance Commissioner in the event of:

(1) A failure to comply with the rules and regulations promulgated by the Insurance Commissioner or with any of the provisions of this Section;

(2) A failure to comply with a lawful order of the Insurance Commissioner; or

(3) A determination of the financial condition of the Fund to the extent that it causes an adverse effect on the ability of the Joint Insurance Fund to pay expected losses.

(4) A failure to join the Excess Insurance Pool established in accordance with Section 406 of this Act or to agree to be bound by or comply with the Excess Insurance Pool's bylaws or plan of risk management.

(j) The Insurance Commissioner may, in his discretion, require the directors of any Fund to file copies of any agreement or contracts entered into by the directors of the Fund, or any other pertinent documents as he may deem necessary.

(k) The Fund directors shall cause an annual audit to be conducted by an independent certified public accountant and an opinion on reserves for incurred losses and loss adjustment expenses to be signed by an actuary, in accordance with the rules and regulations promulgated by the Insurance Commissioner pursuant to subsection (n) of this Section. Copies of every audit and opinion shall be submitted to the Insurance Commissioner within 30 working days of its completion.

(l) The Insurance Commissioner may conduct such examinations of any Joint Insurance Fund as he deems necessary. The expense of any such examination shall be borne by the affected Fund.

(m) Within 60 days after the effective date of this Section, the Insurance Commissioner shall promulgate rules and regulations to effectuate the purposes of this Section. Such rules and regulations shall include, but not be limited to, establishment, operation, modification and dissolution of Joint Insurance Funds established pursuant to provisions of this Section.

Section 406. Excess Insurance Pools

(a) If more than one Joint Insurance Fund is established pursuant to Sections 404 and 405 of this Act, the board of directors of any Joint Insurance Fund shall by resolution agree to join together with any other Joint Insurance Fund to establish an Excess Insurance Fund for the purpose of providing various layers of excess insurance liability, and worker's compensation as provided in this Act and may appropriate such moneys as are required therefor. The boards of directors of the Joint Insurance Funds shall, by resolution, further agree to be bound by and comply with the duly approved bylaws and plan of risk management of the Excess Insurance Pool, and provided in subsections (d), (3) and (f) of this Section.

(b) Upon the establishment of a Excess Insurance Fund, the Governor and the Insurance Commissioner shall each appoint two members to the Board of Directors of the Excess Insurance Fund, to serve for a term of four years. The Insurance Commissioner shall serve as the fifth member.

(c) (1) The governors of the Excess Insurance Pool shall have the powers and authority granted to them by regulation of the Insurance Department.

(2) The governors may invest the funds, including workers' compensation funds, as authorized under the provisions of regulations of the Insurance Department, utilizing prudent casualty and surety company investment practices.

(3) The board of governors of the Excess Insurance Pool established pursuant to the provisions of this Section shall be subject to and operate in compliance with the provisions of regulations of the Insurance Department.

(d) The Authority shall prepare and after approval, by resolution, of the board of directors of each Joint Insurance Fund, shall adopt bylaws for the Excess Insurance Pool. The bylaws shall include but not be limited to:

(1) Procedures for the organization and administration of the Excess Insurance Pool, the Pool board of governors of the Pool;

(2) Procedures for the assessment of members for their contributions to the Pool and for the collection of contributions in default;

(3) Procedures for certifying annually to the Commissioner of Insurance, prior to the commencement of each pool assessment year, that each member Joint Insurance Fund has assessed or is in process of assessing its members' contributions in sufficient amount to pay the assessment of the Pool to the Fund.

(4) Procedures for the maintenance and administration of appropriate reserves in accordance with sound actuarial principles;

(5) Procedures for the purchase of commercial excess insurance;

(6) Contingency plans for paying losses in the event that the Pool's funds are exhausted;

(7) Procedures governing loss adjustment and legal fees;

(8) Procedures for the joining of the Pool by a newly established Joint Insurance Fund;

(9) Procedures for the expulsion of a Joint Insurance Fund;

(10) Procedures for the termination and liquidation of the Excess Insurance Pool and the payment of its outstanding obligations; and

(11) Such other procedures and plans as the Insurance Commissioner may require by rule or regulation.

(e) The governors shall prepare, or cause to be prepared, a plan of risk management for the Excess Insurance Pool. The plan shall include but not be limited to:

(1) The perils or liability to be insured against;

(2) Limits and layers of coverage, whether self-insurance or excess insurance from a commercial carrier;

(3) Procedures governing loss adjustment;

(4) Procedures for establishing case reserves;

(5) The method of assessing contributions to be paid by each member of the pool;

(6) Coverage to be purchased from a commercial insurer;

(7) The amount of risk to be retained by the Pool;

(8) Excess insurance to be purchased; and

(9) Such other procedures and information as the Insurance Commissioner may require by rule or regulation.

(f) The Excess Insurance Pool shall not begin providing insurance coverage of its member Joint Insurance Funds until its bylaws and plan of risk management have been approved as hereinafter provided:

(1) The governors of the Pool shall concurrently file with the Insurance Commissioner for his approval a copy of the Pool's bylaws adopted pursuant to subsection (d) of this Section and a copy of the Pool's plan of risk management prepared pursuant to subsection (e) of this Section.

(2) Within 30 working days of receipt, the Insurance Commissioner shall either approve or disapprove the bylaws or plan of risk management. If the Insurance Commissioner shall fail to either approve or disapprove the bylaws or plan of risk management within said 30 working day period, the bylaws or plan of risk management shall be deemed approved. If any bylaws or plan of risk management shall be disapproved, the Insurance Commissioner shall set forth in writing the reasons for disapproval. Upon receipt of the notice of disapproval, the governors may request a public hearing. The public hearing shall be convened by the Insurance Commissioner in a timely manner. Within twenty (20) calendar days after the public hearing, the Insurance Commissioner shall reaffirm, reverse or partially reverse his disapproval in writing. The action of the Commissioner shall be final and shall not be appealable.

(g) Upon the approval of its bylaws and plan of risk management pursuant to the provisions of subsection (f) of this Section, the Pool may provide insurance coverage to its member Funds by self-insurance or the purchase of commercial excess insurance or any combination thereof.

(h) The governors may, from time to time, amend the bylaws and plan of risk management of the Pool; provided, however, that no such amendment, shall take effect until approved as hereinafter provided:

(1) The governors shall file with the Insurance Commissioner for his approval a copy of any amendment to the bylaws of the Pool upon approval, by resolution, of the boards of directors of each member Fund, or any amendment to the plan of risk management.

(2) Within 30 working days of receipt, the Insurance Commissioner shall either approve or disapprove any amendment to the bylaws or plan of risk management. If the Insurance Commissioner shall fail to either approve or disapprove the amendment within the 30 working day period, the amendment shall be deemed approved. If any amendment shall be disapproved, the Insurance Commissioner shall set forth in writing the reasons for disapproval. Upon receipt of the notice of disapproval, the governors of the Pool may request a public hearing. The public hearing shall be convened by the Insurance Commissioner in a timely manner. Within twenty (20) calendar days after the public hearing, the Insurance Commissioner shall reaffirm, reverse or partially reverse his disapproval in writing. The action of the Commissioner shall be final and shall not be appealable.

(i) The Insurance Commissioner is hereby authorized to suspend or terminate the authority of the Pool, or to assume control of the Pool, or to direct to take any action he may deem necessary for good cause, to enable the Pool to meet its obligations and cover its expected losses or to liquidate, rehabilitate or otherwise modify its affairs. Such action shall be taken by the Commissioner in the event of:

(1) A failure to comply with the rules and regulations promulgated by the Insurance Commissioner or with any of the provisions of this Section;

(2) A failure to comply with lawful order of the Insurance Commissioner; or

(3) A determination of the financial condition of the Pool to the extent that it causes an adverse effect on the ability of the Pool to pay expected losses.

(j) The Insurance Commissioner may, in his discretion, require the governors of the Pool to file copies of any agreement or contracts entered into by the directors of the Pool, or any other pertinent documents as he may deem necessary.

(k) The Pool governors shall cause an annual audit to be conducted by an independent certified public accountant and an opinion on reserves for incurred losses and loss adjustment expenses to be signed by an actuary, in accordance with the rules and regulations promulgated by the Insurance Commissioner pursuant to subsection (n) of this Section. Copies of every audit and opinion shall be submitted to the Insurance Commissioner within 30 working days of its completion.

(l) The Insurance Commissioner may conduct such examination of the Excess Insurance Pool as he deems necessary. The expense of any such examination shall be borne by the Pool.

(m) Within 60 days after the effective date of Section, the Insurance Commissioner shall promulgate rules and regulations to effectuate the purposes of this Section. Such rules and regulations shall include, but not be limited to, establishment, operations, modification and dissolution of the Excess Insurance Pool established pursuant to the provisions of this Section.

(n) No proceeds of any bonds, the interest on which is excludable from the gross income of the holder thereof, shall be comingled with any other funds in a manner that, in the opinion of nationally recognized Bonds Counsel, could cause the aforesaid interest to be taxable.

Section 407. Powers of the Authority

(a) The Authority may issue bonds not pledging the full faith and credit of the State of Delaware to finance the cost of establishing a capital fund for Joint Insurance Funds. Bonds of the Authority may be tax-exempt or taxable, and may be issued to refund bonds issued pursuant to this subchapter. Bonds of the Authority may pledge the full faith and credit of any public entity, as provided in Section 404(c) hereof.

(b) The Authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this subchapter including without limitation the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to adopt rules, regulations and policies in connection with the performance of its functions and duties;

(2) To adopt, use and alter at will an official seal;

(3) To sue in its own name;

(4) To acquire in its own name by purchase, lease or otherwise, on such terms and conditions and in such manner as it may deem proper, any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein, and to sell, lease as lessor, mortgage or otherwise encumber, transfer or dispose of any such property or interest therein;

(5) To enter into contracts with any person upon such terms and conditions as the Authority shall determine to be reasonable, providing, without limitation, for reimbursement for the administration, funding, claims service, investment, or otherwise dealing with any capital fund established out of proceeds of bonds;

(6) To establish and maintain funds of any kind, including without limitation capital, reserve and insurance funds;

(7) To mortgage, pledge, assign or otherwise encumber all or any portion of revenues or funds;

(8) To contract for and to accept any gifts, grants or loans of funds or property or financial or other aid from any source, and to comply, subject to this subchapter with the terms and conditions thereof;

(9) To charge and collect such fees and charges as it shall determine to be reasonable for the use of its services;

(10) To acquire, purchase, manage, operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

(11) To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

(12) To borrow money and issue bonds (the interest on which may be taxable or exempt from tax under the Internal Revenue Code of 1986) as provided in this chapter, and provide for the rights of the holders thereof;

(13) To invest any funds or moneys of the Authority pending the application of such funds or moneys to the purposes specified in this chapter;

(14) To employ actuaries, claims adjusters, claims managers, consulting engineers, architects, attorneys, (29 Del. C. §2507 notwithstanding), real estate counselors, appraisers and such other consultants and employees, who shall not be members of the classified service, as may be required in the judgment of the Authority to carry out the purposes of this subchapter, and to fix and pay their compensation from funds available to the Authority therefor;

(15) To do and perform any acts and things authorized by this subchapter under, through or by means of its own officers, agents and employees, or by contracts with any person; and

(16) To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable.

Section 408. Application of Joint Insurance Fund for Admission to Capital Fund of Authority.

(a) Any Joint Insurance Fund and the Excess Insurance Pool may apply for admission to the Capital Fund of the Authority and shall submit an application to the Authority on such forms as the Authority may require.

(b) Such application shall include all documentation, actuarial studies, relevant loss history and any other information required by the Authority pertaining to the applicant Fund or Pool, as well as an agreement to be bound by the provisions of the Authority's bylaws, rules, regulations and policies.

(c) Upon receipt of such application, the Authority may grant the application, grant the application with amendments required by the Authority, or deny the application.

Section 409. Authority Not Treated as Insurer.

18 Del.C. §104 is amended by adding new subsections (4), (5) and (6) as follows:

(4) "The Delaware Insurance Authority"

(5) "Joint Insurance Funds"

(6) "The Excess Insurance Pool"

Joint Insurance Funds and the Excess Insurance Pool shall nevertheless be governed by Chapters 9 (Kinds of Insurance), 11 (Assets and Liabilities), 13 (Investments), 23 (Unfair Practices) and 59 (Liquidation) of Title 18, Delaware Code. If the Commissioner shall determine that Joint Insurance Funds created hereunder have a significant competitive advantage over private insurers because Joint Insurance Funds are not required to participate in residual insurance markets now in existence or hereafter created, the Commissioner shall issue regulations requiring participation by Joint Insurance Funds in such residual markets.

Section 410. Bonds.

(a) The bonds authorized to be issued by this chapter shall be authorized by a resolution and shall be of such series; bear such date or dates; mature at such time or times; bear interest at such rate or rates; be in such denominations; be of a single denomination payable in installments; be in such form, either coupon or fully registered without coupon; carry such registration, exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places; be subject to such terms of redemption; and be entitled to such priorities in the revenues of the Authority as such resolution may provide. The bonds shall bear the manual or facsimile signature of the Insurance Commissioner and of the State Treasurer, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the Insurance Commissioner. Any such bonds may be issued and delivered notwithstanding the fact that one or more of the officials signing such bonds, or whose facsimile signature shall be upon the bonds or coupons, shall have ceased to be such official or officials at the time when such bonds shall actually be delivered.

(b) The bonds may be sold at public or private sale for such price or prices as the authority shall determine. Any bonds may be consolidated for sale with any other bonds of the Authority and sold as a single issue. Pending the preparation of the definitive bonds, temporary bonds may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the Authority may determine. No bonds may be issued without the approval of the Issuing Officers as defined in 29 Del.C. §7401.

(c) No proceeds of bonds the interest on which is excludable from gross income pursuant to the Internal Revenue Code of 1986, as it may be from time to time amended, shall be applied to any Joint Insurance Fund for Private Persons created by Section 405 hereof.

Section 411. Convenants with Bondholders.

(a) The Authority shall have the power to covenant and to agree with the holders of bonds in order to secure the payment of such bonds, as to:

(1) The custody, security, use, expenditure, investment or application of the proceeds of bonds;

(2) The use, regulation, operation, maintenance, insurance or disposition of all or any part of any project;

(3) The payment of principal, premium, if any, and interest on bonds, the sources and methods of payment thereof, the rank or priority of any such bonds as to any lien or security or the acceleration of the maturity of any such bonds;

(4) The use and disposition of any moneys of the Authority, including all revenues;

(5) The mortgage, pledge, assignment or deposit of all or any part of the revenues or other moneys of the Authority to secure the payment of the principal, premium, if any, and interest on bonds, and the powers and duties of any trustee or agent with regard thereto;

(6) The segregation of revenues or other moneys of the Authority into reserves and sinking funds, and the source, custody, investment, security, regulation, application and disposition thereof;

(7) Any limitation on the issuance of additional bonds or on the incurrence of indebtedness of the Authority;

(8) Any vesting in a trustee or trustees, fiscal or escrow agent or agents, within or without the State, or such property, rights, powers and duties as the Authority may determine, and any limitation on the rights, duties and powers of such trustee or agent;

(9) The payment of costs or expenses incident to the enforcement of the bonds, the resolution or any covenant or contract with the holders of bonds;

(10) The procedure, if any, by which the terms of any covenant or contract with, or duty to, 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 or evidenced; or

(11) Any other matter or course of conduct which, by recital in a resolution, is declared to secure further the payment of the principal, premium, if any, or interest on bonds.

(b) All such provisions of a resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the Authority and the several holders of bonds to which they relate, regardless of the time of issuance of such bonds.

Section 412. Pledge of Revenues or Other Property.

Any pledge of revenues or other property made by the Authority shall be valid and binding from the time when the pledge is made. Revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge of revenues or other property shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, whether or not such parties have notice thereof. Neither the resolution or any other instrument by which a pledge is created need be filed or recorded; however, copies of such resolution or instrument shall be retained by the Authority.

Section 413. Limitation on Liability of State.

(a) Bonds issued pursuant to this chapter shall not constitute a debt of the State or a pledge of the full faith and credit or taxing power of the State, and shall not obligate the State to make any appropriation for their payment.

(b) All bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal of, premium, if any, or interest on this bond, nor is the State or the Delaware Insurance Authority in any manner obligated to make any appropriation for payment thereof."

Section 414. Negotiability of Bonds.

The bonds and any coupons appurtenant thereto shall be negotiable instruments and securities under the Uniform Commercial Code of the State.

Section 415. Limitation of Powers of State.

The State pledges to and agrees with any holder of the bonds that the State will not limit or alter the rights vested in the Authority until all bonds at any time issued, together with the interest thereon and all costs and expenses in connection with any action or proceeding by, or on behalf of the bondholder are fully met and discharged; provided, however, that nothing herein contained shall preclude such limitation or alteration, if, and when, adequate provision shall have been made by law for the protection from impairment of the contracts represented by such bonds. By enacting this Act, the General Assembly contemplates that activities by public entities, school districts and the Authority pursuant to this Act shall not be subject to the antitrust laws of the United States.

Section 416. Bonds as Legal Investments for Institutions and Fiduciaries.

Bonds issued under this subchapter are made securities in which all state and municipal officers and administrative departments, boards and commissions of the State, all banks, bankers, savings banks or societies, trust companies, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever authorized to invest in bonds or other obligations of the State, may properly and legally invest any funds, including capital belonging to them or within their control.

Section 417. Property of Authority Exempt from Judicial Process.

All property of the Authority shall be exempt from execution process, and no attachment, sequestration, execution, levy or other judicial process shall issue against the same, nor shall any judgment against the Authority be a charge or lien upon its property; provided, however, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the Authority on or with respect to any project or any revenues or other moneys.

Section 418. Immunity from Suit.

All persons acting on behalf of the governmental entities created pursuant to this chapter, including but not limited to the members of the Delaware Insurance Authority, the boards of directors of the Joint Insurance Funds and the Pool governors, acting in any official capacity, whether temporarily or permanently, and whether with or without compensation, including elected or appointed officials, shall not be liable for any damage claim which results from the performance or failure to exercise or perform any function or duty, whether or not discretion be abused and whether or not the statute, charter, ordinance, order, resolution, or regulation under which the function or duty is performed is valid or invalid.

Section 419. Premium Tax.

All payments made to any Joint Insurance Fund created hereunder which would have been taxed as premium pursuant to 18 Del.C. §§702 through 712, inclusive, if paid through a private insurer, shall be taxed as if the payment to the Joint Insurance Fund were a premium.

Section 420. Liberal Construction of Chapter.

This chapter, being necessary for the prosperity and welfare of the State and its citizens, shall be liberally construed to effect the purposes of this chapter.

Section 421. Inconsistent Laws Inapplicable.

Insofar as any provision of this chapter is inconsistent with any general, special or local laws, or part thereof, this chapter shall be controlling.

Section 422. Severability.

If any section, part, phrase or provision of this Act or the amplification thereof be held invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to that section, part, phrase, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof.

Section 423. Immediate Effective date.

This Act shall become effective immediately.

Approved July 15, 1988.

CHAPTER 402

FORMERLY

HOUSE BILL NO. 673

AN ACT TO AMEND CHAPTER 88, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF PROFESSIONAL REGULATION.

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

Section 1. Amend §8810, Chapter 88, Title 29 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

§8810. Division of Professional Regulation.

(a) The Division of Professional Regulation shall have the powers, duties and functions set forth in this section. The Division shall be responsible for the administrative, ministerial, budgetary, clerical and investigative support functions, (including but not limited to the appointment, removal, compensation and duties of employees) as provided by law of the following commissions, boards, and agencies:

- (1) Board of Accountancy as set forth in Chapter 1 of Title 24;
- (2) Board of Landscape Architecture as set forth in Chapter 2 of Title 24;
- (3) Board of Architects as set forth in Chapter 3 of Title 24;
- (4) Board of Podiatry as set forth in Chapter 5 of Title 24;
- (5) Board of Chiropractic as set forth in Chapter 7 of Title 24;
- (6) Licensing of deadly weapons dealers as set forth in Chapter 9 of Title 24;
- (7) Board of Dental Examiners as set forth in Chapter 11 of Title 24;
- (8) Board of Electrical Examiners as set forth in Chapter 14 of Title 24;
- (9) Commission on Adult Entertainment Establishments as set forth in Chapter 16 of Title 24;
- (10) Board of Medical Practice as set forth in Chapter 17 of Title 24;
- (11) Board of Nursing as set forth in Chapter 19 of Title 24;
- (12) Board of Occupational Therapy Practice as set forth in Chapter 20 of Title 24;
- (13) Board of Examiners in Optometry as set forth in Chapter 21 of Title 24;
- (14) Board of Pharmacy as set forth in Chapter 25 of Title 24;
- (15) Examining Board of Physical Therapists as set forth in Chapter 26 of Title 24;
- (16) Board of Registration for Professional Land Surveyors as set forth in Chapter 27 of Title 24;
- (17) Real Estate Commission as set forth in Chapter 29 of Title 24;
- (18) Board of Professional Counselors as set forth in Chapter 30 of Title 24;
- (19) Board of Funeral Service Practitioners as set forth in Chapters 31 and 50 of Title 24;
- (20) Board of Veterinary Medicine as set forth in Chapter 33 of Title 24;

- (21) Board of Examiners of Psychologists as set forth in Chapter 35 of Title 4;
- (22) Board of Registration of Geologists as set forth in Chapter 36 of Title 24;
- (23) Board of Examiners of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers as set forth in Chapter 37 of Title 24;
- (24) Board of Social Work Examiners as set forth in Chapter 39 of Title 24;
- (25) Board of Cosmetology and Barbering as set forth in Chapter 51 of Title 24;
- (26) Board of Examiners of Nursing Home Administrators as set forth in Chapter 52 of Title 24;
- (27) Board of Pilot Commissioners as set forth in Chapter 1 of Title 23;
- (28) Delaware Racing Commission as set forth in Chapter 3 of Title 28;
- (29) Harness Racing Commission as set forth in Chapter 5 of Title 28; and
- (30) Gaming Control Board as set forth in Chapter 15 of Title 28.

(b) The Division of Professional Regulation shall have such power to make and enforce rules and regulations for the conduct of employment agencies as was heretofore vested in the Employment Security Commission pursuant to

§3155 of Title 19.

(c) The Division of Professional Regulation shall have the following powers, duties and functions related to the regulation of boxing and wrestling. It shall:

(1) Promulgate and enforce rules and regulations for the conduct of professional and amateur boxing or wrestling matches or exhibitions for which a fee is charged. The Division shall consult with members of the medical profession on health-related matters in the promulgation of health-related regulations;

(2) Issue licenses and permits for amateur and professional boxing and wrestling exhibitions for which a fee is charged. The Division shall have the power to suspend or revoke any license in the interest and protection of the public health, safety and welfare;

(3) Determine whether a bond shall be posted, the amount of any bond and all other conditions relative to such posting or to any waiver or exclusion from posting a bond;

(4) Designate an agent to act on behalf of the Division who shall, at all times during any wrestling or boxing match, be the person present representing the State, and exercising its regulatory powers over all persons involved with the match including the authority to veto the decisions of others for good cause; and the authority to halt any match or all matches in the interest of the public health, safety or welfare.

(d) The Division of Professional Regulation, with the approval of the Secretary of Administrative Services, shall establish, for all commissions, boards and agencies and activities administered pursuant to this section, such appropriate fees as shall approximate and reasonably reflect all costs necessary to defray the expenses of each such Board or Commission, or of the Division on behalf of such Board or Commission. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in the appropriate chapter of the Delaware Code. No application fee shall be combined with any other fee or charge. At the beginning of each calendar year the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute for each separate service or activity, the appropriate fees for each agency.

(e) The Division of Professional Regulation shall have the following powers, duties and functions relating to the administration of examinations for all boards, commissions and other agencies listed in this section:

- (1) To designate, approve, arrange for and contract for an examination site, for each examination held by such agency;
 - (2) To deposit all fees received for testing into a special account to be used for the sole purpose of covering the costs of all agency examination, including test validation;
 - (3) To pay examination services and other expenses directly related to the administration of examinations;
 - (4) To review, approve and execute all contracts for examination services;
 - (5) Review and approve, subject to Sunset Committee review, the content and validity of any examination written, developed or used by a board or commission listed in this section; and
 - (6) Supervise the administration and proctoring of all tests for all boards and commissions.
- (f) The Division of Professional Regulation shall establish a uniform policy for the reimbursement of expenses for members of all boards and commissions listed in this section, which policy shall be set forth in the Division's rules and regulations. In establishing this policy, the Director of Professional Regulation may consider the limits of available appropriations and the need to allocate travel funds for board and commission representation at appropriate national or regional meetings of State professional regulatory boards. In addition to the rate of compensation established in the Delaware Code for each Board or Commission, each member of a Board or Commission listed in this Section may receive reimbursement or partial reimbursement for necessary expenses to attend meetings. Such expenses shall not exceed the mileage rate paid to State employees, per mile actually traveled, or the cost of public transportation and no more than \$10 per meeting for all other miscellaneous expenses.
- (g) The Division of Professional Regulation shall establish policies governing the appropriate times, locations, and notice for meetings and public hearings of all boards and commissions listed in this section so as to promote public participation. Such policies shall be set forth in the Rules and Regulations of the Division. Meetings and hearings may only take place in facilities approved by the Division.
- (h) The Director of Professional Regulation shall insure that all regulatory actions taken by boards and commissions listed in this section are in conformance with the Administrative Procedures Act and the Freedom of Information Act. The Director shall review and approve all legal notices, public notices, and agendas for conformance with these requirements."

Approved July 15, 1988.

CHAPTER 403

FORMERLY

HOUSE BILL NO. 678

AN ACT TO AMEND CHAPTERS 9 AND 22, TITLE 5 OF THE DELAWARE CODE RELATING TO BANK AND LICENSED LENDERS' REVOLVING AND CLOSED END CREDIT.

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

Section 1. Amend Section 952(b), Chapter 9, Title 5, Delaware Code, by deleting such subsection (b) in its entirety and by inserting in lieu thereof the following:

"(b) (1) The bank shall notify each affected borrower of the amendment in the manner set forth in the agreement governing the plan and in compliance with the requirements of the Truth in Lending Act (15 U.S.C. §1601, et seq.) and regulations promulgated thereunder, as in effect from time to time, if applicable; provided, however, that if such amendment has the effect of increasing the periodic interest or interest charges to be paid by the borrower, the bank shall mail or deliver to the borrower, at least 30 days before the effective date of the amendment, a clear and conspicuous written notice which shall describe the amendment and shall also set forth the effective date of the amendment and the pertinent information contemplated by the following provisions of this section.

(2) If the amendment has the effect of increasing the periodic interest or interest charges to be paid by the borrower, such amendment shall, except as otherwise provided for herein, become effective as to a particular borrower as of the first day of the billing cycle during which the effective date of the amendment occurs or as of any later date, in either case, in accordance with this section and as stipulated in the notice, so long as the borrower does not, within 30 days of the earlier of the mailing or delivery of the notice of the amendment, furnish written notice to the bank that the borrower does not agree to accept such amendment. The notice from the bank shall include a statement that, absent the borrower's written notice to the bank within 30 days of the earlier of the mailing or delivery of the notice of the amendment that such borrower does not agree to accept such amendment, the proposed amendment will become effective and apply to such borrower and such borrower's account, and the address to which a borrower may send notice of the borrower's election not to accept the amendment. Any borrower who gives a timely notice electing not to accept an amendment shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment; provided, however, that if the borrower does not agree to accept such proposed amendment, the bank may convert the borrower's account to a closed end credit account as governed by Chapter 9, Subchapter III of Title 5, on credit terms substantially identical to or more favorable to the borrower than those set forth in the then existing agreement governing the borrower's account and the borrower will continue to be subject to the terms of the existing agreement or the more favorable terms until the borrower's account balance is paid in full. As a condition to the effectiveness of any notice that a borrower does not accept such amendment, the bank may require the borrower to return to it all credit devices. If after 30 days from the mailing or delivery by the bank of a proposed amendment, a borrower uses a credit device to obtain credit under a plan, notwithstanding that the borrower has prior to such use given the bank notice that the borrower does not accept an amendment, the amendment shall be deemed to have been accepted and shall become effective as to the borrower and the borrower's account as of the date that such amendment would have become effective but for the giving of notice by the borrower.

(3) Notwithstanding (b) (2) above, the bank may also amend the agreement governing the plan by requiring that any amendment shall become effective only if the borrower uses the plan after a date specified in the notice of the proposed amendment which is at least 30 days after the giving of the notice (but which need not be the date the amendment becomes effective) by making a purchase, obtaining a loan or if the borrower indicates to the bank in writing such borrower's express agreement to the amendment. Any such amendment may become effective as to a particular borrower as of the first day of the billing period during which such borrower so used such borrower's account or so indicated agreement to the amendment. Any borrower who fails to use such borrower's account or so to indicate agreement to an amendment shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment subject

to the right of the bank to convert the borrower's account to a closed end credit account as provided in (b) (2) above."

Section 2. Amend Subchapter II, Chapter 9, Title 5, Delaware Code, by adding a new Section 975 to read as follows:

"§975. Commissioner's Regulations.

The State Bank Commissioner may prescribe regulations to carry out the purpose of this chapter."

Section 3. Amend Section 2224(d), Chapter 22, Title 5, Delaware Code, by deleting subsection (d) in its entirety, and inserting in lieu thereof the following:

"(d) For purposes of this section, the following shall not be deemed an amendment which has the effect of increasing the interest to be paid by the borrower:

(1) a decrease in the required amount of periodic installment payments;

(11) a change in the schedule of formula used under a variable rate plan under Section 2217 of this chapter provided that the initial interest rate resulting from such change is not an increase."

Section 4. Amend Section 2224, Title 5, Chapter 22, Delaware Code, by deleting subsection (b) thereof in its entirety and inserting in lieu thereof the following:

"(b) (1) The licensee shall notify each affected borrower of the amendment in the manner set forth in the agreement governing the plan and in compliance with the requirements of the Truth in Lending Act (15 U.S.C. §1601, et seq.) and regulations promulgated thereunder, as in effect from time to time, if applicable; provided, however, that if such amendment has the effect of increasing the interest or other charges to be paid by the borrower, the licensee shall mail or deliver to the borrower, at least 30 days before the effective date of the amendment, a clear and conspicuous written notice which shall describe the amendment and shall also set forth the effective date of the amendment and the pertinent information contemplated by the following provisions of this section.

(2) If the amendment has the effect of increasing the interest or other charges to be paid by the borrower, such amendment shall become effective as to a particular borrower as of the first day of the billing cycle during which the effective date of the amendment occurs or as of any later date, in either case, in accordance with this section and as stipulated in the notice, so long as the borrower does not, within 30 days of the earlier of the mailing or delivery of the notice of the amendment, furnish written notice to the licensee that the borrower does not agree to accept such amendment. The notice from the licensee shall include a statement that, absent the borrower's written notice to the licensee within 30 days of the earlier of the mailing or delivery of the notice of the amendment that such borrower does not agree to accept such amendment, the proposed amendment will become effective and automatically apply to such borrower and such borrower's account, and the address to which a borrower may send notice of the borrower's election not to accept the amendment. Any borrower who gives a timely notice electing not to accept an amendment shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment; provided, however, that if the borrower does not agree to accept the proposed amendment, the licensee may convert the borrower's account to a closed end credit account as governed by Chapter 22, of Title 5, on credit terms substantially identical to or more favorable to the borrower than those set forth in the then existing agreement governing the borrower's account and the borrower will continue to be subject to the terms of the existing agreement or the more favorable terms until the borrower's account balance is paid in full. As a condition to the effectiveness of any notice that a borrower does not accept an amendment, the licensee may require the borrower to return to it all credit devices. If after 30 days from the mailing or delivery by the licensee of a proposed amendment, a borrower uses a credit device to obtain credit under a plan, notwithstanding that the borrower has prior to such use given the licensee notice that the borrower does not accept an amendment, the amendment shall be deemed to have been accepted and shall become effective as to the borrower and the borrower's account, as of the date that such amendment would have become effective but for the giving of notice by the borrower.

(3) Notwithstanding (b) (2) above, the licensee may also amend the agreement governing the plan by requiring that any such amendment shall become effective only if the borrower uses the plan after a date specified in the notice of the proposed

amendment which is at least 30 days after the giving of the notice (but which need not be the date the amendment becomes effective) by making a purchase or obtaining a loan or if the borrower indicates to the licensee in writing such borrower's express agreement to the amendment. Any such amendment may become effective as to a particular borrower as of the first day of the billing period during which such borrower so used such borrower's account or so indicated agreement to the amendment. Any borrower who fails to use such borrower's account or so to indicate agreement to an amendment shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment subject to the right of the licensee to convert the borrower's account to a closed end credit account as provided in (b) (2) above."

Approved July 15, 1988.

CHAPTER 404

FORMERLY

HOUSE BILL NO. 548

AN ACT TO AMEND CHAPTER 69 AND CHAPTER 88 OF TITLE 29 OF THE DELAWARE CODE RELATING TO CENTRALIZED PURCHASING BY THE DIVISION OF PURCHASING FOR CERTAIN COMMODITIES BY ALL DEPARTMENTS AND AGENCIES WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

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

Section 1. Amend Section 6903 Chapter 69, Title 29, Delaware Code by adding a new subsection (j) to read as follows:

"(j) Every State department and agency within the Executive Branch of the State Government shall procure all fuel oil, diesel oil, gasoline, automobiles, automotive supplies, office furniture and office supplies and stationery through the Statewide contract awarded by the Division of Purchasing, Department of Administrative Services in accordance with such rules and regulations as said Division shall from time to time adopt. All such purchases shall be made through the Division of Purchasing established pursuant to Section 8807 of this Title. The Secretary of Administrative Services shall from time to time designate by and with the consent of the Governor such other commodities to be added to the list of products which must be purchased through Statewide contracts administered by the Division of Purchasing. Due to obligations incurred to bondholders, the operations of the Delaware Transportation Authority are specifically excepted from the requirements of this subsection. Those State agencies not subject to these mandatory provisions are invited and encouraged, to their aid and benefit, to participate in the centralized procurement system established herein."

Section 2. Amend subparagraph (1), subsection (b), Section 8807, Chapter 88, Title 29, Delaware Code by adding after the word "participate", the words "or which are required to have a system of centralized purchasing by Section 6903 of this Title".

Approved July 15, 1988.

CHAPTER 405

FORMERLY

HOUSE BILL NO. 464

AN ACT TO AMEND CHAPTER 5, Title 13 OF THE DELAWARE CODE RELATING TO CHILD SUPPORT ORDERS.

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

Amend paragraph (2), subsection (d) Section 513, Chapter 5, Title 13, Delaware Code by adding the following language after the word "agent." the following:

"In addition to any other manner or type notice for the purposes of this paragraph shall include but not be limited to mailing by the Petitioner of copy of the modification petition by certified or registered mail, return receipt requested, to the last known address of the Respondent. Said notice shall be effective on the date of delivery or first attempted delivery whichever first occurs."

Approved July 15, 1988.

CHAPTER 406

FORMERLY

HOUSE BILL NO. 365

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO CHILD SUPPORT ENFORCEMENT.

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

Section 1. Amend Subsection 513 (f), Chapter 5, Title 13, Delaware Code, by deleting the words "mailed by certified mail return receipt requested" as those words appear in the first sentence of said subsection.

Approved July 15, 1988.

CHAPTER 407

FORMERLY

HOUSE BILL NO. 376

AN ACT TO AMEND CHAPTER 1, TITLE 17 OF THE DELAWARE CODE RELATING TO THE REGULATION OF TRAFFIC.

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

Section 1. Amend Section 141(b), Chapter 1, Title 17, Delaware Code by striking the period after the word "Secretary" and inserting the phrase "or his designee." in lieu thereof.

Approved July 15, 1988.

CHAPTER 408

FORMERLY

HOUSE BILL NO. 341

AN ACT TO AMEND TITLE 16, DELAWARE CODE, ALLOWING THE COLLECTION OF COURT COSTS IN CASES WHERE THE DEFENDANT IS ALLOWED FIRST OFFENDER STATUS.

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

Section 1. Amend Section 4764 of Title 16 of the Delaware Code by adding a new sentence at the conclusion of the present Section which shall read as follows:

"Any person who agrees to be treated under this Section shall by so doing agree to pay the court costs of his prosecution as a condition of probation."

Approved July 15, 1988.

CHAPTER 409

FORMERLY

HOUSE BILL NO. 58
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 41, TITLE 21, DELAWARE CODE RELATING TO THE RULES OF THE ROAD AND THE USE OF CHILD RESTRAINT SYSTEMS.

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 §4199C, Chapter 41, Title 21, Delaware Code by striking §4199C(a) in its entirety and substituting in lieu thereof the following:

"(a) Every person shall be responsible, when transporting a child under the age of 4 years and weighing less than 40 pounds in a motor vehicle operated on the roadways, streets or highways of this State, for providing for the protection of the child by properly using a child passenger restraint system meeting the federal motor vehicle safety standards. The duty imposed by this subsection shall not apply to an operator or passenger of a motor bus, limousine, or taxicab as defined in §1801 of Title 2."

Section 2. Amend §4199C(d), Chapter 41, Title 21, Delaware Code by adding the words "either comparative or" after the word "of" and before the word "contributory," as it appears therein.

Approved July 15, 1988.

CHAPTER 410

FORMERLY

HOUSE BILL NO. 506

AN ACT TO AMEND CHAPTER 27, TITLE 21 DELAWARE CODE, RELATING TO THE DUPLICATION, REPRODUCTION, ALTERING, OR COUNTERFEITING OF DRIVER'S LICENSES OR IDENTIFICATION CARDS.

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

Section 1. Amend Chapter 27 of Title 21 of the Delaware Code by adding a new Section 2760 thereto to read as follows:

"§2760. Duplication, Reproduction, Altering or Counterfeiting of Driver's Licenses or Identification Cards.

(a). A person shall not duplicate, reproduce, alter or counterfeit the following:

(1). A driver's license issued under this Title; or.

(2). An identification card issued under this Title.

(b). A person shall not sell nor offer for sale any duplicate, reproduction, altered or counterfeited driver's license or identification card issued under this Title.

(c). Whoever violates this section shall be guilty of a Class B Misdemeanor. In addition to any fines imposed by the court, the person in violation shall also have his/her driver's license and/or driving privileges suspended for a period of one year.

(d). When a driver's license and/or driving privileges is suspended pursuant to this section, the applicant shall not be eligible for a conditional license, occupational license, work license or any other type of hardship license during the period of suspension."

Approved July 15, 1988.

CHAPTER 411

FORMERLY

SENATE BILL NO. 495

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE RELATING TO CHILD CARE AND DEPENDENT CARE EXPENSE TAX CREDIT.

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

Section 1. Amend §1114 (a), Chapter 11, Title 30, Delaware Code, by striking the words "of 25 percent" and inserting in lieu the words "of 50 percent".

Section 2. This act shall be applied to all tax years beginning on or after January 1, 1989.

CHAPTER 412

FORMERLY

SENATE BILL NO. 269

AN ACT TO AMEND CHAPTER 55, TITLE 30 OF THE DELAWARE CODE, RELATING TO PUBLIC UTILITY TAXES OF DELAWARE MANUFACTURERS WHO USE ELECTRICITY IN AN ELECTROLYTIC OR ELECTROARC THERMAL, OR AIR SEPARATION MANUFACTURING PROCESS.

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

Section 1. §5506, Title 30, Delaware Code, is hereby amended by adding a new subparagraph (g) to read as follows:

"(g) The gross receipts or tariff charges of a distributor of electricity and electrical services attributable to sales of electricity or electrical services for use in an electrolytic or electroarc thermal, or air separation manufacturing process shall be exempt from the tax imposed by this Chapter."

Approved July 15, 1988.

CHAPTER 413

FORMERLY

SENATE BILL NO. 486
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10, CHAPTER 9, SUBCHAPTER III, §932 and §940 OF THE DELAWARE CODE RELATING TO PROCEDURES IN THE FAMILY COURT OF THE STATE OF DELAWARE AND APPEARANCES THEREIN BY THE DEPARTMENT OF JUSTICE.

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

Section 1. Amend §932, Title 10, Delaware Code by deleting the Section in its entirety and by substituting in lieu thereof the following new Section 932 to read as follows:

"§932. Commencement.

Any person having knowledge of a child within the State who appears to be neglected, dependent, or delinquent may file with the Clerk of the Court a petition in writing setting forth the facts verified by affidavit. Neither the Attorney General nor any Deputy Attorneys are required to appear in any proceeding before a Master involving a petition alleging an act of delinquency, but at the Attorney General's sole discretion, may appear in any such proceeding."

Section 2. Amend §940(a), Title 10, Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following new subsection 940(a) to read as follows:

"(a) Prosecution of a person subject to the jurisdiction of the Court who has reached their eighteenth birthday prior to the time of commission of the offense shall be without trial by jury and may be prosecuted either by an information or a complaint. Neither the Attorney General nor any of his Deputy Attorneys General are required to appear to prosecute any such criminal case before a Master."

Approved July 15, 1988.

CHAPTER 414

FORMERLY

HOUSE BILL NO. 124

AS AMENDED BY SENATE AMENDMENT NO. 1, SENATE AMENDMENT NO. 2 TO SENATE AMENDMENT NO. 1
AND SENATE AMENDMENT NO. 4

AN ACT TO AMEND TITLE 13, CHAPTER 15, OF THE DELAWARE CODE RELATING TO ALIMONY.

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

Section 1. Amend Chapter 15, Title 13, Delaware Code by striking Section 1512 in its entirety and substituting in lieu thereof a new Section 1512 to read as follows:

"§1512. Alimony in divorce and annulment actions; Award; Limitations.

(a) The Court may award interim alimony to a dependent party during the pendency of an action for divorce or annulment.

(b) A party may be awarded alimony only if he or she is a dependent party after consideration of all relevant factors contained in subsection (c) in that he or she:

(1) Is dependent upon the other party for support and the other party is not contractually or otherwise obligated to provide that support after the entry of a decree of divorce or annulment;

(2) Lacks sufficient property, including any award of marital property made by the Court, to provide for his or her reasonable needs; and

(3) Is unable to support himself or herself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that he or she not be required to seek employment.

(c) The alimony order shall be in such amount and for such time as the Court deems just, without regard to marital misconduct, after consideration of all relevant factors, including, but not limited to:

(1) The financial resources of the party seeking alimony, including the marital or separate property apportioned to him or her, and his or her ability to meet all or part of his or her reasonable needs independently;

(2) The time necessary and expense required to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment;

(3) The standard of living established during the marriage;

(4) The duration of the marriage;

(5) The age, physical and emotional condition of both parties;

(6) Any financial or other contribution made by either party to the education, training, vocational skills, career or earning capacity of the other party;

(7) The ability of the other party to meet his or her needs while paying alimony;

(8) Tax consequences;

(9) Whether either party has foregone or postponed economic, education or other employment opportunities during the course of the marriage; and

(10) Any other factor which the Court expressly finds is just and appropriate to consider.

(d) A person shall be eligible for alimony for a period not to exceed 50% of the term of the marriage with the exception that if a party is married for 20 years or longer, there shall be no time limit as to his or her eligibility; however, the factors contained in subsection (c) of this Section shall apply and shall be considered by the Court.

(e) Any person awarded alimony has a continuing affirmative obligation to make good faith efforts to seek appropriate vocational training, if necessary, and employment unless the Court specifically finds, after a hearing, that it would be inequitable to require a person awarded alimony to do so (i) at any time, due to (a) a severe and incapacitating mental or physical illness or disability or (b) his or her age, or (ii) immediately, after consideration of the needs of a minor child or children living with him or her.

(f) A party who has in writing before, during or after the marriage waived or released his or her right to alimony shall have no remedy under this Section.

(g) Unless the parties agree otherwise in writing, the obligation to pay future alimony is terminated upon the death of either party or the remarriage or cohabitation of the party receiving alimony. As used in this Section, cohabitation means 'regularly residing with an adult of the same or opposite sex, if the parties hold themselves out as a couple, and regardless of whether the relationship confers a financial benefit on the party receiving alimony'. Proof of sexual relations is admissible but not required to prove cohabitation. A party receiving alimony shall promptly notify the other party of his or her remarriage or cohabitation."

Section 2. The provisions of this Act shall be effective on date of enactment, and shall apply to all actions filed subsequent to the effective date.

Approved July 18, 1988.

CHAPTER 415

FORMERLY

HOUSE BILL NO. 525 AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 95, TITLE 10, DELAWARE CODE RELATING TO SERVICE OF PROCESS AND DEFAULT JUDGMENTS IN JUSTICE OF THE PEACE COURT CIVIL ACTIONS.

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

Section 1. Amend subsection (b), Section 9524, Chapter 95, Title 10, Delaware Code by striking said subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The service and the manner of service shall be stated in the return thus, 'served personally' by the Justice of the Peace Constable or 'served by leaving a copy at the defendant's dwelling house or usual place of abode in the presence of A.B., a person of suitable age and discretion residing therein', with the date of such service, or 'served by certified mail, return receipt requested', and a judgment by default shall not be rendered until the service shall be verified by (1) the Constable's affidavit in writing, or (2) the certified mail return receipt signed by the defendant, or by some person of suitable age and discretion, as agent for the defendant, or with the word 'unclaimed' or 'refused' noted thereon by the postal authorities."

Section 2. Amend subsection (a), Section 9533, Chapter 95, Title 10, Delaware Code by striking the period at the end of said subsection (a) and inserting in lieu thereof the following

", provided however that a defendant, may, within 30 days after a judgment by default, apply to have the judgment vacated if service was made by certified mail, return receipt requested, and the certified mail was returned unclaimed."

Approved July 19, 1988

CHAPTER 416

FORMERLY

HOUSE BILL NO. 540
AS AMENDED BY HOUSE AMENDMENT NOS. 3, 5 AND 6

AN ACT TO AMEND TITLE 21, DELAWARE CODE, RELATING TO THE DISPLAY, LENDING OR POSSESSION OF FICTITIOUS, FRAUDULENT, OR COUNTERFEIT DRIVERS LICENSES OR IDENTIFICATION CARDS AND THE PENALTIES THEREFOR.

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

Section 1. Amend Title 21, Chapter 27, Section 2751, by deleting said section in its entirety and insert a new Section 2751 to read as follows:

"§2751. Unlawful Application for or Use of License or Identification Card."

(a) Fraud in obtaining or attempting to obtain driver's license or identification card -- A person shall not fraudulently obtain or attempt to obtain a driver's license or an identification card by misrepresentation.

(b) Fraud in application for license or identification card -- A person shall not in any application for a driver's license or identification card:

(1) Use a false or fictitious name;

(2) Make a false statement;

(3) Conceal a material fact; or

(4) Otherwise commit a fraud.

(c) Display of cancelled licenses. -- A person shall not display, cause or permit to be displayed, any cancelled license.

(d) Display of revoked licenses. -- A person shall not display, cause or permit to be displayed, any revoked license.

(e) Display of suspended licenses. -- A person shall not display, cause or permit to be displayed, any suspended license.

(f) Display of fictitious licenses or identification cards. -- A person shall not display, cause or permit to be displayed, any fictitious license or identification card.

(g) Display of fraudulently altered license or identification card. -- A person shall not display, cause or permit to be displayed, any fraudulently altered license or identification card.

(h) Possession of cancelled license. -- A person shall not possess any cancelled license.

(i) Possession of revoked license. -- A person shall not possess any revoked license.

(j) Possession of suspended license. -- A person shall not possess any suspended license.

(k) Possession of fictitious license or identification card. -- A person shall not possess any fictitious license or identification card.

(l) Possession of fraudulently altered license or identification card. -- A person shall not possess any fraudulently altered license or identification card.

(m) Lending license. -- A person shall not lend his license to any other person or permit the use of license by another.

(n) Display or representation of license or identification card not one's own. -- A person shall not display or represent as his own any license or identification card not issued to him.

(o) Failure or refusal to surrender license or identification card. -- A person shall not fail or refuse to surrender to the Department on its lawful demand any license or identification card that has been suspended, revoked, cancelled, altered or otherwise fraudulently obtained.

(p) Permitting unlawful use of license or identification card. -- A person shall not permit any unlawful use of a license or identification card issued to him.

(q) Prohibited acts. -- A person shall not do any act forbidden or fail to perform any act required by this title.

(r) Unless otherwise specifically provided for in Chapter 31 of this Title, whoever violates this section shall be guilty of a Class B misdemeanor and shall have his/her driver's license and/or driving privileges suspended for a period to be set by the Court, not to exceed 6 months.

(s) When a driver's license and/or driving privileges is suspended pursuant to this section, the applicant shall not be eligible for a conditional license, occupational license, work license or any other type of hardship license during the period of suspension, except that after 60 days of suspension the applicant may be eligible for a work license which shall be strictly limited to commuting to or from his or her place of employment and such driving as is a necessary part of the duties of said employment.

Section 2. Amend Title 21, Delaware Code, Chapter 31, Section 3107, by deleting said section in its entirety.

Section 3. Amend Title 21, Delaware Code, Chapter 31, by renumbering existing Section 3108 as new Section 3107 and existing Section 3109 as new Section 3108.

Approved July 19, 1988.

CHAPTER 417

FORMERLY

HOUSE BILL NO. 555

AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE CREATING THE EXTREMELY HAZARDOUS SUBSTANCES RISK MANAGEMENT ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Title 7 of the Delaware Code by adding a new chapter to read as follows:

"CHAPTER 77. EXTREMELY HAZARDOUS SUBSTANCES RISK MANAGEMENT ACT.

7701. Short Title.

This Act shall be known and may be cited as the "Extremely Hazardous Substances Risk Management Act."

7702. Findings.

The General Assembly finds that a portion of Delaware's population is potentially exposed to accidental releases of extremely hazardous substances (EHS) which could cause deaths or permanent disabilities to persons experiencing short-term exposure to those substances.

The General Assembly also finds that although modern technology, operating systems, inspection and monitoring programs, and other safeguards cannot guarantee that catastrophic releases of EHS, generation of pressure waves, or thermal exposure will not occur, a well conceived and vigorously managed risk management program (RMP) can reduce the likelihood of such occurrences.

The General Assembly further finds that there is a need to educate the public, the business community, and every person with EHS about the risks of EHS, and the measures that can be taken to minimize the probability of catastrophic events associated with EHS.

7703. Purpose, Goal and Scope.

The purpose of this Chapter is to protect the lives and health of persons living and working in the vicinity of facilities with extremely hazardous substances.

This Chapter is concerned with the prevention of sudden releases of EHS and the generation of pressure waves and thermal exposure beyond the property boundaries of the facility where they occur and the catastrophic health consequences caused by short-term exposure to such accidental releases. This Chapter has the goal of prevention of such catastrophic events by requiring persons having extremely hazardous substances on-site to take all feasible actions needed to minimize the probability of catastrophic events. It is the intent of this Chapter to complement and be enforced in conjunction with other laws. Any equipment or facility regulated by 7 Delaware Code, Chapter 74 shall not be regulated by this Chapter. The Department shall, by regulation, determine whether other laws provide equal or more stringent protection according to the purpose of this Chapter. In such instances, the Department may exclude a particular EHS at a given facility.

Management may select cost effective methods of achieving the purpose of this Chapter where a Department-approved risk management program appropriate to the risk is in effect. EHS already under the jurisdiction of other laws may continue to be used subject to the provisions of this Chapter. Individual containers of EHS for retail sale only are not regulated by this Chapter.

7704. Policy.

The General Assembly believes that every person in control of or associated with an EHS is responsible for operating in a manner consistent with the purpose of this Chapter. It is their obligation to develop and implement a RMP that anticipates and minimizes the chances of catastrophic events. Both the facility RMP and its implementation shall be subject to review and approval by the Department.

The Department shall develop regulations to implement this Chapter. Cost effectiveness, technical feasibility, risk to public health and risk reduction effectiveness are factors that must be considered by the Department in making its findings and developing regulations. In no case shall costs of risk management program provisions be the deciding factor if the result would jeopardize the purpose of this Chapter.

There is hereby established an Extremely Hazardous Substance Committee which shall include, but not be limited to, the Secretaries or their designees of the Department of Natural Resources and Environmental Control; the Department of Agriculture; the Department of Public Safety and the Department of Health and Social Services; the State Fire Marshall or his designee; a member of the Delaware Chemical Industry Council; a member of the Delaware State Chamber of Commerce; a member of the Delaware City Community Awareness Emergency Response Committee; a member of the Citizens Advisory Committee to the Department of Natural Resources and Environmental Control; a member of the Delaware Petroleum Council; a member of the Delaware Citizens for Clean Air; and four members of the General Assembly, two of whom shall be appointed by the Speaker of the House of Representatives and two by the President Pro Tempore of the Senate. The Governor shall designate the chair. The Committee shall guide development of the regulations and other requirements of this Chapter.

In addition to the above Committee, the Department shall develop cooperative agreements as needed with the Division of Public Health, the Department of Public Safety, and any other private or public agency.

7705. Definitions.

As Used In This Chapter:

(a) "Actual Quantity" (AQ) means the sum of all the physical quantities of a specific EHS in whatever form at the maximum design capacity of the facility.

(b) "Board" means the Environmental Appeals Board.

(c) "Catastrophic Event" means a sudden release of a sufficient quantity of an EHS, a pressure wave or a thermal exposure beyond the property boundaries of a facility which will cause death or permanent disability to a person because of a single short-term exposure. In this definition, an accidental fire at a non-regulated facility is excluded from consideration as a catastrophic event creating EHS.

(d) De minimis quantity means the quantity equal to or less than the amount which has catastrophic potential.

(e) "Department" means the Department of Natural Resources and Environmental Control.

(f) "Effective Quantity" (EQ) means that portion of the actual quantity of an EHS to be considered when calculating whether a sufficient quantity could be released. It may be less than the actual quantity if conditions, such as temperature, pressure and physical form, would limit its rate of release to the atmosphere.

(g) "Extremely Hazardous Substance List" (EHS�) means a compilation of EHS that meet the criteria set forth in Section 7707 of this Chapter.

(h) "Extremely Hazardous Substance" means a substance in the form of a gas, liquid, solid, vapor, powder, aerosol, or mixture of these states which has a Substance Hazard Index above 8,000 or has the potential to create a pressure wave or thermal exposure which may cause death or permanent disability beyond the facility.

(i) "Facility" means an area bounded by a property line where a person has EHS present, or the sum of adjacent such areas separated by less than 100 meters under common management control.

(j) "Person" means a natural person, partnership, limited partnership, trust, estate, corporation, custodian, association nominee or any other individual or entity in its own or any representative capacity.

(k) "Potential Release Quantity" means that sum of effective quantities of a specific EHS which might be involved in a catastrophic event. This would not include those effective quantities which are separated by more than 100 meters or are held within appropriate containment as defined by regulation.

(l) "Registration Quantity" (RQ) means the actual quantity of EHS at or above which a person must register a facility with the Department on an annual basis.

(m) "Release" means the introduction of an EHS into the atmosphere that, by means of atmospheric dispersion under average atmospheric conditions for Delaware, will cause an EHS to be conveyed outside of a facility or the generation of a pressure wave or a thermal exposure beyond the facility's boundary.

(n) "Risk Management Program" means all activities intended to reduce risk, including, but not limited to, the consideration of technology, personnel and facilities, and as more fully described in Section 7710 of this Chapter.

(o) "Secretary" means the Secretary of the Department of Natural Resources and Environmental Control or his designee.

(p) "Substance Hazard Index" (SHI) means a calculated number which relates the relative danger of a substance considering substance toxicity and ability to disperse in the atmosphere as specified in Section 7707 of this Chapter.

(q) "Sufficient Quantity" (SQ) means the amount of EHS sufficient to cause a catastrophic event. The sufficient quantity shall be calculated based on commonly recognized atmospheric modeling procedures and mortality/exposure probabilities calculated for an average individual.

7706. Regulations.

(a) The Secretary may adopt, amend, modify or repeal regulations after public hearing, to effectuate the policy and purpose of this Chapter.

(b) Expenses incurred by the Department for the development of this Chapter and its regulations shall be funded from the State General Fund.

(c) The Department shall solicit the involvement of interested persons in the development of regulations, at a minimum to include those listed in Section 7704 of this Chapter.

7707. Extremely Hazardous Substance List.

(a) Within 14 months of the effective date of this Chapter, the Department shall develop and adopt regulations for the identification

of extremely hazardous substances. The Department shall identify the

RQ and SQ of EHS that require registration and regulation. An EHSL shall be developed based on the following criteria:

(1) Extremely toxic substances:

Substances are regulated because of their
extreme toxicity, dispersability and quantity.

Each substance shall be assigned a

Substance Hazard Index (SHI) number to rank the risk
associated with the substance.

The SHI is derived as follows:

$$SHI = \frac{EVC}{ATC}$$

ATC

Where: ATC is the acute toxicity concentration in parts per million defined as the lowest reported concentration, based on recognized scientific protocols, that will cause death or permanent disability to humans from an exposure

duration of one hour. Extrapolations from various sources of data are permitted using scientifically recognized methods. If toxicity data based on recognized scientific protocols are unavailable, the EHS ATC is set at 10.0 parts per million.

Where: EVC is the equilibrium vapor concentration at 20 degree C. defined as the substance vapor pressure at 20 degrees C. in millimeters of mercury multiplied by one million divided by 760. For powders, solids, or aerosols, the substance vapor pressure is replaced by the maximum substance concentration that can be conveyed in air after a settling distance of 100 meters from the point of emission.

(2) Explosive Substances:

Substances are to be regulated because of their extreme reactivity, instability or explosiveness and creation of associated

pressure waves, either inside of confined spaces or in the open atmosphere. The sufficient quantity shall be calculated

based on commonly recognized procedures to predict the potential impact of a given substance.

(3) Flammable and Combustible Substances: Substances are regulated because of their ability to ignite and burn rapidly, thus creating the possibility of high thermal exposure. The sufficient quantity shall be calculated based on commonly recognized procedures to predict the burning characteristics, fire size, thermal radiation generation and dissipation with distance, and the consequences of a fire. Industry standards such as National Fire Prevention Act 30 may be used as a basis for defining compliance with the terms and conditions of this Chapter.

(b) The Department shall have the power to amend, by regulation, the identification of EHS and the EHSI on the basis of information or scientific data that may become available to the Department.

(c) For a given EHS, the RQ equals one-half of its SQ and the de minimis quantity equals 10 pounds or less.

7708. Changed Circumstances.

(a) The Department shall issue regulations which require persons whose EHS circumstances have changed, to apply for recalculation of the RQ and sufficient quantity. Recalculation shall be considered by the Department in circumstances where the distance between the location of a sufficient quantity of EHS and the property line exceeds 100 meters or where the Department determines that other scientifically credible factors exist. In such cases, the RQ and sufficient quantity shall be recalculated using the procedures in Section 7707 and the actual separation distance.

(b) Facilities which have de minimis quantities of EHS are not regulated by this Chapter. At a given facility, multiple inventories of EHS need not be added together to determine the PRQ, provided such inventories are present in separate containment areas with an RMP as determined by regulation.

7709. Registration.

(a) Registration of Persons with Extremely Hazardous Substances:

(1) Within 14 months of the effective date of this Chapter

the Department shall prepare a registration form and shall issue public notice for all persons to register any EHS in an amount equal to or greater than its RQ. Each person shall return the completed registration form and the fee, if required, to the Department within 60 days of the issuance of the notice and annually thereafter, and attest compliance with the provisions of this Chapter and its regulations.

The registrant shall provide the following information:

- Identifying information . Facility name,
address, telephone number, and contact person.

- A list of each EHS present above its RQ at each facility, the annual usage actual quantity present, and the potential quantity present.
- A declaration whether or not a facility's emergency plan is in effect and available for Department inspection or a schedule for the implementation of such a plan.
- An identification of insurance coverage with the name, address and telephone number of the carrier or a statement of self-insurance.
- Other information essential to the purpose of the Chapter as defined by regulations.

The Department shall hold this information as confidential unless such information is already a matter of public record or disclosure is required by law.

7710. Risk Management Program.

(a) Within 14 months of the effective date of this Chapter, the Department shall adopt, pursuant to Section 7706 regulations stating the critical provisions of a risk management program. The provisions will include, but not be limited to:

- (1) Design standards review.
- (2) Modification control and documentation of equipment and procedural changes.
- (3) Hazard review of all processes and equipment associated with EHS with an emphasis on preventing, avoiding, minimizing, and containing extreme risks.
- (4) Operating instructions.
- (5) Maintenance and inspection procedures and requirements for all equipment in extremely hazardous substance services.
- (6) Operator training program with a means of determining proficiency.
- (7) Incident investigation procedures and remedial action requirement.
- (8) Inspection and auditing requirements.

Compliance with each of these provisions must be documented by written records. Each of those provisions shall be updated as required.

(b) All persons with a potential release quantity equal to or exceeding the sufficient quantity of an EHS must implement a RMP appropriate to the facility risk within 12 months of the adoption of the regulations.

(c) Persons are required to attest to the Department that a Risk Management Program which meets Department criteria is in place at the facility. The RMP shall be available to the Department for review at each facility at scheduled inspections.

7711. Inspection.

- (a) Inspection Program Components.

Essential components of a facility inspection shall include at a minimum: (1) a sampling of all required RMP documentation; (2) a physical inspection limited to equipment associated with EHS to verify implementation of the RMP; (3) evidence of the application of engineering and maintenance standards associated with EHS substances; and (4) sampling interviews of personnel associated with EHS to verify that the provisions of the RMP have been implemented.

(b) Confidential Information:

All information, written, verbal, or observed, obtained pursuant to this Chapter by the Department will be held as confidential unless such information is already a matter of public record or disclosure is required by law.

(c) Inspection Program Schedule:

The Department shall develop and issue a phased initial inspection program on the basis of degree of risk. Facilities with extremely hazardous substances having the highest substance hazard indexes shall be inspected before facilities with lower indexed extremely hazardous substances. Facility inspections shall start 12 months after adoption of the risk management program regulations.

The Secretary may determine the frequency of inspection of a specific facility, based on (1) compliance history, or (2) the recent occurrence of an incident involving an extremely hazardous substance, or (3) recent compliance with the provisions of this Chapter. Each facility shall be inspected at least once every three years.

(d) Inspection Protocol:

All inspections shall be conducted by trained and tested State personnel or representatives. All inspections shall be conducted within the limits of a thorough Risk Management Program Inspection Protocol issued by the Department and adopted after public hearing. The Protocol consists of specific questions, facility characteristics, required RMP components, physical observations, and interviews.

(e) Inspection Training Program:

Within 14 months of the effective date of this Act, the Department shall have a training program to periodically educate and test State employees or representatives responsible for inspecting regulated facilities. The program shall also be available to personnel responsible for operation of facility risk management programs in accordance with the purpose of this Chapter. Preparation of such a training program shall make full use of appropriate available resources. Successful completion of such a training program is a requirement for all State employees or representatives responsible for inspecting regulated facilities or dealing with implementation of this Chapter.

(f) Access to Facilities and Records:

The Department has the right to enter any facility at any time to verify compliance with the provisions of this Chapter. Inspections for the purpose of document review shall be scheduled with the facility with reasonable advance notice and, when possible, mutual agreement. Inspectors shall comply with all safety regulations of the facility.

(g) A letter of compliance or noncompliance shall be issued promptly by the Department to the facility following inspection and evaluation of its risk management program.

(h) Resolution of Unfavorable Inspection Findings:

If upon Department inspection, deficiencies or omissions in the facility risk management programs are identified, the Department shall issue a written notice of non-compliance and recommend program improvements. Within 60 days after receiving the Department's recommendations, the person shall notify the Department of changes and additions to improve the risk management program or will present a remediation plan and schedule for the Department's approval.

(i) If the person(s) and the Department agree on measures to correct risk management program deficiencies or omissions, the parties may enter into a written agreement.

(j) If, after notice to the facility and an administrative hearing with written findings, the parties are unable to reach an agreement on improvements to the facility

risk management program to bring it into compliance, the Department shall issue an administrative order requiring correction of deficiencies of the risk management program including a schedule for the corrections.

(k) If upon Department inspection and notice to the facility a functioning risk management program is lacking and a situation exists which demonstrates the purpose of this Chapter is in real and imminent jeopardy, the Department may promptly seek injunctive relief in Chancery Court.

7712. Notification Requirements.

Construction and operating permits shall be granted by State agencies for facilities and equipment involving extremely hazardous substances regulated under this Chapter only after notification by those agencies to the Department, and written confirmation by any person involved that the permit applicant has been notified of the requirements of this Chapter and its regulations.

7713. Information Program.

(a) (1) Within 14 months of the adoption of the regulations, the Department, assisted by the Division of Public Health of the Department of Health and Social Services, the Department of Public Safety and the Delaware Development Office shall prepare and implement an information program designed to inform the general public, local public officials and the business community about the requirements of this Act and regulations adopted pursuant thereto, about the health risks of accidental releases of extremely hazardous substances and about means available to minimize the chances of accidental catastrophic releases of such substances.

(2) The information program shall include information about current risk management programs of industrial companies and business establishments in Delaware as well as emergency plans, public and private, to protect the public in cases of catastrophic accidental releases of extremely hazardous substances. The Department may cooperate with other groups for purposes of this program.

7714. Fees.

(a) The Department is authorized to charge and collect fees from persons with extremely hazardous substances registered pursuant to Section 7709 of this Chapter. Fees shall be \$1,000 per year for a facility with one potential release quantity present in excess of the sufficient quantity. The fee shall increase \$250 per year for each additional extremely hazardous substance present in excess of the sufficient quantity. Funding requirements in excess of the amount collected by the above registration system shall be provided from the State General Fund.

(b) The Department may assess a fee to cover additional actual cost to the Department in any facility whose submitted registration data or whose records made available during inspection are inaccurate or incomplete to the extent that the registration and/or inspection of the facility cannot be accomplished within a reasonable time. The Department shall include with the assessment, a documentation of its findings or condition of the records on which the assessment is based.

(c) All fees collected under this section are hereby appropriated to the Department for its use for the purposes of this Chapter.

7715. Violations and Penalties.

(a) If any person violates any of the provisions of this Chapter, or any rule, regulation or order promulgated or issued pursuant thereto, the Department may institute a civil action in Chancery or Superior Court or any other appropriate relief to prohibit or prevent this violation.

(b) In addition to the remedies set forth in subsection (a) one of the following shall apply:

(1) Whenever the Secretary determines that any person has failed to register or does not have a substantially complete Risk Management program in place as required by Section 7710 within 12 months after adoption of the regulations, such person shall be liable for an administrative penalty of up to \$10,000 per day of violation and the Secretary may order those operations that present a real and imminent hazard to cease, after notification to the person.

All penalties collected under this subsection are hereby appropriated to the Department for its use for the purpose of this Chapter.

(2) Whenever the Secretary determines that any person is in substantial non-compliance with a provision of the Risk Management Program for the facility, such person shall be liable for an administrative penalty of up to \$10,000 for each day of the violation. Upon a finding of significant hazard to the public, the Secretary may seek injunctive or other relief in Chancery Court to order those hazardous operations to cease and desist. All penalties collected under this subsection are hereby appropriated to the Department for its use for the purposes of this Chapter.

(c) Prior to assessment of an administrative penalty, written notice of the Secretary's proposal to impose such penalty shall be given to the violator, and the violator shall have thirty (30) days from receipt of the notice to request a public hearing. Any public hearing, right of appeal and judicial appeal shall be conducted pursuant to Section 7716. The amount of an Administrative Penalty shall be determined based on the nature, circumstances, extent and gravity of the violation or violations, and such other matters as justice may require.

Simultaneous violations of more than one provision of the RMP shall be treated as a single violation for each day.

In the event of non-payment of the Administrative Penalty after all legal appeals have been exhausted, a civil action may be brought by the Secretary in a court of competent jurisdiction for the collection of the Administrative Penalty, including interest, attorney's fees and costs. The validity, and appropriateness of such Administrative Penalty shall not be subject to review.

(d) Any person who willfully or intentionally violates a material provision of this Chapter or of a RMP shall be subject to a criminal fine of not more than \$25,000 for each day of such violation or imprisonment of 1 year or both. The Superior Court shall have jurisdiction of offenses under this subsection. The Secretary may order those operations that pose a hazard to the public to cease.

(e) Compliance with this Chapter shall not constitute a defense for a violation of any other law or regulation of the State of Delaware.

7716. Hearings.

Hearings conducted pursuant to this Chapter shall be conducted as follows:

(a) Not less than 20 days notice shall be published in a newspaper of general circulation in the county in which the activity occurred or is to occur, and in a daily newspaper of general circulation throughout the State.

(b) Such notification shall include: (1) a brief description of the subject of the hearing, (2) time, date, and place of hearing; and (3) time and place where copies of material may be obtained.

(c) The parties may appear personally or by counsel at the hearing and produce any competent evidence in their behalf. The Secretary or the Board or its duly authorized designee may administer oaths, examine witnesses and issue, in the name of the Department, or the Board, notices of hearings or subpoena requiring the testimony of witnesses and production of books, records or other documents relevant to any matter involved in such hearing. In case of refusal to obey a notice of hearing or subpoena under this section, the Superior Court in the county in which the hearing is held shall have jurisdiction upon application of the Secretary, or the Chairman of the Board, to issue an order requiring such person to appear and testify or produce evidence as the case may require.

(d) A record from which a verbatim transcript can be prepared shall be made of all hearings and shall, along with the exhibits and other documents introduced by the Secretary or other party, constitute the record. The expense of preparing any transcript shall be borne by the person requesting it. The Secretary or the Board or a duly authorized designee shall make findings of fact based on the record. The Secretary or the Board shall then enter an order that will best further the purpose of this Chapter, and the order shall include reasons. The Secretary shall promptly give written notice to the persons affected by such order.

(e) The Secretary may establish a fee schedule for hearings. Any fees collected under this Chapter are hereby appropriated to the Department to carry out the purpose of this Chapter. The Secretary shall report through the annual budget process the receipt, proposed use and disbursement of these funds. Hearing fees are to be paid by the person requesting the hearing.

7717. Appeals.

(a) Any person whose interest is substantially affected by any action of the Secretary may appeal to the Environmental Appeals Board within 20 days after the Secretary has announced the decision. The Board may affirm, modify or reverse the decision of the Secretary.

(b) Whenever a decision of the Secretary is appealed, the Board shall hold a public hearing in accordance with Section 7716 of this title.

(c) If the Secretary is overruled by the Board, the Board shall state reasons for its decision.

(d) Any person or persons, jointly or severally, or any taxpayer, or any officer, department, or board of the State, aggrieved by any decision of the Board, may appeal to the Superior Court in and for the County in which the activity in question is wholly or principally located by filing a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Any such appeal shall be perfected within 30 days of the decision of the Board. If the Board fails to issue a decision within 90 days following the receipt of the appeal, the decision of the Secretary shall be considered as affirmed by the Board.

(e) The Court may affirm, reverse or modify the Board's decision. The Board's findings of fact shall not be set aside unless the Court determines that the record contains no substantial evidence that would reasonably support the findings. If the Court finds that additional evidence should be taken, the Court may remand the case to the Board for completion of the record.

(f) No appeal shall operate to stay automatically any action of the Secretary but upon application, and for good cause, the Board or the Court of Chancery may stay the action pending disposition of the appeal.

7718. Inconsistent Laws Superseded.

All laws or regulations inconsistent with any provision of this Chapter are hereby superseded to the extent of the inconsistency; provided, however, that rights of person(s) to recover damages shall not be affected by this Chapter."

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved July 19, 1988.

CHAPTER 418

FORMERLY

HOUSE BILL NO. 587
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND VOLUME 64, CHAPTER 215, LAWS OF DELAWARE, AS AMENDED, RELATING TO THE CHARTER OF THE CITY OF HARRINGTON.

WHEREAS it is deemed advisable that the Charter of the City of Harrington, contained in Chapter 215, Volume 64, Laws of Delaware, as amended, be in certain respects further 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):

Section 1. Amend subsections (d) and (e), Section 7, Chapter 215, Volume 64, Laws of Delaware, as amended, by striking said subsections in their entirety and substituting in lieu thereof the following:

"(d) Every resident of the City of Harrington who shall have reached the age of eighteen (18) years by the date of the election and who is properly registered to vote as required in subsection (e) hereinafter shall be entitled to vote at the regular or any special municipal elections. Any qualified voter, duly registered, who shall be unable to appear to cast a ballot at any election either because of being in the public service of the United States or of the State of Delaware, or because the voter will be unavoidably absent from the City of Harrington on the date of the election, or because of the voter's sickness or physical disability, may cast a ballot by means of absentee voting in advance of the election.

(e) For the regular municipal election to be held in the City of Harrington in January of 1989, and for each year thereafter, a voter will be considered properly registered to vote if the voter is properly registered to vote for State of Delaware elections in accordance with the provisions of Title 15 of the Delaware Code, as amended. For the regular municipal election in January of 1989, and any regular or special election in the City of Harrington thereafter, a voter must be properly registered to vote at least twenty-one (21) calendar days in advance of the municipal election in order to vote."

Approved July 19, 1988.

CHAPTER 419

FORMERLY

HOUSE BILL NO. 602

AN ACT TO AMEND CHAPTER 100, TITLE 29, DELAWARE CODE RELATING TO THE FREEDOM OF INFORMATION ACT.

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

"Section 1. Amend Chapter 100, Title 29 of the Delaware Code by redesignating the present subsection (g) of Section 10004 as subsection (h) and inserting a new subsection (g) which shall read as follows:

'(g) Every regularly scheduled meeting of a public body shall be held within the geographic jurisdiction of that public body. All such other meetings shall be held as follows:

(1) A public body serving any political subdivision of the State, including, but not limited to, any city, town or school district, shall hold all such other meetings within its jurisdiction or the county in which its principal office is located.

(2) For the purposes of this subsection, a "regularly scheduled meeting" shall mean any meeting of a public body held on a periodic basis.

(3) The provisions of this subsection, in so far as they are not practicable, shall not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health, or safety, or to a meeting held by a public body outside of its jurisdiction which is necessary for the immediate preservation of the public financial welfare."

Approved July 18, 1988.

CHAPTER 420

FORMERLY

HOUSE BILL NO. 617

AN ACT TO AMEND CHAPTER 81, TITLE 9, DELAWARE CODE, RELATING TO COUNTY AND OTHER POLITICAL SUBDIVISION TAXATION OF PARKLAND.

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 Delaware Code, Title 9, Chapter 81, by adding a new Section 8109, to read as follows:

"Section 8109. Civic Organizations Owning Parkland.

(a) As used in this section,

(1) The term "civic organization" shall be defined as any non-profit organization that is the owner of parkland, as defined herein, provided that:

a. The organization is not organized for profit or is qualified as an exempt organization under Section 501 (c) of the Internal Revenue Code of 1954, as amended; and

b. No part of the net earnings of the organization inures to the benefit of any private shareholder or individual; and

c. Upon liquidation or dissolution of the organization, or abandonment by the organization, none of the assets of the organization nor benefits from its property will inure to the benefit of any person or organization except a community chest, fund, foundation, government, governmental agency, civic organization, maintenance corporation, or other non-profit organization.

(2) The term "parkland" shall be defined as real property, including improvements erected thereon and fixtures attached thereto, used primarily for recreational purposes and dedicated as parkland, public open space, private open space, or other public use on a recorded subdivision plan, or through valid and binding restrictive covenants, provided that:

a. The property is not used by the civic organization or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor or bondholder of the organization or operator or any other person through the distribution of profits or the payment of excessive compensation; and

b. The property is used for recreational purposes; and

c. The use of the property is open, without charge, to the public, or to members of the civic organization, or to the residents of the neighborhood, or to residents of the community, or to residents of the subdivision in which the property is located, regardless of sex, race, creed, color or national origin.

(b) No parkland owned by a civic organization shall be liable to taxation and assessment for public purposes by any county or other political subdivision of the State or County.

(c) Any taxes heretofore levied by any county or other political subdivision of the State or County on any such parkland owned, at the time of said levy, by a civic organization are voidable and the Counties and political subdivisions of the State shall remove said taxes from their records upon receipt of an application filed by the organization establishing its entitlement under this section.

(d) This Act shall not affect any taxes levied on any such property at any time prior to its acquisition by the civic organization, and such taxes, and any penalty that may accrue thereon, shall remain a lien against the property in accordance with the provisions of the title."

Approved July 18, 1988.

CHAPTER 421

FORMERLY

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

AN ACT TO AMEND CHAPTER 13, TITLE 14 OF THE DELAWARE CODE RELATING TO AUTISTIC PUPILS.

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

Section 1. Amend §1332, Title 14 of the Delaware Code by deleting subsection (f) and by substituting in lieu thereof the following:

"(f) The State Board of Education shall adopt such rules and regulations to establish and provide for Parent Advisory Committees, a Peer Review Committee, a Human Rights Committee, and appropriate liaisons with the Department of Health and Social Services. The State Board of Education shall adopt such rules and regulations to establish and provide for an Autistic Program Monitoring Board, to be composed of no less than seven (7) members and which shall include one (1) non-voting public representative nominated annually by the statewide Parent Advisory Committee. Such representative shall not have any child enrolled in the program. The Statewide Autistic Monitoring Review Board shall review at least annually the identification, evaluation, and educational program and placement of each autistic pupil and the provision for a free appropriate public education to such pupils. Disputes within or between districts or agencies shall be resolved by this Board. Procedural safeguards guaranteed to autistic pupils, their parents or guardians and to local school districts or agencies shall not be diminished by this provision."

Approved July 18, 1988.

CHAPTER 422

FORMERLY

SENATE BILL NO. 491
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, TITLE 29, DELAWARE CODE, RELATING TO SURVIVOR PENSIONS.

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

Section 1. Amend §5527, Chapter 55, Title 29 of the Delaware Code, by adding a new subsection (g) to read as follows:

"(g) Notwithstanding provisions of this Section to the contrary an employee may elect to have his or her service or disability pension, computed under this Section, reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to his eligible survivor or survivors at the time of his death. This election must be made in a form approved by the Board, filed prior to the issuance of his or her first benefit check and shall be irrevocable."

Section 2. Amend §5528(a), Chapter 55, Title 29 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection "a" to read as follows:

"(a) Upon the death of an employee who has 5 years of credited service, exclusive of service credited under §5501(b)(4) or (5) of this Title, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to 3/4 of the service pension for which the employee would have been eligible if he or she had been 62 years of age and had elected the option provided under §5527(g), provided that such pension shall not be calculated under §5527(a)(1)(i) of this Title unless a pension would have been payable under this Chapter in effect immediately prior to the effective date of the 1976 Pension Act. A survivor's pension shall begin with the month following the month in which the employee dies. If payable to a widow or widower, it shall cease with the month in which the survivor dies. If payable to a parent, it shall cease with the month in which the parent dies. If payable to a child, it shall cease with the month in which the child dies or fails to meet the conditions of eligibility in paragraph (2) of subsection (d) of this Section."

Section 3. Amend §5528(b), Chapter 55, Title 29 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection "(b)" to read as follows:

"(b) Upon the death of an individual receiving a service or disability pension at the time of his or her death, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to the greater of (i) 1/2 of such service or disability pension, or (ii) if such pension was computed under §5527(g) 3/4 of such service or disability pension, provided that upon the death of an individual who had not attained age 62 and was receiving a service pension at the time of his or her death, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to the greater of (i) 1/2 of the service pension for which the individual would have been eligible if he or she had been 62 years of age, or (ii) 3/4 of the pension for which the individual would have been eligible if he or she had been 62 years of age and had elected the option provided under §5527(g).

A survivor's pension shall begin with the month following the month in which the pensioner dies. If payable to a widow or widower, it shall cease with the month in which the survivor dies. If payable to a parent, it shall cease with the month in which the parent dies. If payable to a child, it shall cease with the month in which the child dies or fails to meet the conditions of eligibility in paragraph (2) of subsection (d) of this Section."

Section 4. The effective date of this Act shall be July 1, 1989, if funded in the Fiscal 1990 budget.

Approved July 19, 1988.

CHAPTER 423

FORMERLY

HOUSE BILL NO. 446

AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2, HOUSE AMENDMENT 1 TO HOUSE AMENDMENT NO. 2,
AND HOUSE AMENDMENT NO. 3AN ACT TO AMEND DELAWARE CODE, TITLE 10, RELATING TO THE VACATION OF DEDICATED OPEN SPACE
AND PARKLAND.

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

Section 1. Amend Delaware Code Title 10, Part IV by adding a new Chapter 62 as follows:

"CHAPTER 62. VACATING THE DEDICATION OF OPEN SPACE AND PARKLAND

§6201. Jurisdiction of Superior Court.

(a) The Superior Court shall have exclusive jurisdiction to vacate any dedication of open space or parkland accepted by any county or municipality whether or not title has been accepted. The Court shall, in its final order, decide all questions raised concerning the vacation including the award of damages.

(b) The several counties and municipalities are prohibited from vacating any dedication of open space or parkland except in accordance with the procedures established in this Chapter.

(c) This Chapter shall not preclude any county or municipality from seeking equitable relief in the Court of Chancery for this State on any issue, including, but not limited to, injunctive relief, actions to acquire or quiet title, declaratory judgment or any other matter in the nature of an equitable remedy.

§6202. Application of Chapter.

(a) This Chapter establishes and shall exclusively govern procedures by which a dedication accepted by a county or municipality may be vacated. This Chapter shall not apply, however, to the vacation of streets, roads, or highways dedicated for the use of the general public or to easements or rights of way for drainage or utilities related to said streets, roads, or highways.

(b) Neither through the procedures established in this Chapter, nor through any other procedure in law or in equity shall the dedication of any parcel of land be vacated, which parcel is part of a public park or recreation area which:

(1) Is five acres or more in size; and

(2) Has been operated or maintained as a public park or recreation area for one year or longer.

§6203. Petition for vacation; notice requirements.

(a) In any action commenced in Superior Court, the person who holds legal title to the dedicated open space or parkland, the owner of the property abutting said dedicated, or the county or municipality in which said dedicated property is located, may apply to the Superior Court of such county or municipality for the vacation thereof, by first giving notice to the county or municipality if it is not the applicant, to the person holding the legal title to said dedicated property, to all persons owning property abutting or contiguous to said dedicated property, and to all persons owning property within a subdivision in which said dedicated property is located, by mailing to the county and to such persons or their legal representatives, if known, at their last known address, written notice of their intent to file such petition with the Court at least 10 days prior to filing.

(b) Upon filing any petition in Superior Court to vacate a dedication, formal notice shall be provided by the petitioner to the chief executive officer(s) of the county or municipality in which the dedicated property is located, by service of process as provided by law. Written notice by registered mail, return receipt requested, to such party or legal representative at their last known post office address at the time of the filing of the application shall also be made upon the person holding legal title to said property, upon all persons owning property abutting or contiguous to said dedicated property, upon all persons owning property

within a subdivision in which said dedicated property is located and upon any persons owning property not in the subdivision but within two-hundred yards of said dedicated property and by posting signs along the lot lines of the dedicated property proposed to be vacated clearly indicating the intent to vacate said property, at least 20 days prior to the hearing date set by the Court on such petitions and also by publishing notice at least once a week for 2 consecutive weeks to all such parties in interest in a newspaper of general circulation in the county or municipality in which said dedicated property is located, clearly providing the place, time and hearing date on the petition set by the Court, at least 20 days prior thereto.

§6204. Vacation defined.

Vacation shall mean the abandonment of the dedication covenant to any county or municipality in any dedicated property accepted by a county or municipality when said county or municipality, legal title holder, or abutting landowner has clearly shown an intent to abandon through lack of use, care or maintenance thereof any dedicated property originally created solely for public use.

§6205. Vacation hearing.

(a) In all proceedings in Superior Court, after all interested parties have received notice in accordance with this Chapter, a hearing shall be held in Superior Court, at which time each party before the court, including the county or municipality in which the dedicated property is located, the legal title holder, all abutting landowners, all residents of the subdivision, or all interested parties, any present relevant evidence regarding the necessity or advisability of the continued use of the dedicated property for the benefit of the general public or interested parties. Upon conclusion of the hearing, Superior Court shall order whether the said dedicated property shall be vacated.

(b) The Court shall also decide such other collateral issues which are raised at the hearing, including, but not limited to, whether the county or municipality holds title to the dedicated property by deed transfer or some other means, whether the county or municipality or the general public has an interest in such property by virtue of the dedication, whether such parties have a compensable interest and to whom the land shall revert in the event of vacation, including the abutting landowners.

(c) There is a rebuttable presumption, as to any dedicated property, that it shall continue as dedicated property.

(d) In determining whether any dedicated property should be vacated, the Court shall make a determination as to whether the county or municipality or the general public has a use or need for the continued existence for such dedicated property and the judgment of the county or municipality to keep it open shall be paramount. In making a determination in this regard, the Court shall consider such items as may be pertinent including, but not limited to, fitness for use as a public property, service and maintenance of the respective property, the financial impact upon any interested party, the effect of the proposed vacation upon adjacent streets, roads, or highways, and other matters which the Court may deem pertinent.

(e) Any County or municipality maintained property shall not be vacated without the consent of the county or municipality in which it is located.

§6206. Open space jurors; appointment and direction as to return.

(a) If the Superior Court orders that the dedication shall be vacated, it shall then appoint 5 judicious and impartial open space jurors of the county or municipality to view said property and make return on a date fixed by the Court. The Court shall authorize the open space jurors, so appointed, to employ, if necessary, a surveyor.

(b) The open space jurors named in the commission shall first be sworn or affirmed as shall be directed in the commission.

(c) The return of the jurors shall be made to the Superior Court or to a judge thereof, who shall file the same in the Office of the Prothonotary.

(d) In all cases such open space jurors shall assess the damages which the county or municipality, legal title holder or other parties in interest will sustain by reason of such property vacation, including, but not limited to, loss or

use, impact upon improvements previously made thereto, loss of benefit or aesthetic value to the public, and, considering all circumstances of benefit or injury which may accrue to any such party in interest therefrom, shall make a recommendation to the Court, in the return, as to apportionment thereof.

§6207. Damages, hearing.

(a) On a day fixed by the Court, a hearing shall then be had on the issue of damages as presented in the return. At such hearing all interested parties may present evidence and argument regarding the question of damages, their amount and apportionment, as are permitted under this Section or at the discretion of the Court. At the close of said hearing, the Court shall enter an order affixing damages in such manner as it determines the evidence warrants.

(b) All damage questions shall be decided as provided in this Chapter and shall include, but not be limited to, the right of the legal title holder to recover the actual value of the real property, the right of the county or municipality to recover reasonable expenses for its loss of use of said vacated land, whether jurisdiction has been acquired by title, dedication, easement or other means, and any reasonable costs and expenses incurred, as a result of said vacation resulting from an impact to other lands within the jurisdiction of the county or municipality.

(c) Payment of damages shall be in such amounts and under such terms and conditions as the Superior Court, by order, shall direct. Any order of the Superior Court to vacate a dedication of property shall not become final until all damages have been paid in accordance with the Court's order.

(d) Whenever any interested party neglects or omits to pay or tender the amount of ascertained damages to the parties or persons entitled to the same, said interested party shall be subject to the contempt power of the Court upon proper application by any party or person to whom damages are payable pursuant to the terms of the Court's order regarding same.

(e) Any other provision of this Chapter notwithstanding, the Court in making determination as to what damages shall be paid by the county or municipality shall consider only two factors:

(1) Only persons owning real property abutting the property or part thereof to be vacated shall be entitled to recover damages; and

(2) Any damages which may be otherwise recoverable by such persons or organizations from the county must be offset by a monetary estimate of the benefit to be derived by said persons or organizations.

§6208. Property Equivalence.

(a) Any other provision of this Chapter notwithstanding, the Chancery Court shall not order that a dedication be vacated unless the legal title holder to the dedicated property, or some other party to the proceeding provides by restrictive covenant, that an amount of open space, at least equivalent in size and comparable or superior to the parcel to be vacated in its utility for recreational purposes, shall be provided for the benefit of the public. For land to be considered 'comparable in its utility for recreational purposes' the Court need not determine that the land is suitable for specific identical recreational activities as provided on the parcel to be vacated, but the Court must find that the land to be provided is of the same general character and quality as the land to be vacated.

(b) The provisions of subsection (a) above may be satisfied with respect to the vacation of any land not located within the boundaries of an incorporated municipality of this State, by:

(1) Dedicating as public open space, a parcel of land meeting the criteria set forth above, within or immediately adjacent to the subdivision in which the dedicated land was vacated; or

(2) Restricting the same parcel or a parcel of land meeting the criteria set forth above, within or immediately adjacent to the subdivision in which the dedicated land was vacated; or

(3) Dedicating as public open space, a parcel of land meeting the criteria set forth above, in any area approved by the county government and by the

owners of three-quarters of the lots or parcels within the subdivision in which the dedicated land was vacated.

(c) The provisions of subsection (a) above may be satisfied with respect to the vacation of any land which is located within the boundaries of an incorporated municipality of this State, by:

(1) Dedicating as public open space, a parcel of land meeting the criteria set forth above, within a radius of one-quarter mile from any point on the lot or parcel boundary line of the land which is to be vacated; or

(2) Restricting the same parcel or a parcel of land meeting the criteria set forth above, within a radius of one quarter mile from any point on the lot or parcel boundary line of the land which is to be vacated; or

(3) Dedicating as public open space, a parcel of land meeting the criteria set forth above, in any area approved by the municipal government and by the owners of two-thirds of the lots or parcels within a radius of one-quarter mile from any point on the lot or parcel boundary line of the land which is to be vacated.

(d) The dedication or restrictions required by this section may be provided by submission of a plot plan approved by the county or municipal Planning Department or equivalent agency, or by submission of restrictive covenants.

(e) Any restrictive covenant supplied in accordance with this section must:

(1) Restrict the use of the open space to active or passive recreational purposes; and

(2) Provide that the said covenants shall be covenants running with the land, binding upon the declarant, his heirs, administrators, successors and assigns; and

(3) Provide, in the case of private open space, that the said covenants are imposed for the benefit of the owners of lots within the subdivision in which, or adjacent to, which the open space is located; and

(4) Provide, in the case of public open space, that the said covenants are imposed for the benefit of the county or municipality in which the open space is located.

§6209. Appeal.

Any interested party before the Superior Court may appeal the Court's decision to the Supreme Court, within 30 days of the final order thereon, regarding the question of whether the dedicated property shall be vacated or the question of the amount of damages and their apportionment or any other matter raised at the Superior Court hearing.

§6210. Compensation and expenses of jurors and employees.

(a) The jurors shall be allowed \$25 a day for their services and shall be entitled to mileage at the rate of 15 cents a mile going and returning.

(b) The Court shall fix the compensation of all persons properly employed as surveyors, chain carriers, axemen and target bearers, and all other persons, necessary to the economical execution of any order for vacating a dedication of property, including the board and accommodation of persons properly employed in and about the execution of the work.

§6211. Costs of proceedings

The costs of proceedings for vacating the dedication of property shall be paid by the petitioners, unless such petition is granted in which case such costs shall be paid by the party or persons authorized by the return to enclose it, and in the pro rata share fixed by the return "

CHAPTER 424

FORMERLY

SENATE BILL NO. 482
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 50 AND 51, TITLE 16 AND SECTION 937, TITLE 10, RELATING TO THE DESIGNATION OF INPATIENT PSYCHIATRIC FACILITIES FOR MINORS.

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

Section 1. Amend §937(b)(14), Title 10 of the Delaware Code by adding a second sentence thereto as follows:

"For purposes of this paragraph, the Delaware State Hospital is not an appropriate institution."

Section 2. Amend Subsection (2), §5001, Chapter 50, Title 16 of the Delaware Code by striking said Subsection in its entirety and substituting in lieu thereof a new Subsection (2) to read as follows:

"'Hospital' and 'mental hospital' means the Delaware State Hospital, any hospital in this State which is certified by the Secretary of the Department of Health and Social Services as being an appropriate facility for the diagnosis, care, and treatment of mentally ill persons 18 years of age or older. 'Hospital' and 'mental hospital' shall also mean any hospital in this State which is certified by the Secretary of the Department of Services for Children, Youth and Their Families as being an appropriate facility for the diagnosis, care, and treatment of mentally ill persons under 18 years of age."

Section 3. Amend §5005, Title 16 of the Delaware Code by redesignating existing subsection (3) as subsection (5).

Section 4. Amend §5005, Title 16 of the Delaware Code by adding the following subsections:

"(3) A psychiatrist designated by the Secretary of the Department of Services for Children, Youth and Their Families may, at any time prior to the commencement of judicial proceedings to determine the mental illness of a person under 18 years of age, conduct an independent review of a determination that such person is a mentally ill person. If the psychiatrist determines that such person is not a mentally ill person, the Department may withhold financial assistance for the diagnosis, care, or treatment of such person.

(4) A psychiatrist designated by the Secretary of the Department of Health and Social Services may, at any time prior to the commencement of judicial proceedings to determine the mental illness of a person 18 years of age or older, conduct an independent review of a determination that such person is a mentally ill person. If the psychiatrist determines that such person is not a mentally ill person, the Department may withhold financial assistance for the diagnosis, care, or treatment of such person."

Section 5. Amend the second Subsection (2), §5101, Subchapter I, Chapter 51, Title 16 of the Delaware Code by striking the entire said Subsection and inserting in lieu thereof the following:

"(3) 'Department' or 'Department of Mental Health' shall mean Department of Health and Social Services unless otherwise designated."

Section 6. Amend §5122, Subchapter II, Chapter 51, Title 16 of the Delaware Code by adding the following to the end of Subsection (d):

"A psychiatrist designated by the Secretary of the Department of Services for Children, Youth and Their Families may conduct an independent review of a determination that a person under 18 years of age admitted to any mental health facility pursuant to this Chapter is a dangerous mentally ill person. A psychiatrist designated by the Secretary of the Department of Health and Social Services may conduct an independent review of a determination that a person 18 years of age or older admitted to any mental health facility pursuant to this Chapter is a dangerous mentally ill person."

Section 7. Amend §5123, Subchapter II, Chapter 51, Title 16 of the Delaware Code by redesignating existing subsection (f) as subsection (h).

Section 8. Amend §5123, Subchapter II, Chapter 51, Title 16 of the Delaware Code by adding the following subsections:

"(f) A psychiatrist designated by the Secretary of the Department of Services for Children, Youth and Their Families may conduct an independent review to determine whether an applicant under 18 years of age who receives financial assistance from such Department or who is in the custody of such Department is appropriate for voluntary hospitalization. A psychiatrist designated by the Secretary of the Department of Services for Children, Youth and Their Families may conduct an independent review to determine whether a voluntary patient under 18 years of age who receives financial assistance from such Department or who is in the custody of such Department is appropriate for voluntary hospitalization.

(g) A psychiatrist designated by the Secretary of the Department of Health and Social Services may conduct an independent review to determine whether an applicant 18 years of age or older who receives financial assistance from the Department or who is in the custody of the Department is appropriate for voluntary hospitalization. A psychiatrist designated by the Secretary of the Department of Health and Social Services may conduct an independent review to determine whether a voluntary patient 18 years of age or older who receives financial assistance from the Department or who is in the custody of the Department is appropriate for voluntary hospitalization.

Section 9. Amend Subchapter II, Chapter 51, Title 16 of the Delaware Code by adding the following sections:

"§5135. Minors

(a) Any person under 18 years of age admitted pursuant to this chapter shall not be admitted to the Delaware State Hospital but to a hospital certified by the Secretary of the Department of Services for Children, Youth and Their Families as being appropriate for the diagnosis, care, and treatment of mentally ill persons under 18 years of age.

(b) The provisions of this chapter pertaining to the care and release of mentally ill persons at the Delaware State Hospital shall apply with the same force and effect to persons admitted to a hospital under this section.

§5136. Additional Facilities for Persons 18 Years of Age or Older

(a) Any person 18 years of age or older admitted pursuant to this chapter may be admitted to any hospital certified by the Secretary of the Department of Health and Social Services as being appropriate for the diagnosis, care, and treatment of mentally ill persons 18 years of age or older.

(b) The provisions of this chapter pertaining to the care and release of mentally ill persons at the Delaware State Hospital shall apply with the same force and effect to persons admitted to a hospital under this section."

Section 10. Amend Subchapter IV, Chapter 51, Title 16 of the Delaware Code by striking Sections 5152, 5153 and 5154 thereof in their entirety and by substituting in lieu thereof the following:

"Section 5152. Commitment by Courts

(a) All criminally mentally ill adults shall be admitted to the department for the criminally insane at the Delaware State Hospital when committed by any court of this State having jurisdiction over the persons committed.

(b) All criminally inclined juveniles shall be committed to treatment programs for criminally inclined juveniles established by the Department of Services for Children, Youth and Their Families when committed by any court of this State having jurisdiction over the persons committed.

Section 5153. Commitment from other Institutions

(a) The governing authorities of any institution of this State, to which an adult who classifies for admission under the terms of this subchapter already has been committed, may petition any court of competent jurisdiction in the State praying an order to remove an inmate of the institution to the department for criminally mentally ill at the Delaware State Hospital. Upon the recommendation of the Secretary of the Department of Health and Social Services and after such hearing as the court deems

proper, any court of competent jurisdiction in the State may order such criminally mentally ill adult to be committed to the Delaware State Hospital for treatment in the department for the criminally insane.

(b) The governing authorities of any institution of this State, to which a juvenile who classifies for admission under the terms of this subchapter already has been committed, may petition any court of competent jurisdiction in the State praying an order to remove an inmate of the institution to an appropriate juvenile facility in accordance with the regulations and policies promulgated by the Department of Services for Children, Youth, and Their Families. Upon the recommendation of the Secretary of the Department of Services for Children, Youth and Their Families and after such hearing as the court deems proper, any court of competent jurisdiction in the State may order such criminally inclined juvenile to be committed to the Department of Services for Children, Youth, and Their Families for treatment in an appropriate facility.

Section 5154. Liability for Cost of Maintenance and Care

The expenses of the removal of a criminally mentally ill adult or a criminally inclined juvenile and of his admission to a hospital under this subchapter, and the charges and expense for the maintenance and care at such hospital shall be paid by the institution which had charge of such case. Where such persons are committed by the proper courts otherwise than from an institution of the State, the State Treasurer shall pay such hospital for such removal, admission, maintenance and care. If any such criminally mentally ill adult or criminally inclined juvenile has any real or personal estate, the Department of Health and Social Services or the Department of Services for Children, Youth, and Their Families shall have, for the expenses and charges incurred, the same remedy as is provided in section 5127 of this title."

Section 11. Amend Subsection (a), Section 5161, Subchapter V, Title 16 of the Delaware Code by striking "Each patient confined pursuant to this chapter in the Delaware State Hospital or any other hospital as defined in subsection (a) of section 5522 of this title" from said Subsection and inserting in lieu thereof the following:

"Each patient confined to any hospital pursuant to this chapter or Chapter 50 of this title or any other hospital as defined in subsection (2) of section 5001 of this title or subsection (a) of section 5522 of this title".

Section 12. 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 affect the remainder of this Act which shall remain in full force and effect.

Section 13. Effective Date

This Act shall take effect upon signature of the Governor.

Approved July 20, 1988.

CHAPTER 425

FORMERLY

SENATE BILL NO. 453
AS AMENDED BY SENATE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND CHAPTER 74, TITLE 7 OF THE DELAWARE CODE RELATING TO DELAWARE UNDERGROUND STORAGE TANK ACT.

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

Section 1. Amend §7402, Title 7 of the Delaware Code by striking present §7402 and substituting the following:

"§7402. 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 clearly indicates a different meaning:

(1) 'Abandoned storage system' means a storage system which:

- a. Is not intended to be returned to service or;
- b. Has been out of service for over 3 years; or
- c. Has been rendered permanently unfit for use.

(2) 'Ancillary equipment' means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that are used to distribute, meter, or control the flow of petroleum or hazardous substances from an underground storage tank.

(3) 'Department' means the Department of Natural Resources and Environmental Control.

(4) 'Existing tank' means a tank for which installation began prior to July 12, 1985.

(5) 'Facility' means any location or part thereof containing 1 or more underground storage tanks.

(6) 'Fund' means the Delaware Underground Petroleum Storage Tank Response Fund.

(7) 'Heating fuels' means a type of fuel oil that is one of eight technical grades. These grades are: No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, No. 6 residual, and substitutes such as kerosene or diesel when used for heating purposes.

(8) 'New tank or facility' means a tank or facility for which the installation began on or before July 12, 1985.

(9) 'Operator' means any person operating a facility whether by lease, contract or other form of agreement.

(10) 'Out of service' means a storage system which:

- a. Is not in use; that is, which does not have regulated substances added to or withdrawn from the storage system; and
- b. Is intended to be placed in service.

(11) 'Owner' means:

a. In the case of an underground storage tank in use on July 12, 1985, or brought into use after that date, any person who owns an underground storage tank used for the storage, use or dispensing of regulated substances; and

b. In the case of any underground storage tank in use before July 12, 1985, but no longer in service on July 12, 1985, any person who owned such tank immediately before the discontinuation of its use.

(12) 'Person' means any individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state or any interstate body,

(13) 'Regulated substance' means:

a. Any substance defined in §101(14) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. §9601(14)); but not including any substances regulated as a hazardous waste under Delaware's Regulations Governing Hazardous Wastes;

b. Petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

(14) 'Release' means any spilling, leaking, emitting, discharging, escaping, leaching or disposing into groundwater, surface water or soils.

(15) 'Removal' means the process of removing and disposing of an underground storage tank system, through use of prescribed techniques for the purging of residues and vapors and removal of the vessel from the ground.

(16) 'Responsible party' means any person who:

a. Owns or has a legal or equitable interest in a facility or an underground storage tank;

b. Operates or otherwise controls activities at a facility;

c. At the time of storage of regulated substances in an underground storage tank, operated or otherwise controlled activities at the facility or underground storage tank, or owned or held a legal or equitable interest therein;

d. Arranged for or agreed to the placement of an underground storage tank system by contract, agreement or otherwise; or

e. Caused or contributed to a release from an underground storage tank system; or

f. Caused a release as a result of transfer of a regulated substance to or from an underground storage tank system.

(17) 'Retrofit' means modification or correction of an underground storage tank system to meet standards contained in regulations promulgated under this Chapter through such means as replacement of valves, fill pipes, vents, and liquid level monitoring systems, and the installation of overfill protection, transfer spill protection, leak detection and cathodic protection devices; but the term does not include the process of relining an underground tank through application of such materials as epoxy resins, nor does the term include the process of conducting a tightness test to establish the integrity of the tank.

(18) 'Secretary' means the Secretary of the Department of Natural Resources and Environmental Control.

(19) 'State' means the State of Delaware.

(20) 'Underground storage tank' means a containment vessel, including underground pipes connected thereto, which is used to contain an accumulation of regulated substances, and the volume of which, including the volume of the underground pipes connected thereto, is 10 per centum or more beneath the surface of the ground. Such term does not include any:

a. Septic tank.

b. Pipeline facility (including gathering lines) regulated under:

1. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. §1671 et seq.), or

2. The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. §2001 et seq.), or

3. Any Interstate agreement comparable to those acts set forth in subparagraphs 1. and 2. of this paragraph.

c. Surface impoundment, pit, pond, lagoon;

d. Storm water wastewater collection system;

e. Flow-through process tank;

f. Liquid trap or associated gathering lines directly related to oil or gas production or gathering operations; or

g. Storage tank situated in an underground area (such as basement, cellar, mineworking drift, shaft or tunnel). If the storage tank is situated upon or above the surface of the floor.

(21) 'Underground storage tank system' means an underground storage tank and its associated ancillary equipment and containment system, if any.

(22) 'Used oil' means a petroleum-based synthetic oil used as an engine lubricant, engine oil, motor oil or lubricating oil for use in an internal combustion engine, or a lubricant for motor vehicle transmissions, gears or axles which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties. (65 Del. Laws, c. 161, 1.)."

Section 2. Amend §7404 (2), Title 7 of the Delaware Code by adding "of 1100 gallons or less" between the words "fuels" and "which" on line 1.

Section 3. Amend §7405(a)(2), Title 7 of the Delaware Code by changing the period in line 2 to a semicolon and adding "provided, however, that existing heating fuel tanks of greater than 1100 gallon capacity shall be registered within 180 days of the effective date of this Act.

Section 4. Amend §7405(a)(3), Title 7 of the Delaware Code by changing the period in line 5 to a semicolon and adding "provided, however, that abandoned or nonoperational heating fuel tanks of greater than 1100 gallons capacity shall be registered within 180 days of the effective date of this Act."

Section 5. Amend §7407, Title 7 of the Delaware Code by adding new subsection (d):

"d. All underground storage tank system fill lines shall be clearly marked to indicate the size of the tank and the type of regulated substances stored, within 180 days of the effective date of this act; as provided in regulations established under this Chapter.

Section 6. Amend §7411, Title 7 of the Delaware Code by adding a new subsection (f):

"f. If the violation consists solely of a failure to register an underground storage tank or submit other notifications as required, the Secretary may elect to bring a civil action in the Justice of the Peace Court for a penalty not to exceed \$1,000. Each day of violation shall be considered as a separate violation."

Section 7. Amend §7411, Title 7 of the Delaware Code by adding a new subsection (g):

"g. Any expenses or civil penalties collected by the Department under this action shall be credited to the Administration fund established under §7418 (d) of this Chapter.

Approved July 20, 1988.

CHAPTER 426

FORMERLY

HOUSE BILL NO. 452

AS AMENDED BY

HOUSE AMENDMENT NO. 2 AND HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 47, TITLE 21, DELAWARE CODE RELATING TO MOTOR CARRIER SAFETY-RESPONSIBILITY.

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

Section 1. Amend §4704, Chapter 47, Title 21, Delaware Code by adding thereto a new subsection (f) to read as follows:

"(f) A person who is not physically qualified to drive under §391.41 and who is otherwise qualified to drive a motor vehicle may operate a motor vehicle over 26,000 pounds within the State of Delaware, other than a motor vehicle which primary purpose is to transport passengers or a motor vehicle which must be placarded or marked in accordance with §177.83 (relating to placards or markings upon vehicles which transport hazardous materials), and thus be exempt from the §391.41 physical examination requirements only after certifying to the Secretary of Public Safety that such person: (1) was employed on a full time basis in the operation of motor vehicles over 26,000 pounds prior to the implementation of the Federal regulations at the State level on July 19, 1985; and (11) has not incurred three (3) serious moving violations in a commercial vehicle since July 19, 1985. Serious moving traffic violations are those classified as follows: (1) exceeding the posted speed limit by more than 15 m.p.h.; (2) reckless driving as defined by state law; or (3) violations of state or local laws involving motor vehicles where a fatal accident occurs."

Approved October 24, 1988.

CHAPTER 427

FORMERLY

SENATE JOINT RESOLUTION NO. 3

DIRECTING THE COMMISSIONER OF CORRECTIONS, IN CONJUNCTION WITH THE ATTORNEY GENERAL, TO FORMULATE A DRESS AND GROOMING CODE FOR INMATES IN THE DELAWARE PRISON POPULATION AND TO REPORT TO THE GENERAL ASSEMBLY WITHIN 30 DAYS A SCHEDULE OF IMPLEMENTATION AND THE COSTS INCIDENTAL THERETO.

WHEREAS, the Delaware General Assembly is deeply interested in promoting the objective of accountability and greater safety for members of the general public relative to the criminal justice system; and

WHEREAS, the Delaware General Assembly is desirous of encouraging and maximizing inmate discipline and the expeditious apprehension of escapees from the Adult Corrections system; and

WHEREAS, the general public has been subjected to media depictions of inmates within the Adult Corrections system who have obvious shortcomings in personal grooming and dress; and

WHEREAS, it is the consensus of members of the General Assembly that poor personal grooming habits and shoddy personal attire worn by inmates are counterproductive to discipline within the Adult Corrections system and contrary to the safe and efficient administration of justice; and

WHEREAS, the poor grooming and sloppy dress of many inmates, both as depicted in the media and in court appearances by such inmates, undermines the public confidence in the Adult Corrections system and generates fears and prejudices relative to the efficiency of the system; and

WHEREAS, members of the Delaware General Assembly are concerned that the permissive attitude toward inmate grooming and dress may extend to other areas of prison administration; and

WHEREAS, reasonable uniformity in the attire and grooming of inmates would promote the public safety, assist in the apprehension of escapees, and foster discipline in the correctional system; and

WHEREAS, federal courts have upheld the right of prison administrations in the States to adopt dress and grooming rules and regulations as long as they do not conflict with the bona fide religious beliefs of inmates.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 134th General Assembly of the State of Delaware, with the approval of the Governor, that the Commissioner of Corrections, in cooperation with the Attorney General, is hereby authorized and directed to formulate reasonable new grooming and dress regulations for the inmate population, including but not limited to uniformity of hair length, beard length and sideburns, and easily identifiable or color-coded dress according to institutional classification.

BE IT FURTHER RESOLVED that the Commissioner of Corrections shall present such grooming and dress regulations to the Governor, the President Pro Tem of the Senate, and the Speaker of the House within 30 days of the enactment of this Senate Joint Resolution along with a schedule of implementation of such regulations and an estimate of the costs related to the implementation of such regulations.

Approved February 17, 1987.

CHAPTER 428

FORMERLY

SENATE JOINT RESOLUTION NO. 4
AS AMENDED BY SENATE AMENDMENT NO. 1

PROVIDING FOR THE ESTABLISHMENT OF A CITIZENS TASK FORCE TO STUDY ALL THE RAMIFICATIONS, BOTH LEGAL AND ETHICAL AND TO MAKE RECOMMENDATIONS TO THE GOVERNOR AND MEMBERS OF THE GENERAL ASSEMBLY WITH RESPECT TO SURROGATE PARENTING IN DELAWARE.

WHEREAS, the New Jersey case presently pending litigation in the New Jersey courts, also known as "Baby M" for purposes of privacy concerning surrogate parenting has raised national attention and controversy and raised a considerable number of unanswered questions; and

WHEREAS, the practice of surrogate motherhood has grown dramatically in the past few years and is so relatively new that no states have yet enacted statutes or regulations making the practice or procedure legal; and

WHEREAS, the "Baby M" case doesn't only raise legal questions, but there are complex ethical issues in such cases as well, i.e. should women be encouraged to conceive children they will never raise?; are they really mothers in the commonly accepted definition of motherhood or are they manufacturers of a product?; and

WHEREAS, the State of Delaware should be legally prepared in the event we are faced with a similar situation in Delaware; and

WHEREAS, the proverbial expression "an ounce of prevention is worth a pound of cure" is legally and morally appropriate in every sense with respect to this most sensitive topic.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 134th General Assembly of the State of Delaware, with the approval of the Governor, that there is herein established a Citizens Task Force to study all the ramifications of surrogate parenting in Delaware and to make any recommendations to the Governor and members of the General Assembly with respect to the need for legislation on the subject of surrogate parenting.

BE IT FURTHER RESOLVED that the Citizens Task Force shall be composed of eleven (11) members, one of whom shall be a Senator appointed by the President Pro Tempore, one of whom shall be a representative appointed by the Speaker of the House, three members who shall be from the medical profession, two clergymen and four others from the general public, all of whom shall be appointed by the Governor and be it further resolved that each county and the City of Wilmington shall have representation on the panel.

BE IT FURTHER RESOLVED that the Task Force report its findings and any recommendations to the Governor and members of the General Assembly no later than April, 1988.

Approved April 13, 1987.

CHAPTER 429

FORMERLY

HOUSE JOINT RESOLUTION NO. 5

DIRECTING THE DEPARTMENT OF CORRECTIONS TO CEASE IMPLEMENTATION OF PLANS TO CONSTRUCT A WOMEN'S PRISON AT DELAWARE CORRECTIONAL CENTER AND HAVE THE NEW COMMISSIONER OF CORRECTION REVIEW SUCH PLANS, MAKE RECOMMENDATIONS, AND OBTAIN APPROVAL OF FUTURE PLANS TO RELOCATE THE WOMEN'S PRISON AND TO PREVENT THE SALE OF THE WOODS HAVEN KRUSE PROPERTY UNTIL A DECISION IS MADE TO RELOCATE THE WOMEN'S PRISON.

WHEREAS, the advisability of relocating the State Women's Correctional Institute (WCI) to the Delaware Correctional Center (DCC) at Smyrna has been questioned; and

WHEREAS, most of the volunteer programs serving WCI are located in northern New Castle County; and

WHEREAS, most of the female inmates have families in New Castle County close to the current WCI; and

WHEREAS, due to location families may have difficulty visiting inmates at DCC; and

WHEREAS, construction of the new facility at DCC has not yet begun.

NOW THEREFORE:

BE IT RESOLVED by the House of Representatives and Senate of the 134th General Assembly of the State of Delaware, that the Department of Correction cease implementation of plans to construct a Women's Prison at Delaware Correctional Center until:

- 1) A new Commissioner of Corrections has been named and is present on the job;
- 2) The new Commissioner of Corrections and his staff have reviewed the issues surrounding the construction and relocation of the Women's Correctional Institute to the Delaware Correctional Center; and
- 3) The new Commissioner of Corrections makes a written recommendation to the Governor and the General Assembly, and said recommendation is approved by the Governor and the General Assembly.

BE IT FURTHER RESOLVED that the Department of Services for Children, Youth, and Their Families shall not enter into any agreements regarding the sale of the Woods Haven Kruse property until a final decision has been made regarding the location of the Women's Prison.

BE IT FURTHER RESOLVED that a suitably prepared copy of this Resolution be forwarded to the Commissioner of Corrections and to the Secretary or the Department of Services for Children, Youth and their Families.

Approved April 22, 1987.

CHAPTER 430

FORMERLY

HOUSE JOINT RESOLUTION NO. 8
AS AMENDED BY HOUSE AMENDMENT NO. 1

PROVIDING FOR THE ESTABLISHMENT OF AN AD HOC COMMITTEE TO RECOMMEND LEGISLATION AUTHORIZING THE REGULATION AND INSPECTION OF INDUSTRIAL FACILITIES FOR THE PURPOSES OF PREVENTING AND MITIGATING CATASTROPHIC RELEASES OF HAZARDOUS SUBSTANCES.

WHEREAS, the Department of Natural Resources and Environmental Control (DNREC) performs inspections of industrial facilities which are authorized by 7 Delaware Code, Chapters 60 and 63; and

WHEREAS, the DNREC does not have the authority to regulate or inspect hazardous substances storage, transfer and production operations at Delaware industrial facilities; and

WHEREAS, some of those operations may pose a catastrophic threat to public health and safety; and

WHEREAS, instances of major accidental chemical releases demonstrate that modern technology, operations systems, and safeguards can fail to protect against serious harm to public health and safety; and

WHEREAS, efforts to abate discharges once they occur and emergency actions to safeguard populations when discharges cannot be contained are essential for public protection, the most effective action is to prevent catastrophic industrial accidents.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 134th General Assembly of the State of Delaware, with the approval of the Governor, that an Ad Hoc Industrial Disaster Prevention Committee is hereby established for the purpose of recommending legislation for the regulation and systematic inspection of industrial facilities in Delaware having hazardous substances on-site.

BE IT FURTHER RESOLVED that the Committee shall be composed of the Secretaries or their designees of the Department of Natural Resources and Environmental Control, the Department of Public Safety, and the Department of Health and Social Services; the State Fire Marshal, or his designee; a member of the Delaware Chemical Industry Council; a member of the Delaware State Chamber of Commerce; a member of the Delaware City Community Awareness Emergency Response Committee; a member of the Citizens Advisory Committee to the Department of Natural Resources and Environmental Control; a member of the Delaware Petroleum Council; a member of the Delaware Citizens for Clean Air; and four members of the Legislature, two of whom shall be appointed by the Speaker of the House of Representatives, and two by the President Pro Tempore of the Senate. Other experts may be appointed by the Committee. The Governor shall choose the Committee chairperson.

BE IT FURTHER RESOLVED that staff assistance to the committee shall be provided by the Department of Natural Resources and Environmental Control and that each state agency represented on the Committee shall provide necessary staff services.

BE IT FURTHER RESOLVED that the recommendation for legislation prepared by the Committee shall be completed and forwarded to members of the General Assembly and the Governor no later than one year after signature by the Governor.

BE IT FURTHER RESOLVED that a suitably prepared copy of this Resolution shall be sent to the Secretary of the Department of Natural Resources and Environmental Control, the Secretary of the Department of Public Safety, the Secretary of the Department of Health and Social Services, the State Fire Marshal, the Chairman of the Delaware Chemical Industry Council, the Executive Director of the Delaware Petroleum Council, the Chairman of the Citizens Advisory Committee to the Department of Natural Resources and Environmental Control, the Chairman of the Delaware City Community Awareness Emergency Response Committee, and the Chairman of the Delaware Citizens for Clean Air.

Approved June 5, 1987.

CHAPTER 431

FORMERLY

HOUSE JOINT RESOLUTION NO. 18

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1987.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "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"; and

WHEREAS, Section 6(b) also requires that "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";

NOW THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 134th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1987 is \$1,036.9 million, estimated revenue refunds are \$79.8 million, estimated net State general fund revenue is \$957.1 million and estimated unencumbered funds are \$60.5 million.

Approved July 2, 1987.

CHAPTER 432

FORMERLY

HOUSE JOINT RESOLUTION NO. 19

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1988.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "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"; and

WHEREAS, Section 6(b) also requires that "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";

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 134th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1988 is \$1,066.5 million, estimated revenue refunds are \$84.6 million, estimated net State general fund revenue is \$981.9 million and estimated unencumbered funds are \$86.3 million.

Approved July 2, 1987.

CHAPTER 433

FORMERLY

HOUSE JOINT RESOLUTION NO. 13

ESTABLISHING AN AIDS ADVISORY TASK FORCE IN THE STATE OF DELAWARE.

WHEREAS, the threat of Acquired Immune Deficiency Syndrome is a problem of increasing magnitude which requires our immediate attention; and

WHEREAS, it has been and continues to be in the best interest of all Delawareans to deal with this disease in a rational and deliberative manner; and

WHEREAS, all Delawareans are acutely aware of the dangers of AIDS and it is both fitting and proper that this State take the necessary steps in order to take those preventative measures which are essential to the health and well being of our citizens; and

WHEREAS, the establishment of an AIDS Advisory Task Force is a significant step in the right direction, not only by calling attention to this deadly disease, but by seeking the counsel of some of the finest health professionals this State has to offer; and

WHEREAS, as a result of the advice and counsel of the Division of Public Health, it is hereby deemed advisable to formally establish an AIDS Advisory Task Force in the State of Delaware; and

WHEREAS, the AIDS Advisory Task Force shall be charged with studying the problem of AIDS and recommending any appropriate legislative or administrative measures to help combat AIDS.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives of the 134th General Assembly, the Senate concurring therein, that an AIDS Advisory Task Force be established in the State of Delaware to study and make official recommendations on this disease.

BE IT FURTHER RESOLVED that this Task Force shall consist of the Director of the Division of Public Health who shall serve as Chairman and his choices for other Task Force members who shall consist of the following: a member from the Blood Bank of Delaware; a member from the Division of Alcoholism, Drug Abuse and Mental Health; a member from the Delaware Lesbian and Gay Health Advocates; a member from the Department of Corrections; two members from the Delaware Association of Infection Control Practitioners; a member from the State Division of Planning, Research and Evaluation; a member of the Bureau of Disease Prevention; a member of the Department of Public Instruction; a member from the faculty of the University of Delaware; a member from the Student Health Service of the University of Delaware; a member from the Delaware Nurses' Association; two private medical practitioners; an individual who has AIDS; a member from the Bureau of Disease Control; and a member of the Association of Delaware Hospitals.

BE IT FURTHER RESOLVED that additional members of the Task Force shall come from the General Assembly of the State of Delaware with two members from the Senate appointed by the President Pro-Tempore of the Senate and with two members from the House of Representatives appointed by the Speaker of the House.

BE IT FURTHER RESOLVED that this Task Force shall report to the General Assembly and the Governor no later than December 15, 1987, with its recommendations.

Approved July 10, 1987.

CHAPTER 434

FORMERLY

HOUSE JOINT RESOLUTION NO. 21

ESTABLISHING A FARM ASSISTANCE TASK FORCE TO REVIEW AND RECOMMEND PROPOSALS TO PROVIDE ASSISTANCE TO DELAWARE FARMERS IMPACTED BY THE SEVERAL YEARS OF DROUGHT.

WHEREAS, Delaware farmers and agribusinesses have historically prided themselves with their self-sufficiency and productivity; and

WHEREAS, some Delaware farmers and agribusinesses have overcome through their hard work and careful planning the effects of severe economic and environmental conditions; and

WHEREAS, some Delaware farmers and agribusinesses have been economically disadvantaged due to conditions harmful to agriculture; and

WHEREAS, there has been the need for the Governor to declare drought emergencies to provide Delaware farmers with low interest federal loans; and

WHEREAS, Delaware farmers and the agribusiness community have worked in partnership to overcome the severe economic consequences to below average crop yields; and

WHEREAS, some Delaware farmers and agribusinesses have reported the need for crop insurance to provide them with short term relief from the effects of these severe drought conditions; and

WHEREAS, there have been other proposals to alleviate these severe economic and environmental conditions.

NOW, THEREFORE:

BE IT RESOLVED by the members of the House of Representatives of the 134th General Assembly of the State of Delaware, the Senate concurring therein, and with the approval of the Governor, that a task force be established made up of three members appointed by the Speaker of the House, three members appointed by the President Pro Tem, the Secretary of Agriculture, and Budget Director, the Controller General, the Master of the Delaware State Grange, the President of the Delaware State Farm Bureau, the President of the Delaware Council of Farm Organizations and a representative of the Cooperative Extension Service of the University of Delaware. The members of the Task Force, by majority vote, shall elect a Chairman and such other officers as the Task Force deems necessary.

BE IT FURTHER RESOLVED that the Task Force shall report to the General Assembly and the Governor 30 days from the effective date of this resolution, on its findings and proposals as to how the State can provide Delaware farmers with the most effective short term relief and long term programs to address these severe economic and environmental conditions.

Approved February 4, 1988.

CHAPTER 435

FORMERLY

SENATE JOINT RESOLUTION NO. 14

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1988.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "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"; and

WHEREAS, Section 6(b) also requires that "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".

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 134th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1988 is \$1,104.8 million, estimated revenue refunds are \$79.8 million, estimated net State general fund revenue is \$1,025.0 million and estimated unencumbered funds are \$84.7 million.

Approved July 1, 1988.

CHAPTER 436

FORMERLY

SENATE JOINT RESOLUTION NO. 15

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1989.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "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"; and

WHEREAS, Section 6(b) also requires that "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";

NOW THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 134th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1989 is \$1,118.2 million, estimated revenue refunds are \$82.8 million, estimated net State general fund revenues is \$1,035.4 million and estimated unencumbered funds are \$72.0 million.

Approved July 1, 1988.

CHAPTER 437

FORMERLY

HOUSE JOINT RESOLUTION NO. 26
AS AMENDED BY HOUSE AMENDMENT NO. 1

ESTABLISHING A PUBLIC TRANSIT TASK FORCE TO INVESTIGATE WAYS IN WHICH TO BEGIN A PARTNERSHIP OF THE PRIVATE SECTOR AND PUBLIC SECTOR IN THE AREA OF TRANSPORTATION SYSTEM MANAGEMENT AND TRAFFIC MITIGATION.

WHEREAS, the State of Delaware has established a Transportation Trust Fund to provide the financial resources for establishing a total transportation system in our State; and

WHEREAS, the construction and maintenance of highways is but one part of such a system; and

WHEREAS, it is essential that private industry work with and promote consolidated movements of people whether such transportation be publicly or privately owned and/or operated; and

WHEREAS, the U.S. Department of Transportation by and through its agency, the Urban Mass Transit Administration (UMTA) has adopted a policy of fostering and promoting the private sector's interests in public transit facilities (privatization) wherever and whenever possible; and

WHEREAS, the Delaware Department of Transportation by and through its agency the Delaware Transportation Authority, has expressed its interest and desire in accomplishing this same purpose and has, in fact created a Public Operators Advisory Committee as one method of addressing such input; and

WHEREAS, it is in the interest of State government in cooperation with the private sector to search for alternatives to the use of single occupant private passenger car; and

WHEREAS, the burgeoning growth in our State necessitates innovative and creative planning for transportation systems other than the traditional highway use; and

WHEREAS, in order for public transit to become an even more viable public policy option, the private sector must be involved in the planning, operating and financing of transportation as a partner with all levels of government.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 134th General Assembly of the State of Delaware, with the approval of the Governor, that a Public Transit Task Force shall be established.

BE IT FURTHER RESOLVED that this Task Force shall consist of the following members or their designees: The Secretary of Transportation; Director of the Delaware Transportation Authority; Director of the Division of Highways; one representative chosen by each of the following Chambers of Commerce; the Delaware State Chamber of Commerce, the New Castle County Chamber of Commerce, the Central Delaware Chamber of Commerce and the Southern Delaware Chamber of Commerce; one representative selected by the Delaware Business Roundtable; one representative selected by the Committee of 100; two members of the House of Representatives to include the chairman of the House Transportation Committee and one member from the Minority Party selected by the Speaker; two members of the Delaware State Senate to include the Chairman of the Senate Highways and Transportation committee; one member from the Minority Party selected by the President Pro Tem; the chairperson of the Council on Transportation; one representative from an interested civic group to be appointed by the Governor; one representative from the American Association of Retired Persons to be appointed by the Governor; one representative from a local labor organization to be appointed by the Governor; one member of the City of Wilmington Planning Office appointed by the Mayor of Wilmington; one member of the New Castle County Planning Department appointed by the New Castle County Executive; one member of the Kent County Department of Planning and Zoning appointed by the President of the Kent County Levy Court; one member of the Sussex County Department of Planning and Zoning appointed by the Sussex County Council President. The chairperson shall be designated by the Governor.

BE IT FURTHER RESOLVED that staff support shall be given to the Task Force by the Department of Transportation and by the staff of the General Assembly as necessary.

BE IT FURTHER RESOLVED that the Task Force shall consider creative and innovative means of encouraging the greater demand for and use of public transportation by considering such specific items as land use incentives and restrictions; financial incentives and disincentives; parking restrictions and incentives and other financial and nonfinancial incentives for supporting bus, van pool and rideshare users.

BE IT FURTHER RESOLVED that the Task Force shall propose policies and if necessary legislation to encourage and promote the greater demands and usage of public transit after considering the benefits versus the cost of such proposals.

BE IT FURTHER RESOLVED that the Task Force shall explore all avenues toward creating an ongoing dialogue between public and private interests concerning public transit options.

BE IT FURTHER RESOLVED that the Task Force shall issue a report and recommendations to the General Assembly and the Governor by January 1, 1989.

BE IT FURTHER RESOLVED that the Department of Transportation should continue all work that is presently in progress regarding efforts to increase public transportation notwithstanding this resolution.

Approved July 18, 1988.

CHAPTER 438

FORMERLY

HOUSE JOINT RESOLUTION NO. 27
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND SENATE AMENDMENT NO. 2

PROVIDING FOR THE ESTABLISHMENT OF AN AD HOC COMMITTEE TO RECOMMEND LEGISLATION ESTABLISHING CERTIFICATION REQUIREMENTS AND REGULATIONS GOVERNING INSTITUTIONS WHICH PROVIDE LIFE CARE CONTRACTS AND SERVICES TO THE PUBLIC.

WHEREAS, increasing numbers of our senior citizens are considering and/or entering institutions offering life care services; and

WHEREAS, the fees and charges of these institutions are important considerations for many of these senior citizens; and

WHEREAS, the security of these senior citizens is partly dependent on prudent management and planning by these institutions; and

WHEREAS, it is of paramount importance for the General Assembly to protect the interests of our senior citizens by establishing certification requirements and reasonable regulations for life care institutions.

NOW THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 134th General Assembly of the State of Delaware, with the approval of the Governor, that an Ad Hoc Life Care Certification and Regulation Committee is established for the purpose of recommending legislation for the certification and regulation of life care and or continuing care institutions in Delaware.

BE IT FURTHER RESOLVED that the Committee shall be composed of the Insurance Commissioner or his designee, the director of Health Facilities Licensing and Certification of the Division of Public Health or his designee, the director of the Division of Aging or her designee, the director of the Division of Planning, Research and Evaluation or his designee, one representative of the proprietary life care provider community appointed by the Governor, one representative of the non-proprietary life care provider community appointed by the Governor, one representative of the residents of present proprietary life care facilities appointed by the Governor, one representative of the residents of present non-proprietary life care facilities appointed by the Governor, two members of the House of Representatives, appointed by the Speaker of the House, two Senators appointed by the President Pro Tempore and a representative from the Governor's Office. The Governor shall choose the Committee chairperson.

BE IT FURTHER RESOLVED that staff assistance to the committee shall be provided by the House of Representatives and that each State agency represented on the Committee shall provide necessary staff services.

BE IT FURTHER RESOLVED that the recommended legislation prepared by the Committee shall be completed and forwarded to members of the General Assembly and the Governor on or before January 1, 1989.

BE IT FURTHER RESOLVED that suitably prepared copies of this Resolution be forwarded to the Insurance Commissioner, Secretary of the Department of Health and Social Services and to the representatives of the residents and management of those life care institutions currently operating within the State of Delaware.

Approved July 19, 1988.

INDEX

abandoned motor vehicles

- disposal of certain vehicles, Chapter 14
- removal of abandoned vehicles, Chapter 236

ACQUISITION OF BANKS LOCATED IN THIS STATE BY OUT-OF-STATE BANK HOLDING COMPANIES

- acquisition of Delaware savings banks, Chapter 33
- acquisition of stock of Delaware banks, Chapter 32
- regulation of bank holding companies, Chapter 25

ADMINISTRATION OF DECEDENTS' ESTATES

- accounting and distribution, Chapters 350 & 368
- debts and claims against the estate, Chapter 374
- wills, Chapter 373

ADULT CORRECTIONS

- classification of offenses, Chapter 134
- House Arrest Program, Chapter 29
- prison and prisoners, Chapter 349

Adult Protective Services, Chapter 49

African Development Bank, Chapter 20

AGENTS, BROKERS, SOLICITORS AND ADJUSTERS

- Insurance Commissioner, Chapter 16
- limited representatives, Chapter 4

Agricultural and Soil Conservation

- civil penalties, Chapter 196
- erosion and sedimentation control, Chapter 202

AGRICULTURE

- agricultural and soil conservation, Chapters 196 & 202
- Department of Agriculture, Chapter 78
- domestic and foreign animals, Chapters 126 & 157
- Farm Assistance Task Force, Chapter 434
- farm equipment warranties, Chapter 57
- fluid dairy products, Chapter 232
- meat and poultry inspection, Chapter 79
- nurseries and nursery stock, Chapters 152 & 294
- plant diseases and insect pests, Chapter 153

A.I.D.S. AND OTHER SEXUALLY - TRANSMITTED DISEASES

A.I.D.S. Advisory Task Force, Chapter 433
H.I.V. - related tests, Chapter 336
sexually - transmitted diseases, Chapter 334

alcoholic liquors, Chapter 178

American Red Cross, Chapter 41

ANIMALS

dogs, Chapter 296
domestic and foreign animals, Chapters 157 & 247
offenses against public health and order, Chapter 369
racoons, Chapter 43

Anstine, Margaret, Chapter 113

Appeals, Chapter 133

Appropriations

pension for Margaret Anstine, Chapter 113
pension for Charles H. Reid, Chapter 98

archaeological and geological resources

archaeological excavations, Chapter 38
Delaware Geological Survey, Chapter 154

ARREST AND COMMITMENT

fresh pursuit, Chapter 304
police mutual aid agreements, Chapters 110 & 306
state-wide authority of police officers, Chapter 305

authorization of insurers

reporting of fraudulent practices, Chapter 30
supplement to annual statement, Chapter 328

automobile warranties, Chapter 36

Bank Franchise Tax

determination of tax, Chapter 37B
tax on net earnings, Chapter 23

BANKS AND TRUST COMPANIES

bank corporation laws, Chapter 26
business and industrial development corporations, Chapter 344
business of banks and trust companies, Chapters 263, 283 & 403
licensed lenders, Chapter 22
out-of-state bank holding companies, Chapters 25, 32 & 33
State Bank Commissioner, Chapter 24
taxation, Chapters 23 & 378

B. Bradford Barnes Memorial Scholarship Fund, Chapter 280

bee keeping, Chapter 126

BIDDING REQUIREMENTS FOR PUBLIC WORKS

maintenance contracts, Chapter 298
procurement of materiel and award of contracts, Chapters 299 & 347
retainages under public works contracts, Chapter 387

Board of Accountancy, Chapter 132

Board of Examiners of Psychologists, Chapter 158

Board of Funeral Services, Chapter 225

BOARD OF MEDICAL PRACTICE

boards of review, Chapter 358
professional regulation, Chapter 357
temporary suspension of license, Chapter 2

Board of Nursing, Chapter 21

Board of Occupational Therapy, Chapter 400

Board of Optometry, Chapter 1

Board of Pilot Examiners, Chapter 9

Board of Registration of Geologists, Chapter 105

Board of Speech and Language Pathologists, Chapter 18

bonds and notes of the State, Chapter 371

Bowers, Town of, Chapter 284

Bridgeville, Town of

elections, Chapter 144

sewer and water main improvements, Chapter 318

BUDGET APPROPRIATION ACT (1987)

Administrative Office of the Courts, Chapter 65

Bicentennial Committee, Chapter 12

Delaware Home and Hospital, Chapter 8

BUDGET APPROPRIATION ACT (1988)

appropriation of general funds, Chapter 206

Budget Office, Chapters 224 & 293

original Act, Chapter 85

Budget Appropriation Act (1989), Chapter 303

BUDGET, FISCAL AND PROCUREMENT REGULATIONS

bonds of the State, Chapter 371

opening of bids, Chapter 347

procurement of material and award of contracts, Chapters 299 & 404

BUILDING AND PLUMBING

asbestos, Chapter 35

boilers, Chapter 264

emergency number service, Chapter 270

business of banks and trust companies

bank revolving credit, Chapter 283

deposits in trust, Chapter 263

Camden, Town of

 nominations for town councilman, Chapter 242
 structure of government, Chapter 177

Capital Improvements Bond Act of 1987, Chapter 92

Capital Improvements Bond Act of 1988, Chapter 240

Capital Improvements Bond Act of 1989, Chapter 360

captive insurance companies, Chapter 223

charities and charitable organizations, Chapter 41

child labor laws

 enforcement, Chapter 117
 minimum ages and working hours, Chapter 100

CHILDREN

 child labor, Chapter 100
 children of deceased veterans, Chapter 137
 delinquent children, Chapter 13
 parents and children, Chapter 312

CITY CHARTERS

 Delaware City, Chapters 165, 228 & 285
 Dover, Chapters 63, 180, 361 & 365
 Harrington, Chapters 227 & 418
 Lewes, Chapters 62 & 288
 Newark, Chapter 64
 Rehoboth Beach, Chapters 59 & 60
 Seaford, Chapters 19 & 327

Coastal Zone Act, Chapter 256

Classification of Criminal offenses

 authorized disposition of offenders, Chapter 134
 sentence for misdemeanors, Chapter 253

Clayton, Town of, Chapter 291

Code enforcement constables, Chapter 218

COMMERCE AND TRADE

- automobile warranties, Chapter 36
- banks and trust companies, Chapter 263
- contracts, Chapters 172, 173 & 394
- corporations, Chapters 136 & 204
- Equal Accommodations Act, Chapter 68
- farm equipment warranties, Chapter 57
- health spa regulation, Chapter 395
- holding companies, Chapter 25
- limited partnerships, Chapter 316
- retail sales of motor fuel, Chapter 282
- transient lodgings, Chapter 70
- transient retailers, Chapter 237
- weights and measures, Chapters 80 & 232

Commission on Family Law, Chapter 386

COMMODITY TAXES

- Motor Carriers' Fuel Purchase Law, Chapters 111, 205 & 244
- Motor Fuel Tax, Chapters 97 & 273
- Public Utilities Tax, Chapter 412
- Tobacco Product Tax, Chapter 130

compensation benefits

- disqualification for benefits, Chapter 389
- seasonal employment, Chapter 392

compensation for innocent victims of crime

- functions of the Board, Chapter 261
- qualifications for compensation, Chapter 262

CONSERVATION

- agricultural and soil conservation, Chapter 196
- archaeological and geological resources, Chapter 154
- forests, Chapter 157
- game and wildlife, Chapters 43 & 355
- public lands and parks, Chapter 239

CONSTITUTIONAL AMENDMENTS

- elections, Chapter 340
- executive branch of government, Chapter 342
- oath of office, Chapter 194
- right to bear arms, Chapter 10

CONTRACTS

consumer contracts, Chapter 276
equipment dealer contracts, Chapter 173
exculpatory clauses, Chapter 394
insurance contracts, Chapter 309

Corporation Income Tax, Chapter 118

CORPORATIONS

banking corporations, Chapter 26
business and industrial development corporations, Chapter 344
certificate of incorporation, Chapter 352
formation of a corporation, Chapter 136
stock transfers, Chapter 204

Council of Delaware Association of Professional Engineers, Chapter 56

Council on Aging, Chapter 47

Council on Delaware Home and Hospital, Chapter 315

COUNTIES

county government, Chapter 191
county officers, Chapter 185
county taxes, Chapters 338, 385 & 420
Kent County, Chapters 131, 147 & 332
New Castle County, Chapters 197 & 198
Sussex County, Chapters 69 & 320
zoning, Chapters 200, 201 & 216

COUNTY ASSESSMENTS AND TAXES

civic organizations owning parkland, Chapter 420
limitations upon taxing power, Chapter 385
non-profit housing for the elderly, Chapter 148

COURTS AND CIVIL PROCEDURE

Courts

Code enforcement constables, Chapter 218
Family Court, Chapters 13, 162, 189 & 234
judges, Chapter 123
Justice of the Peace Courts, Chapters 81 & 393
Superior Court, Chapter 375

Civil Procedure

juries, Chapter 5
limitation of actions, Chapter 170
special proceedings, Chapter 423
Tort Claims Act, Chapter 348

civil actions for debt

attachments, Chapter 393
proceeding by summons, Chapter 415

CRIMES

acts causing death, Chapter 269
issuing bad checks, Chapter 252
kidnapping and related offenses, Chapter 398
offenses involving property, Chapter 383
theft, Chapter 251
use of fighting animals, Chapter 369

CRIMINAL PROCEDURE

appeals, Chapter 133
arrest and commitment, Chapters 110, 304 & 305
classification of offenses, Chapters 134 & 253
fines and costs, Chapter 174
jurisdiction and venue, Chapter 141
sentencing and probation, Chapters 29 & 233
witnesses and evidence, Chapter 269

Dagsboro, Town of, Chapter 289

deadly weapons dealers

license application, Chapter 249
license requirement, Chapter 184

DECEDENTS AND DECEDENTS' ESTATES

accounting and distribution, Chapters 350 & 368
administration of decedents' estates, Chapters 373 & 374
escheats, Chapter 379
wills, Chapters 278 & 372

DEFINITIONS

controlled substance, Chapter 66
county office, Chapter 185
credited service, Chapter 370
employment, Chapter 390
moped, Chapter 58
triped, Chapter 254
wages, Chapters 73 & 380

DELAWARE CITY, CITY OF

assessment of property, Chapter 165
city appointive offices, Chapter 285
suits against the city, Chapter 228

Delaware Institute of Veterinary Medical Education, Chapter 219

Delaware Insurance Authority, Chapter 401

Delaware National Guard, Chapter 37

DELAWARE STATE POLICE

appointment and classification, Chapter 192
new recruit class, Chapter 250
pensions, Chapters 241, 277 & 295

Delmar, Town of, Chapter 76

Department of Administrative Services, Chapter 402

Department of Agriculture, Chapter 78

Department of Correction

Freedom of Information Act, Chapter 143
prison and prisoners, Chapter 349

DEPARTMENT OF FINANCE

hearings and appeals, Chapter 120
Secretary of Finance, Chapter 161
Tax Appeals Board, Chapter 101

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Council on Delaware Home and Hospital, Chapter 315
establishment and organization of Department, Chapter 47
recovery of public assistance overpayments, Chapter 287
subpoena authority, Chapter 290

Department of Natural Resources and Environmental Control

fishing permit to Joseph F. Forst, Chapter 71
hazardous waste management, Chapter 365

Department of Public Safety

Office of Intergovernmental Services, Chapter 108
registration and license records, Chapter 82

Department of State, Chapter 203

DEPARTMENT OF TRANSPORTATION

highways and roads, Chapter 353
jurisdiction, powers and duties, Chapters 127 & 181
Transportation Trust Fund Act, Chapter 87

descent and distribution of estates, Chapter 379

DESERTION AND SUPPORT

child support modification, Chapter 405
Civil enforcement, Chapter 7
order of support, Chapter 406

DIVISION OF ENVIRONMENTAL CONTROL

Beverage Container Act, Chapter 273
discharge of a pollutant, Chapter 221
powers and duties of the Secretary, Chapters 163 & 275

divorce and annulment

alimony, Chapter 414
disposition of marital property, Chapter 246

dogs, Chapter 296

DOMESTIC RELATIONS

Commission on Family Law, Chapter 386
desertion and support, Chapters 7, 405 & 406
divorce and annulment, Chapters 246 & 414
parents and children, Chapter 312
termination of parental rights, Chapter 356

DOVER, CITY OF

City Council, Chapters 180 & 365
enumeration of powers, Chapter 361
reimbursement of Mayor and Council, Chapter 63

DRIVERS' LICENSES

duplication of driver's licenses or identification cards, Chapter 410
penalties, Chapter 416
school bus driver's license, Chapter 341

DRUGS

conditional discharge for first offense, Chapter 408
controlled substances, Chapter 66

Duncan, William, Chapter 37

Economic Development Authority

State Housing Authority, Chapter 190
Technical Innovation Program, Chapter 351

EDUCATION

commercial driver training schools, Chapter 84
educational benefits for children of deceased veterans, Chapter 137
financial assistance, Chapters 214 & 301
local school taxes, Chapter 399
reorganization of school districts, Chapter 155
salaries and working conditions, Chapters 96 & 421
teachers' retirement and disability pension, Chapter 363
termination of services of professional employees, Chapter 255

elderly housing counseling program, Chapter 48

ELECTIONS

boundaries of large municipalities, Chapter 135
Constitutional amendment, Chapter 340
general elections, Chapters 53 & 359

Elsmere, Town of, Chapter 61

employers' coverage and assessments

average industry assessment rate, Chapters 74 & 115
variations from standard rate, Chapter 72

EMPLOYMENT PRACTICES

handicapped persons, Chapter 337
polygraph and lie detector tests, Chapter 107
termination of labor contracts, Chapter 220

ENVIRONMENTAL CONTROL

Division of Environmental Control, Chapters 163, 221 & 272
hazardous waste management, Chapters 140 & 364
Underground Storage Tank Act, Chapters 187 & 310

Equal Accommodations Act, Chapter 68

ESTIMATES OF GENERAL FUND REVENUES

estimate of general fund revenues for Fiscal Year 1987, Chapter 431
estimate of general fund revenues for Fiscal Year 1988, Chapters 432 & 435
estimate of general fund revenues for Fiscal Year 1989, Chapter 436

exemptions from civil liability

civic organizations maintaining parkland, Chapter 169
immunity for rendering emergency care, Chapters 51 & 235

FAMILY COURT

appeals, Chapter 162
exclusive original criminal jurisdiction, Chapter 189
pleading and practice, Chapter 234
prisons and prisoners, Chapter 233
proceedings in the interest of a child, Chapters 13, 125 & 413
records, Chapter 243

fees and licenses

insurance fees, Chapters 17 & 302
occupational licenses and fees, Chapter 381

FIDUCIARY RELATIONS

Delaware business trusts, Chapter 279
guardian and ward, Chapter 112
trusts, Chapter 376

FINANCIAL ASSISTANCE FOR HIGHER EDUCATION

B. Bradford Barnes Memorial Scholarship Fund, Chapter 200
Engineering and Applied Science Recruitment Fund, Chapter 301
nursing incentive program, Chapter 280

fire departments and companies, Chapter 150

fire prevention

liability of instructors, Chapter 34
State Fire Prevention Commission, Chapter 145

forests

nurseries and nursery stock, Chapters 152 & 294
State forests and parks, Chapter 151

Forst, Joseph F., Chapter 71

frauds and cheats, Chapter 252

FREEDOM OF INFORMATION ACT

Department of Correction, Chapter 143
enforcement, Chapter 354
open meetings, Chapter 419

Fulmer, Robin S., Chapter 208

funeral service practitioners

Board of Funeral Services, Chapter 225
decedents' estates and fiduciary relationships, Chapter 350

game and wildlife

licenses, Chapter 355
raccoon and opossum, Chapter 43

General Assembly, Chapter 54

Georgetown, Town of

nominations for Mayor or Councilman, Chapter 325
taxation of real estate transfers, Chapter 292

government of Kent County

Parks and Recreation Commission, Chapter 322
personnel administration, Chapter 332

Governor Bacon Health Center, Chapter 139

Governor, Office of, Chapter 342

GRANTS-IN-AID

1987 Grants-in-Aid Act, Chapter 88
1988 Grants-in-Aid Act, Chapter 345

Greenfield, Andrew Jay, Chapter 260

Greenwood, Town of, Chapter 11

GROUP AND BLANKET HEALTH INSURANCE

cancer screening tests, Chapter 281
group health insurance, Chapter 175
midwife services, Chapter 331

guardian and ward, Chapter 112

handicapped persons, Chapter 339

Harness Racing Commission, Chapter 171

Harrington, City of

City Council, Chapter 227
conducting municipal elections, Chapter 418

HAZARDOUS WASTE MANAGEMENT

Department of Natural Resources and Environmental Control, Chapter 364
extremely hazardous substances, Chapter 417
transfer facilities, Chapter 140

HEALTH AND SAFETY

authority of fire departments, Chapter 150
building and plumbing, Chapters 35, 264 & 270
disabled and partially disabled persons, Chapter 339
exemptions from civil liability, Chapters 51, 169 & 235
fire prevention, Chapters 34 & 145
food and drugs, Chapter 314
hazardous materials, Chapters 140 & 430
H.I.V. - related tests, Chapter 336
hospitals, Chapter 90
mental health, Chapters 139 & 424
sexually-transmitted diseases, Chapter 334
sperm bank and tissue bank registries, Chapter 335
State Board of Health, Chapter 397

health maintenance organizations, Chapter 124

health spa regulation, Chapter 395

Henlopen Acres, Town of

contracts, Chapter 256
enumeration of powers, Chapter 15

HIGHWAYS, ROADS AND BRIDGES

injury to roads and bridges, Chapter 265
injury to trees and shrubs, Chapter 353
jurisdiction and powers, Chapters 127 & 181
Kent County, Chapter 324
regulation of traffic, Chapter 407

home counseling center for senior citizens, Chapter 48

House Arrest Program, Chapter 29

HOUSE JOINT RESOLUTIONS APPEARING IN THIS VOLUME

A.I.D.S. Advisory Task Force, Chapter 433
estimate of general fund revenues for Fiscal Year 1987, Chapter 431
estimate of general fund revenues for Fiscal Year 1988, Chapters 432 & 435
estimate of general fund revenues for Fiscal Year 1989, Chapter 436
Farm Assistance Task Force, Chapter 343
life-care contracts and services, Chapter 438
proposed sale of Woods Haven-Kruse, Chapter 429
Public Transportation Task Force, Chapter 437
regulation and inspection of industrial facilities, Chapter 430

INSURANCE

agents, brokers and solicitors, Chapters 4 & 16
authorization of insurers, Chapters 30 & 328
captive insurance companies, Chapter 223
casualty insurance contracts, Chapter 309
Delaware Insurance Authority, Chapter 401
fees and taxes, Chapter 302
group and blanket health insurance, Chapters 175 & 281
health insurance contracts, Chapter 331
health maintenance organizations, Chapter 124
investments, Chapters 20 & 179
line-of-duty death benefits, Chapter 311
mutual benefit associations, Chapter 388
organization and corporate powers, Chapter 77
product liability, Chapter 45
regulation of dental service benefits, Chapter 176
surplus lines, Chapter 382
unfair practices, Chapter 297
workmen's insurance, Chapter 308

Investments

Insurance Investments, Chapter 20
stocks of subsidiaries, Chapter 179

Judges and justices, Chapter 346

JURISDICTION OF COURTS AND STATE AGENCIES

authority in incorporated towns, Chapter 127
jurisdiction of courts, Chapters 141, 189 & 234
regulations governing State land, Chapter 181
State archives and historical objects, Chapter 211

JUSTICE OF THE PEACE COURTS

costs, Chapter 81
civil procedure, Chapters 393 & 415
criminal procedure, Chapter 14

KENT COUNTY

building permits, Chapter 131
county government, Chapter 191
court review of land use actions, Chapter 200
government of Kent County, Chapters 322 & 332
pensions for county employees, Chapter 147
street and highway lighting, Chapter 324
zoning, Chapters 207, 217, 321 & 323

Kidnapping and related offenses, Chapter 398

King, Martin Luther, Chapter 330

LABOR

child labor, Chapters 100 & 117
employment practices, Chapters 107, 220 & 337
minimum wage, Chapters 28 & 75
Unemployment Compensation, Chapters 52, 72, 73, 74, 115 & 389
Workmen's Compensation, Chapters 31, 42 & 116

landlord and tenant, Chapter 70

LAW-ENFORCEMENT ADMINISTRATION

Delaware Justice Information System, Chapter 345
polygraph tests, Chapter 107
State Police, Chapters 192 & 241

legal holidays, Chapter 330

Legislative Council of Delaware, Chapter 54

Lewes, City of

enumeration of powers, Chapter 288
manner of holding annual municipal election, Chapter 62

LICENSES AND PERMITS

alcoholic liquors, Chapter 178
driver's license, Chapter 160
occupational and business licenses, Chapter 103

life insurance, Chapter 168

limited partnerships, Chapter 316

local school boards, Chapter 188

Magnolia, Town of, Chapter 319

MEDICAL PRACTICES

H.I.V.-related tests, Chapter 336
sexually-transmitted diseases, Chapter 334
sperm bank and tissue bank registries, Chapter 335

mental health

Governor Bacon Health Center, Chapter 139
involuntary commitment of the mentally ill, Chapter 424

Merit System of Personnel Administration

classified service, Chapter 182
leave regulations for exempt positions, Chapter 248

Millsboro, Town of

abatement of taxes, Chapter 257
collection of taxes, Chapter 226

Milton, Town of, Chapter 229

minimum wage

employees, Chapter 75
rate of payment, Chapter 28

mobile homes and mobile home parks, Chapter 268

MOTOR CARRIERS' FUEL PURCHASE LAW

availability of records of other agencies, Chapter 111
credit for Motor Fuel Tax payment, Chapter 205
records, Chapter 244

motor carrier safety and responsibility

elimination of annual physical examinations for truck drivers, Chapter 426
exemption of certain trucks from safety regulations, Chapter 114

Motor Fuel Tax

gasoline, Chapter 97
special fuel, Chapter 273

MOTOR VEHICLES

Operation and Equipment

abandoned vehicles, Chapters 14 & 236
equipment and construction, Chapter 109
fees, Chapter 82
motor carrier safety, Chapters 114 & 426
removal of vehicles from public highways, Chapter 313
reports of accidents, Chapter 238
rules of the road, Chapters 167, 329, 366, 384 & 409
size and weight of vehicles, Chapter 266
speeding offenses, Chapter 333

Registration and Title

driver's license, Chapters 160, 341 & 416
habitual offenders, Chapter 231
inspection of vehicles, Chapter 98
licensing of motor vehicles, Chapter 84
plates, Chapter 83
registration of vehicles, Chapters 41, 91 & 271

Types of Vehicles

mopeds, Chapter 58
off-highway vehicles, Chapter 222
tripedts, Chapter 254

motor vehicle safety, Chapter 274

municipalities

elections, Chapter 135
municipal parks, Chapter 142

mutual benefit associations, Chapter 388

NATURAL RESOURCES

Coastal Zone Act, Chapter 256
hazardous waste management, Chapters 140 & 364
Underground Storage Tank Act, Chapters 310 & 425

navigation and waters

boating safety, Chapter 193
river and bay pilots, Chapter 9

Newark, City of, Chapter 64

New Castle, City of, Chapter 230

NEW CASTLE COUNTY

county departments, Chapter 197
county executive and county government, Chapter 106
zoning, Chapters 195, 198, 199 & 217

notaries public, Chapter 186

nursing homes and related institutions, Chapter 438

OCCUPATIONAL AND BUSINESS LICENSES AND TAXES

cost of occupational licenses and fees, Chapter 381
Department of Finance, Chapter 103
manufacturers' license requirements and taxes, Chapter 149
Motor Vehicle Document Fee, Chapter 271
retail and wholesale merchants' license requirements and taxes, Chapter 104

OCCUPATIONS AND PROFESSIONS

- accountants, Chapter 132
- deadly weapons dealers, Chapters 184 & 249
- dentists, Chapter 176
- funeral service practitioners, Chapters 225 & 350
- geologists, Chapter 105
- nurses, Chapter 21
- occupational therapists, Chapter 400
- optometrists, Chapter 1
- physicians, Chapters 2, 357 & 358
- professional counsellors, Chapter 128
- professional engineers, Chapter 56
- psychologists, Chapter 158
- speech and language pathologists, Chapter 18
- veterinarians, Chapter 219

Ocean View, Town of

- governmental structure, Chapter 44
- powers of the Town Council, Chapter 326

off-highway vehicles, Chapter 222

Office of Intergovernmental Services, Chapter 108

Office of State Medical Examiner, Chapter 209

open meetings, Chapter 419

parents and children

- custody proceedings, Chapter 312
- surrogate parenting, Chapter 428

parks and recreation

- public lands and parks, Chapter 239
- vacating open space and parkland, Chapter 423

PENSIONS

- members of the State judiciary, Chapters 156 & 346
- State Employees' Pension Plan, Chapters 159 & 172
- State Police, Chapters 277 & 295

PERSONAL INCOME TAX

Administration and Procedure

Department of Finance, Chapter 101
inspection of returns, Chapter 102
procedures, Chapters 121 & 215

Determination and payment of tax

estates and trusts, Chapter 267
imposition and rate of tax, Chapter 86
non-resident individuals, Chapter 93
resident individuals, Chapters 95, 129, 362 & 411
returns and payment of tax, Chapter 377

POLICE OFFICERS AND DEPARTMENTS

Delaware State Police, Chapter 192
police chiefs, Chapter 343
police mutual aid agreements, Chapter 306

PRISON AND PRISONERS

classification and employment, Chapter 349
dress and grooming code for inmates, Chapter 427
Woods Haven-Kruse Women's Prison, Chapter 429

PROCEEDINGS IN THE INTEREST OF A CHILD

adjudication, Chapters 13 & 125
commencement, Chapter 413
records, Chapter 243

PROCUREMENT OF MATERIEL AND AWARD OF CONTRACTS

competitive bidding, Chapter 404
opening of bids, Chapter 347
performance and payment bonds, Chapter 299

product liability, Chapter 45

professional counselors, Chapter 128

Prothonotary, Office of, Chapter 342

Public Assistance Code

assignability of public assistance, Chapter 286
categories of assistance, Chapter 166

public lands and parks, Chapter 239

PUBLIC OFFICERS AND EMPLOYEES

- Merit System of Personnel Administration, Chapters 182 & 248
- notaries public, Chapter 186
- pensions for members of the State judiciary, Chapters 123, 156 & 346
- State Employees' Pension Plan, Chapters 159, 168 & 245
- unauthorized use of State mail services, Chapter 55

public school teachers, Chapter 96

Public Service Commission, Chapter 50

public utility taxes

- assessment and collection of deficiencies, Chapter 119
- exemptions, Chapter 412

REAL PROPERTY

- mobile homes and mobile home parks, Chapter 268
- personal income tax, Chapter 267
- subdivision and land development, Chapter 195
- titles and conveyances, Chapter 396

Realty Transfer Tax, Chapter 94

recorded devices, Chapter 383

REGISTRATION, TITLE AND LICENSES

- driver's license, Chapters 341 & 410
- fees, Chapter 271
- inspection of vehicles, Chapter 98
- motor vehicles exempt from registration, Chapter 41
- period of registration, Chapter 91
- plates, Chapter 83

REGULATIONS

- bank and trust companies, Chapter 283
- bank revolving credit, Chapter 403
- State fiscal agencies, Chapter 298

REHOBOTH BEACH, CITY OF

- collection of annual taxes, Chapter 60
- elections in general, Chapter 59
- financing for sewage treatment facilities, Chapter 39

Reid, Charles H., Chapter 99

religion, Chapter 67

RESIDENT INDIVIDUALS

- child care expense credit, Chapter 411
- personal exemptions, Chapter 362
- solar energy devices, Chapter 129
- standard deduction, Chapter 95

retail and wholesale merchants' license requirements and taxes, Chapter 104

retail sales of motor fuel, Chapter 282

retirement, Chapter 245

Richardson, Etta Mae, Chapter 210

Risk Management Act, Chapter 417

RULES OF THE ROAD

- bicycles and play vehicles, Chapter 167
- driving offenses, Chapter 366
- handicapped persons' parking areas, Chapter 329
- safety zones, Chapter 409
- speed restrictions, Chapter 333
- stopping and parking, Chapter 384

salaries and working conditions of school employees

- program for autistic pupils, Chapter 421
- sick leave and absences, Chapter 96

Salvation Army, Chapter 271

Schwartz, Denise Ann, Chapter 260

Seaford, City of

- annexation of territory, Chapter 327
- territory and limits, Chapter 19

Selbyville, Town of, Chapter 40

SENATE JOINT RESOLUTIONS APPEARING IN THIS VOLUME

dress and grooming code for prison inmates, Chapter 427
task force on surrogate parenting, Chapter 428

Smith, Christopher, Chapter 6

special accounts and special funds, Chapter 352

SPECIAL PENSIONS FOR NON-CONTRIBUTING, INELIGIBLE BENEFICIARIES

Reid, Charles H., Chapter 99
Richardson, Etta Mae, Chapter 210

sports and amusements

lotteries, Chapters 183 & 367
racing, Chapter 171

State archives and historical objects, Chapter 211

STATE BANK COMMISSIONER

change in bank control, Chapter 24
deputy bank commissioner, Chapter 203
powers and duties, Chapter 27

State Board of Health, Chapter 397

STATE EMPLOYEES' PENSION PLAN

amount of service disability pension, Chapter 172
eligibility requirements and benefits, Chapters 159, 245 & 422
minimum vesting provisions, Chapter 370

State Fire School, Chapter 34

STATE GOVERNMENT

budget and fiscal regulations, Chapters 298 & 299
Department of Administrative Services, Chapter 402
oath of office, Chapter 194
State lottery, Chapter 183

State Housing Authority, Chapter 190

State Lottery Office

State Lottery Fund, Chapter 367
Tri-State Lotto Compact, Chapter 183

State officers and employees

State Bank Commissioner, Chapter 24
State Medical Examiners, Chapter 209

STATE POLICE PENSIONS

eligibility for pensions, Chapter 277
pension increases, Chapter 363
Police Retirement Fund, Chapter 295

St. Anthony's Senior and Community Center, Chapter 391

St. Paul's Episcopal Church, Chapter 67

Superior Court, Chapter 375

SUSSEX COUNTY

county government, Chapter 69
sanitary and water districts, Chapter 320
vocational-technical school district, Chapter 146
zoning, Chapter 207

Sussex County Vocational-Technical School District, Chapter 146

TAXATION

Bank Franchise Tax, Chapters 23 & 378
collection of town taxes, Chapters 258 & 289
commodity taxes, Chapters 97, 130 & 273
corporation income tax, Chapter 118
county taxes, Chapters 148 & 338
Estate Tax, Chapter 120
insurance taxes, Chapter 382
local school taxes, Chapter 399
occupational and business taxes, Chapters 103, 149 & 271
Personal Income Tax, Chapters 86, 93, 95, 102, 121, 129 & 130
Public Utility Taxes, Chapter 119
Realty Transfer Tax, Chapter 94
Tobacco Product Tax, Chapter 3

tenants' receivership, Chapter 268

termination of parental rights, Chapter 356

theft and related offenses, Chapter 251

Thoroughbred Racing Commission, Chapter 171

Tobacco Product Tax, Chapter 3

Tort Claims Act, Chapter 348

TOWN CHARTERS

Bowers, Chapter 284
Bridgeville, Chapters 144 & 318
Camden, Chapters 177 & 242
Clayton, Chapter 291
Dagsboro, Chapter 289
Delmar, Chapter 76
Georgetown, Chapters 292 & 325
Greenwood, Chapter 11
Henlopen Acres, Chapter 15
Magnolia, Chapter 319
Millsboro, Chapters 226 & 257
Milton, Chapter 229
Ocean View, Chapters 44 & 326
Selbyville, Chapter 40
Townsend, Chapter 258

Townsend, Town of, Chapter 258

Tort Claims Act, Chapter 348

TRANSFERS OF FUNDS ACROSS BUDGET LINES

from "Budget Office" to "patrol," Chapter 250
from "Budget Office" to Department of Agriculture, Chapter 224
from "debt management" to "Office of the Secretary," Chapter 12
from "debt management" to "Office of the Secretary" and others, Chapter 65
from "self insurance fund" and others to "salaries, employment costs" and others, Chapter 293

transient lodgings, Chapter 70

transient retailers, Chapter 237

TRANSPORTATION

- appropriation of funds, Chapter 89
- Public Transportation Task Force, Chapter 437
- regulation of traffic, Chapter 407

Transportation Trust Fund Act, Chapter 87

Turjuman, Hala, Chapter 6

UNDERGROUND STORAGE TANK ACT

- abandoned storage system, Chapter 425
- response fund, Chapter 187
- tank registration fee, Chapter 310

UNEMPLOYMENT COMPENSATION

- compensation benefits, Chapters 389 & 392
- definition of "employment," Chapter 390
- employers' coverage and assessments, Chapters 72, 74 & 115
- Employment Security Commission, Chapter 52
- wages, Chapter 380

Uniform Alcoholism and Intoxication Treatment Act, Chapter 46

Uniform Controlled Substances Act

- definition of "controlled substance," Chapter 66
- offenses and penalties, Chapter 408

Uniform Testamentary Additions to Trusts Act, Chapter 278

University of Delaware, Chapter 307

utilities, Chapter 50

VETERANS

- educational benefits for children of deceased veterans, Chapter 137
- use of municipal parks, Chapter 142
- veterans' preference, Chapter 139

Victim Protection Act, Chapter 300

VICTIMS OF CRIMES

compensation for innocent victims, Chapter 261
police chiefs, Chapter 343
protection, Chapter 300

voting machines, Chapter 359

wages

attendance bonuses, Chapter 380
dismissal payments, Chapter 73

weapons

deadly weapons dealers, Chapter 184
right to bear arms, Chapter 10

WEIGHTS, MEASURES AND STANDARDS

fluid dairy products, Chapter 232
licensed weighmasters, Chapter 80
meat and poultry, Chapter 164

Welch, David L., Chapter 208

WELFARE

Department of Health and Social Services, Chapter 287
Public Assistance Code, Chapters 166, 286 & 290
welfare agencies, Chapter 49

WILLS

administration of decedents' estates, Chapter 373
devolution of property, Chapter 372
testimentary additions to trusts, Chapter 278

Wilmington Armory, Chapter 391

WORKMEN'S COMPENSATION

compulsory insurance, Chapter 308
Industrial Accident Board, Chapter 42
licensed real estate salesmen, Chapter 116
volunteer firemen, Chapter 31

ZONING

changes in zoning regulations, Chapter 201
county comprehensive plan, Chapter 216
court review of land use actions, Chapter 200
filing of subdivision plans, Chapter 198
Kent County, Chapters 321 & 323
New Castle County, Chapter 199
Sussex County, Chapter 207

**END
OF
VOLUME**